

Julia May

Date: August 24, 2011, Board of Directors meeting on AB32 Scoping Plan
Memo to: California Air Resources Board
To: Chairperson Mary Nichols and members of the Board
Re: **CARB responses to CBE comments on the AB32 Scoping Plan**
From: CBE

Delivered by email during CARB Board Meeting public hearing to the Clerk of the Board Mary Alice Morency (mmorency@arb.ca.gov) and Katie Estabrook (kestabro@arb.ca.gov)

The following written comments are in addition to our oral testimony today, and in addition to other written submissions CBE provided to the Board today. Below are comments regarding CARB's response to CBE's written letters regarding the AB32 Scoping Plan.

A. CARB provided almost no time to review its response to public comments

In CARB's stated rush to forge ahead with approving the Scoping Plan using a cap and trade approach for industrial emissions, CARB only provided its response to public comments two business days before the hearing, for the public to find, review, and respond to. This is inadequate time. We are attempting to provide a few comments but are unable to complete them. Even so it is clear that CARB's response contains major flaws and unsubstantiated statements.

B. CARB cited irrelevant studies to argue no EJ impacts from California's cap and trade

CARB has attempted to compare the Acid Rain SO₂ (sulfur dioxide) trading program to California's cap and trade program, and has quoted studies about that program in an effort to claim that California's program will cause no Environmental Injustices. This is incorrect.

- 1) **In fact, California's carbon pollution trading program is inherently worse than and different from the Acid Rain trading program** (although this program also had problems).
- 2) **The acid rain SO_x program only traded between very similar power plants in the eastern U.S., all of which burned fossil fuels and emitted the same co-pollutants** (such as NO_x, VOCs, particulate matter, mercury, etc.).
- 3) **The acid rain program had a much better chance of shutting down old and highly polluting facilities**, because it traded only between old fossil power plants and newer ones, and only in the eastern U.S but still had major problems (documented in our previous comments).
- 4) **California's greenhouse gas Cap and Trade scheme on the other hand allows trading between oil refineries, power plants, cement plants, other industrial**

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facilities, forestry, and other sources inside and outside California and outside the country.

- 5) **These industrial plants have inherently different types of co-pollutants** that are not addressed in any way whatsoever by California's cap and trade program. The Acid Rain program on the other hand pertained to power plants with the same co-pollutants.
- 6) **Cap and Trade doesn't just fail to address the major existing inequities in pollution burden, it allows the major expansion of the dirtiest polluters in California.** Most of the expansion is in low income communities and communities of color.
- 7) **Worst of all, California's pollution trading is taking the place of using California's long-standing knowledge for direct regulation of pollution sources, in favor of uncontrollable market schemes.** CARB will never be able to control the price of carbon credits, which is dependent on complex market factors. Without such control, CARB cannot predict that greenhouse gas reductions will occur, and cannot prevent increased co-pollutants using this method. Conversely direct regulation to reduce fossil fuel use would inherently reduce both greenhouse gases and toxic co-pollutants in California
- 8) **All pollution trading programs have the inherent downside for those who live near the facility which avoids cleaning up, by paying for somebody else to do it at another location.**

All the studies cited by CARB looked at the acid rain SO₂ trading program, except for one study. This study evaluated Southern California's NO_x trading program (RECLAIM). Actually that program did cause NO_x hotspots, as discussed in Minding the Climate Gap (which identified and cited Drury et al, 1999).¹

C. CARB claims overallocation is unlikely

CARB stated in the response to CBE comments:

"California had several years' worth of verified emissions data to use to determine the number of allowances that would be available. As a result, it is very unlikely that a California market would be over allocated."

It is not accurate that several years of verified emissions data is available. The Mandatory Reporting Regulation was only adopted in 2009, and its verification process does not

¹ "First, some have dismissed concerns around uneven emissions reductions, arguing that because of other regulations, cap-and-trade will never produce "hot spots" – that is, places where emissions of both GHG and co-pollutants actually increase (an outcome that actually occurred in Southern California ...) p. 4

immediately go into effect. In addition, CARB's online database states for the 2008 data spreadsheet states:²

"All data have not been audited by ARB staff are subject to change under certain circumstances."

"Notes: Data shown are subject to change. The data may be audited and where certain errors are discovered, mechanisms are available to allow revisions. Some differences in 2009 emissions relative to 2008 may be attributed to changes in methodology."

Furthermore, the Mandatory Reporting Rule data is allowed to be kept secret from the public. The regulation allows the full analysis performed by the industrial facilities to be held by those facilities and not submitted to CARB, away from the public's review, with only the results reported to CARB. The use of this secret data is unscientific, and means that the public cannot be expected to rely on this data, especially when we have shown it to conflict with other public data. CBE also submitted comments to CARB during the most recent comment period on the Cap and Trade regulation 15-day language, which we incorporate by reference. Those comments identified discrepancies between CARB's data and other public data for oil refineries. Given the lack of verified data and these discrepancies with public data, CARB cannot rely on its data's accuracy as a basis that no overallocation will occur.

It is also the combination of problematic cap and trade features together that are so problematic (in addition to overallocation). These included unverified data in early years, free allocations for the biggest industrial source (oil refineries), allowing banking credits from early years for use in later years, extremely generous offsets, and the strong potential for international fraud, that together make the entire program highly vulnerable to being ineffective, and to allow increased emissions in low income communities where most of California's industrial sources are located. CARB made unsubstantiated statements that it has learned from other programs, and that as a result, its cap and trade program will somehow work better. Yet CARB is proposing a scoping plan that includes all those same flaws that undermined all the programs identified in the Columbia University and other studies we cited in our comments. CARB has not addressed those comments to compare the cap and trade program to direct regulation of the big polluters in California.

D. CARB claimed that CBE did not consider California's more complex refineries

In fact CARB seems to have entirely missed the data provided by CBE regarding California refineries. It's false that CBE did not consider California's more complex refineries and differences in fuel output. See the testimony of Greg Karras, CBE, which is being provided in writing and orally to CARB today, August 24th.

² CARB's Greenhouse Gas Emissions Reported to the California Air Resources Board for 2008, <http://www.arb.ca.gov/cc/reporting/ghg-rep/ghg-reports.htm>

Während der Zeit der Verhandlungen über die Abgrenzung der Grenzen der Provinz...

...wurde die Provinz in drei Teile geteilt: in den nördlichen, den mittleren und den südlichen Teil.

Der nördliche Teil wurde der Provinz ... zugeteilt, der mittlere Teil der Provinz ... und der südliche Teil der Provinz ...

Die Provinz ... wurde in drei Teile geteilt: in den nördlichen, den mittleren und den südlichen Teil. Der nördliche Teil wurde der Provinz ... zugeteilt, der mittlere Teil der Provinz ... und der südliche Teil der Provinz ...

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