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November 1, 2013

Mr. David Mallory
Manager
California Air Resources Board
1001 I Street, 6th Floor
Sacramento, CA 95814

Dear Mr. Mallory:

On behalf of the California Association of Port Authorities (CAPA), we appreciate the opportunity to provide comments on the Climate Change Scoping Plan, First Update, Discussion Draft, dated October 2013. Our association is comprised of the state's eleven commercial, publicly-owned ports and is committed to maintaining the state's leading role in the maritime industry while leading the way in innovative and cutting edge environmentally-friendly port operations.

We appreciate the thought that has gone into crafting the Discussion Draft and applaud the California Air Resources Board (ARB) staff for your efforts. The following comments are meant to be constructive and highlight areas of interest and concern for further discussion.

General Comments

Historic Emissions Reductions at California Ports

California ports are leading the nation, and indeed the world, in reducing emissions related to port activities. Since 2005, port-related emissions of diesel particulate matter (DPM), sulfur oxides (SO_x), nitrogen oxides (NO_x), and greenhouse gases were reduced significantly at California's major port facilities. For example, the San Pedro Bay Ports of Long Beach and Los Angeles combined have reduced emissions of DPM by 80%; SO_x by 88%; NO_x by 53%; and GHGs by 21%; compared to 2005 levels. The Port of Oakland has similarly had significant success improving air quality since 2005, reducing DPM by 70%; SO_x by 80%; and NO_x by 15%. These reductions have been achieved through a combination of state and federal regulations, the implementation of the San Pedro Bay Ports' Clean Air Action Plan, the Port of Oakland's Maritime Air Quality Improvement Plan, other green port policies and initiatives, and the cooperation and commitment of our business partners and customers in the goods movement industry.

We are disappointed that the Draft Scoping Plan does not include any substantive recognition of the very significant and precedent-setting progress that has been made in recent years to improve air quality in and around our ports. Our ports and our business partners have made very substantial investments in clean air efforts over the last decade which, in combination with recently adopted ARB regulations specific to goods movement and ports, have greatly reduced freight-related emissions. The Draft Scoping Plan appears to largely ignore this progress and we are hopeful that in future iterations, these investments and achievements will be recognized.

Costs of Emission Reduction Efforts

These improvements are significant and laudable, but they have come at a significant price; a price that must be considered as we collectively seek to move toward zero and near-zero emissions strategies in the freight sector. By ARB's own estimates, recent air quality improvement rules and regulations cost the freight industry more than \$5 billion in California-only costs. While our ports embrace these air quality improvements, they must be considered in the context of ever-increasing competition in the world of international trade.

California ports have been, and are currently, experiencing significant challenge funding the air quality improvement programs we have implemented to-date; additional improvements will be increasingly challenging to afford as finite funding must be shared with other important objectives, such as investment in our facilities to remain competitive. Subsequent incremental improvements will no doubt be ever more difficult to achieve without significant assistance.

While other ports around the nation – and in the neighboring countries of Canada and Mexico – with whom we compete for business on a daily basis, receive significant and on-going state and local support for capital improvements and operations, California ports are true enterprise entities; we rely on the revenue generated when cargo moves through our port facilities. Unlike many other ports, California ports do not receive public support in the form of tax revenue. Any additional costs must come out of this same revenue stream and there are very real limits to the supply chain's ability or willingness to absorb these costs.

California's ports are increasingly concerned with the loss of market share and the diversion of cargo through other states and nations. We must be extremely cognizant of the competitive forces at work in the global marketplace and ensure that as we continue to improve air quality, we do not lose the jobs and tax revenue associated with international trade. Recent expansions of port operations at Prince Rupert, Canada, and the planned expansions at Lazaro Cardenas in Mexico will continue to increase the competitive climate, as will the 2014 expansion of the Panama Canal to accommodate larger ships that could by-pass California entirely and instead call East Coast or Gulf states directly. If cargo is diverted away from California ports, it will be shipped through ports in other states and nations with less rigorous air quality standards, likely increasing rather than decreasing green house gas emissions. The cleanest port facilities and operations exist in California and the financing for air quality improvement programs – and the green infrastructure we are currently building, such as shoreside power – is dependent upon the revenue generated by cargo. For economic as well as environmental reasons, we must ensure that cargo continues to flow freely through California.

Specific Comments

Future Freight Efforts (page 24)

We are particularly concerned with the Scoping Plan suggestion that “mechanisms to require or further promote zero emission technologies includes the possible use of local air district indirect source rules, lease conditions, port tariffs, incentive contracts and/or other means.” The nature of these suggested measures, and their financial, operational, and economic consequences, are of grave concern to California’s public ports.

Reference in the Scoping Plan to indirect source rules, lease conditions, and port tariffs are very troubling. Ports are an important component of a very complicated international supply chain, a supply chain where shippers have options when determining which ports to ship through. We wish to remind ARB of the paramount role that cost plays in the supply chain – cargo owners and vessel operators have several gateways to choose from when optimizing their cost and service structures, and we have already seen examples of choices to ship goods through other states and nations when California-specific factors are weighed.

