December 14, 2010

Honorable Mary Nichols, Chair
California Air Resources Board
1001 I Street
Sacramento, CA 95812

**RE: Comments on Proposed Regulation to Implement the California Cap-and-Trade Program**Dear Ms. Nichols,

On behalf of the agricultural community listed below, we appreciate the opportunity to submit comments on the Proposed Regulation to Implement the California Cap-and-Trade Program that will be before the Board on December 16th.

The proposed cap-and-trade program will have significant impact on California’s family farms and ranches because they utilize the products and services of many of the entities subject to the mandatory greenhouse gas emission reductions. The fuel and electricity providers that provide our energy inputs and the food processors that add value to the numerous agricultural commodities grown in California will have to pass along their price increases to achieve their GHG reductions.

**Mandatory Reporting**

We are opposed to lowering the mandatory GHG reporting threshold to 10,000 mtCO2e in the cap and trade and mandatory reporting regulations. There has been no outreach from ARB to the agricultural community to help us analyze who would be impacted and included. While many sources at the 25,000 mtCO2e threshold have staff to assist in the task of reporting, this would definitely not be situation with sources at 10,000 mtCO2e.

We believe that the number of sources subject to the 10,000 mtCO2e reporting threshold would be significant and would affect many agricultural facilities and farming operations. The impacts and burden of lowering the threshold needs further review prior to Board approval.

***We request that the Board delay approval of lowering the reporting threshold until additional workshops can be conducted and staff has time to work with the affected stakeholders. We believe this substantial change is premature and unnecessary at this time.***

**Offsets**

We believe that the most cost-effective approach to achieving the emission reduction goal of AB 32 is via a well designed market program that includes a robust offsets program. We believe 8% is still too restrictive and will prevent interest and investment in innovative emissions reductions projects in uncapped sectors, which is a significant missed opportunity for climate change mitigation.

This limitation will result in the loss of cost-containment from the use of offsets especially in the early stages of the cap-and-trade program, when new technologies and best practices are still being developed and implemented by capped sectors.  The result will be increased costs of the entire cap-and-trade system and a loss of flexibility during the transitional years post-enactment.

***We request that the Board review the 8 percent cap in the future as potential new offset protocols come on line. Without a promise to review the 8 percent cap, this may provide a strong disincentive for capital to be invested by state or private organizations to development of new offsets.***

The agricultural community has been conducting research and will continue to work on the development of offset protocols. There are many challenges due to the large diversity of crops and ecosystems. The Climate Action Reserve will soon begin work on three new agricultural protocols and there are other agricultural protocols further developed that need more on-farm testing to insure they can achieve GHG reductions in a manner that is compatible with California conditions and can be readily used by growers.

***We request that the board direct the CARB staff to give agricultural protocols a high priority and work closely with CAR and other providers to insure a thorough and timely review process to enable additional offsets become available.***

**Opt-in or Voluntary Associated Entities**

We are concerned about the provision that would allow opt-in or voluntary associated facilities from purchasing allowances at ARB auctions. Further restrictions are needed to insure that opt-in or voluntary associated entities will not purchase and retire allowances thereby limiting the market and driving up costs of the limited pool of allowances.

**Food Processing Recommendations:**

***Leakage Risk: The formula for trade exposure and emissions leakage should be reevaluated to recognize the complexity and impact of agricultural import and export markets. Food processing should be moved to the “high” leakage risk category, due to increasing international and domestic markets. For example, peach imports from China increased 30% increase in 2010 compared to last year’s volume.***

***Industry Assistance Factor: Food manufacturing is located in the second Industry Assistance Factor tier (Industry Assistance Factor of 100%; 75%; 50%), and should be moved to the top industry assistance factor tier due to price pressures from international markets. Agricultural products are very sensitive to low-cost competitors in domestic and international markets. Even a minimal increase in costs could displace U.S. markets,***

***Emissions Intensity: The staff report states that domestic competition will be problematic as it relates to the food and agricultural industry. A different approach should be taken for food processing in determining compliance costs and/or emissions intensity. The emissions intensity variable in the product-based allocation calculation should be replaced with another variable that truly represents the cost of compliance for the food industry. Staff should take more time to work with the food processing industry to determine an appropriate factor for this variable.***

***Product-Based Benchmarking: Energy-based benchmarks are more acceptable to the food processing industry and would create a more streamlined system for CARB regulators. However, due to industry expansion, some flexibility should be allowed within the system to achieve collective goals of CARB and food producers.***

***A well known industry set of standards and efficiency promulgated by a respected group, the American Society of Mechanical Engineers, should be used in place of CARB’s proposed efficiency rule. These standards are familiar to processors, and were created over many years of study by a third party trade association.***

The California agricultural community is diverse and our issues span the entire journey from the farm to the fork. We appreciate your attention to our concerns from a production agricultural perspective in addition to the needs of many of our 400 commodities that require handling or processing. We will continue to participate in the cap-and-trade and mandatory reporting regulatory process.

**Agricultural Council of California**

**Association of California Egg Farmers**

**California Association of Wheat Growers**

**California Cattlemen’s Association**

**California Farm Bureau Federation**

**California Grain and Feed Association**

**Western Growers**

**Western United Dairymen**