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July 1, 2011

VIA FACSIMILE (916) 445 5025 AND ELECTRONIC MAIL

California Air Resources Control Board
1001 "I" Street
Sacramento CA 95814
Attn.: Clerk of the Board

Re: Supplement to AB 32 Scoping Plan Functional Equivalent Document

Dear Clerk:

I am sending this letter to provide an initial comment on California Air Resources Board's ("CARB") Supplement to the AB 32 Scoping Plan Functional Equivalent Document ("Supplement") and to request that CARB promptly provide additional information that is necessary for the public to provide informed comments on the Supplement. As confirmed in the attached memorandum from the well known consulting company Environ, the Supplement fails to provide data and other information relative to a number of key aspects of the analysis in the Supplement. CEQA case law has long held that it is prejudicial error for a lead agency to withhold information that precludes "informed decision-making and informed public participation." (*County of Amador v. El Dorado Water Agency* (1999) 76 Cal.App.4th 931, 946.) Indeed, CEQA even requires that the sources of data used in environmental impact reports be "reasonably available for inspection at a public place or public building." (Cal. Public Resources Code Section 21061.)

Accordingly, I request that the information described in the attached memorandum be provided as soon as possible. Further, since no member of the public can provide informed comments on the Supplement without this information, I also request that CARB extend the comment period so it ends 45 days after the date that CARB provides this additional information to the public.

Very truly yours,



Edward J. Casey
Partner

EJC:amw
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July 1, 2010

Edward J. Casey, Attorney
Alston Bird LLP
333 South Hope Street
16th Floor
Los Angeles, CA 90071

Re: Information Needs for Review of the AB 32 Scoping Plan Supplement FED

Dear Ed:

We have reviewed the Supplement to the AB 32 Scoping Plan Functional Equivalent Document (FED) and have identified a few areas where additional information would help us evaluate the FED. Based on our initial review of the FED, it appears to rely upon information that is not contained in the FED. While some calculations could be traced back to the original scoping plan documents and its appendices, we have not been able to find various supporting documentation that more completely describe key elements such as updates to the forecast emissions for 2020 and updates to the reductions from the scoping plan measures and other individual documents. We have several requests for information that would assist in our analysis and ability to comment on the supplemental FED.

1. Table 1.2-3 of the FED provides an estimate of the emissions reductions needed from proposed scoping plan measures not yet in place. Included in Table 1.2-3 are the reductions (58 MMTCO₂e) that would be obtained from various measures other than the Cap-and-Trade program and Advanced Clean Cars. We have reviewed the list of measures identified in the table contained in the scoping plan proceedings.¹ While some of these 22 measures relate directly to measures reviewed in prior documents (e.g., Low Carbon Fuel Standard, Sustainable Forests, High Speed Rail), most of the measures have been either:
 - Adjusted downward (i.e., the GHG reductions have been reduced) from prior plans (e.g., million solar roofs, medium/heavy duty vehicles, goods movement);
 - Split into components and probably adjusted downward from prior plans (e.g., energy efficiency measures, high GWP gases);
 - Added in (e.g., SB 375, Advanced Clean Cars, Tire Pressure Program); or
 - Eliminated (e.g., Industrial measures).

For many of these measures, it appears that there is little explanation to allow us to understand how these changes were made. It is difficult, to relate these changes to the original estimates previously reported in the Scoping plan.² To allow us to assess and comment on this supplemental FED, we would need to more carefully analyze and consider the changes to the prior plans. We request a detailed listing of how the 22 measures relate to the prior plan, how they were changed, and the basis for the change (e.g. recession, already partially implemented).

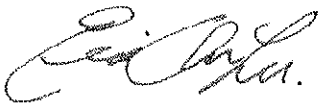
¹ CARB, 2010. Available at:
http://www.arb.ca.gov/cc/inventory/data/tables/reductions_from_scoping_plan_measures_2010-10-28.pdf.
Accessed: June 2011.

² CARB 2008. Available at <http://www.arb.ca.gov/cc/scopingplan/document/scopingplandocument.htm>

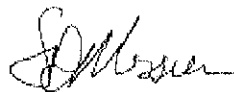
2. Appendix F, Compliance Pathways Analysis of the Initial Statement of Reasons for the Cap and Trade Regulation³, includes analyses to demonstrate how the staff accounted for the effects of the recession. Appendix F also provides a "compliance pathways analysis" to demonstrate the strategies that covered entities could utilize to comply with a cap-and-trade regulation. Other than saying they accounted for recession, and accounted for the recession in their modeling, the supplement provides few details on how they accounted for recession, let alone calculations. We also cannot verify if they have accounted for the recession to the current date or going forward. Additionally, Appendix F only includes strategies that covered sources could utilize to comply with the cap-and-trade regulation and not those sources in uncapped sectors. To verify and comment on the numbers, we would like to see the specific adjustments used for the calculations of the impacts of the recession such as growth factors, elasticity factors and other indicators for sources under the cap and for those sources not under the cap.
3. Table 2.7-1, Summary of Emissions Effects from Alternative 5, includes a mix of measures to obtain reductions to meet the 22 MMTCO₂e target. The only direct regulation included under this alternative was the Advance Clean Car program (3.8 MMTCO₂e). Volume I of the Appendices for the original Scoping Plan provides an analysis of the GHG reductions from Pavley I and Pavley II.⁴ The FED describes elements that would be included in the Advanced Clean Car program but does not include an analysis of the derivation of the emissions and potential reductions from the various elements including in this program. Thus it is not clear if and how Pavley II and other measures are quantitatively incorporated into this estimate. Supporting explanation regarding the derivation of the GHG reductions and the specific measures included in this program would allow us to assess and comment on this FED. Since the Advance Clean Car program is included in two alternatives (Alternative 3 and Alternative 5), it is important to understand the basis of this estimate.

Please let Steven Messner or I know if you have any questions regarding this matter. I can be reached at (949) 798-3650 or you can reach Steve at (415) 899-0747.

Very truly yours,



Eric Lu, M.S., P.E.
Senior Manager



Steve Messner
Principal

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cc: Ron Friesen, ENVIRON

³ CARB, 2010. Available at: <http://www.arb.ca.gov/regact/2010/capandtrade10/capandtrade10.htm>. Accessed: June, 2011.

⁴ CARB, 2008. Available at: http://www.arb.ca.gov/cc/scopingplan/document/appendices_volume1.pdf. Accessed: June, 2011.