Although an important component of the supply chain, we wish to remind ARB staff that ports have very limited control over this supply chain and are subject to strong competitive market forces that make exercising even this limited control extremely challenging. In fact, one of the main reasons the Ports have been able to achieve such dramatic reductions in air pollution is due to the collaboration with the business industry and the regulatory agencies. As a result, we believe a focus on flexibility, collaboration with industry stakeholders, and voluntary and incentive-based approaches will be more effective than additional command-and-control measures and are, in fact, imperative to achieving future emission reductions, meeting the goals of AB 32, and remaining competitive. As discussed earlier, if cargo is diverted away from California ports, it will be shipped through ports in other states and nations with less rigorous air quality standards, likely increasing rather than decreasing green house gas emissions.

Energy Efficiency (page 26) and Renewable Energy (page 28)

The Energy Efficiency section beginning on page 26 of the Scoping Plan makes no mention of port terminals, which, as discussed below, will be an important element of greening our freight transportation system.

The work required by ports to implement existing low- and zero-emission technologies is expected to quadruple, or more, by 2030. Commercial and residential energy needs are increasing throughout the state. Meanwhile, traditional generating stations are going offline or downsizing due to increasing regulatory requirements and prohibitive renovation costs. Utilities are grappling with grid demands and fluctuating distributed generation inputs. Energy infrastructure is old and unstable at many ports; these ports will be California’s lifelines in the event of natural or man-made disasters.

On-site renewable and clean alternative generation, along with microgrids and other control technologies, will ultimately be needed to ensure energy resiliency – ports will need a steady supply of power that does not diminish the availability for other users. Utility-supplied power will continue to be necessary and those costs are predicted to rise significantly because of Renewable

Portfolio Standards (RPS) requirements and the Cap-and-Trade regulatory program. Implementation of clean, distributed generation at ports will cost hundreds of millions of dollars over the next decade. Energy improvements are an integral part of California's clean cargo future.

Additionally, any energy standards that are developed/adopted must consider the potential constraints they may impose upon future building developments within port complexes, for example logistics and cold storage facilities, which are critical to the supply chain and to cargo growth, which in turn grow economic activity and jobs.

Cap-and-Trade (page 37)

California ports are committed to continuing their historic efforts to improve air quality in and around port facilities. Our association believes that significant GHG emissions reductions from the goods movement sector are achievable even as we endeavor to grow the economic benefit of international trade and commerce. In fact, our public ports have proved that this is possible. But it is an expensive endeavor and we must balance ambitious air quality improvement programs with the need to remain a viable and desirable international gateway in the highly competitive world of international trade.

We strongly believe that Cap-and-Trade auction proceeds should be used to implement GHG reductions from the transportation sector, including from the goods movement sector. Significant strategic investments in our freight infrastructure will not only significantly reduce GHG emissions, but can also benefit local communities and public health; provide additional local and regional equity; improve the safety, efficiency and utility of our overall transportation system; and improve the economic well-being of all Californians. Our public ports are poised to continue implementing ambitious air quality improvement programs and we highly recommend that the statewide investment plan for auction proceeds from the Cap-and-Trade program include significant investment in the state's freight infrastructure as well as innovative goods movement-related air quality improvement programs, pilot projects, and studies.

As the ARB and the state consider the related desire to improve conditions in disadvantaged communities most heavily impacted by air quality concerns, we would like to remind you that California's ports work side-by-side with these communities; they are our host communities. We share the desire to improve conditions in areas most heavily impacted by goods movement-related emissions. Air quality improvement programs at port facilities have the potential to provide immediate reductions in local criteria pollutant emissions to local low income communities while dramatically improving the carbon footprint from goods movement.

The availability of Cap-and-Trade auction proceeds is critical for providing ports with opportunities to advance the development of technologies and approaches to reduce GHG emission from port operations, including zero and near-zero emissions transportation technologies and energy efficiency/clean energy technologies.

Economic Impacts (page 61)

California ports believe it is critical to study and understand the potential economic impacts of the AB 32 related suite of regulatory measures. Understanding the economic implications of AB 32 on port operations and international trade are particularly important. We are concerned with the potential diversion of cargo due to increasing costs in California, coupled with the competitive

nature of international shipping. Thousands of living wage jobs, millions of dollars in local and state tax revenue, and the overall economic benefit of international trade are at risk as the cost to ship through California ports outstrips our ability to compete with other states and nations not subject to similar regulatory measures.

Transportation, Land Use, Fuels, and Infrastructure (page 86)

We appreciate the Draft Scoping Plan's recognition of the need to support competitiveness in the freight transportation industry, even as we seek to significantly reduce emissions. As the Draft states, "Successfully reducing emissions in the freight sector can, and must, support the competitiveness of California's logistics, warehousing, trucking, and shipping industries, while effectively integrating with the national and international freight transportation system."

We thank you again for the opportunity to comment on the Draft Climate Change Scoping Plan and look forward to continuing to work with the ARB and the state to improve our air quality while maintaining the economic prosperity that California ports provide to the state and nation.

If you have questions or would like to further discuss any of the issues raised in this letter, please don't hesitate to contact us.

Sincerely,



Tim Schott
Executive Director