African American Farmers of California
California Cotton Ginners Association
California Cotton Growers Association
California Grape and Tree Fruit League
California Independent Oil Marketers Association
California Service Station & Auto Repair Association
National Hmong American Farmers
Nisei Farmers League
Raisin Bargaining Association
Western Agricultural Processors Association
Western Plant Health Association

November 5, 2013
Submitted Electronically

Ms. Mary Nichols, Chair
California Air Resources Board
1001 "I" Street
Sacramento, CA 95814

Re: Update to the ARB Scoping Plan

Dear Ms. Nichols,

On behalf of the organizations listed above, we appreciate the opportunity to provide our comments on the California Air Resources Board's Update to the Scoping Plan. We recognize the agency's mandate to revise the document pursuant to AB 32 and we believe the ARB should closely align the update with the stated requirements in AB 32. We submitted comments during the prior round and many of those same concerns remain with the discussion draft that we are commenting on today.

General Comments

ARB correctly points out in the Executive Summary that "climate change is a global problem with global impacts" and that "California alone cannot effectively avert the impacts of global climate change." In our opinion, the best way to encourage others to adopt the same policies that California has already undertaken is to show that the policies work, while enabling a vibrant economy. If the results of the policies are that businesses are driven out of the state and California's economy does not recover, the likelihood that others will join in our efforts will be severely diminished. We believe that ARB should focus on the policies that it currently has in place for this version of the update. Moving past the 2020 goal at this point is premature and will have detrimental effects on many businesses that are making investments today to meet the current targets.

We also believe that the only authority granted to ARB in AB 32 is to achieve and maintain the 2020 emissions limit and that the targets set in Executive Order S-3-05 are not enforceable. All references for emission reduction measures or other activities inconsistent with the 2020 target should be removed from the Scoping Plan Update. We view the Scoping Plan as a regulatory document required by AB 32 and the update should conform to the regulatory requirements stated in AB 32. The appropriate places for such recommendations are through a separate report to the Governor and the Legislature and not in a regulatory document such as the Scoping Plan.

If ARB intends to move forward with the inclusion of post 2020 measures, we believe it is important for ARB to elaborate on its opinion as to where authority has been granted without needing further legislative action. We also believe that any attempt to set a 2030 or 2050 target should not be made without supporting detail on what measures would have to be taken in order to achieve those goals.

Energy Sector Comments

Energy costs are a major expense of both agricultural producers and agricultural processors. In as such, investments have been made and will continue to be made to make our operations as efficient as can be achieved in a cost effective manner. While California has led the way in the efficiency in the products we produce, we also lead the way in the price we pay for energy. As an example, in the cotton ginning industry fuel costs amount to \$3.60/bale compared to \$0.65/bale in the Midsouth, \$1.05/bale in the Southwest, and \$1.89 in the Southeast. The same discrepancy occurs in relation to electricity prices where we pay an average of \$5.19/bale compared to \$3.59/bale in the Midsouth, \$3.57 in the Southwest, and \$3.62 in the Southeast. These comparisons reflect USDA data from 2009 prior to the RPS meeting the 20% goal. The cost comparisons will widen with the implementation of the 33% RPS mandate. Efforts to go beyond a 33% RPS will make California agriculture that much more uncompetitive and add costs that cannot be made up through efficiency measures.

This leads to a competitive disadvantage for agricultural producers and processors where we compete with other states and nations that have significantly lower input costs. We believe that the cost effectiveness and competitiveness should be considered in energy policy discussions. Especially for agriculture, considering energy policy changes could lead to leakage outside of California and conversion of farmland to higher greenhouse gas emitting sources.

Transportation Sector Comments

Transportation is another important consideration for the agricultural community. We compete in worldwide markets and need reliable and intermittent transportation resources to get our products into markets. The agricultural community is currently in the process of upgrading its fleet to meet the requirements of the Truck and Bus Regulation. This regulation is not without significant costs to the agricultural community and the truckers that service our industry. California agriculture is heavily reliant on many individual owner-operators who do not have the resources to continuously turn over its fleet.

We also have significant concerns that current regulations to bring fuels under the cap, will lead to the loss of unbranded fuels being available. Agriculture is heavily reliant on unbranded fuels during peak seasons and severe economic loss will be incurred by agricultural producers and the economy as a whole if there is a shortage. We would appreciate if the ARB would work with the industry to ensure the availability of unbranded fuels under the current Cap-and-Trade system.

Water Sector Comments

Water is near and dear to the agriculture community which does not exist without it. Farmers and ranchers are already implementing water efficiency measures as a means of survival and are concerned with additional regulatory intervention adding additional costs to the system.

Agriculture Sector Comments

We are concerned with language in the Discussion Draft about potential measures on the agricultural sector. Keeping agriculture economically viable is an important component to meeting the State's greenhouse gas emission target. The conversion of farmland due to costly mandates will lead to emission increases by the products being produced in less productive areas not subject to GHG programs and from local increases due to development.

The regulatory burden on agriculture is already severe through the Regional Water Boards Long-term Irrigated Lands Regulatory Program. That program will mandate proper nutrient management and implementation of Best Practical Treatment or Control of fertilizer application. There could be significant regulatory overlap with this program if another agency is also tasked with measures on agricultural fertilizer.

Language Clarifications

While we hold our position that all post 2020 targets and strategies should be removed from this update, there are several statements that we feel are incorrect and need to be addressed:

Introduction pg. 2 – the last bullet point of Section A, where ARB is laying out the requirements of AB 32 it states, "Maintain and continue emission reductions beyond 2020." We believe that this statement is taken out of context from the actual text in AB 32 and is misleading. The full text of the statement in AB 32 should be inserted to replace the misleading statement, "…the statewide greenhouse gas emissions limit continue in existence and be used to maintain and continue reductions beyond 2020."

III. Progress Toward the 2020 goal pg. 19 – we recommend the following strikeout as it is misleading, "The State's progress on measures included in the Scoping Plan and other complementary activities have put California on the path envisioned by AB 32: to reduce GHG emissions to 1990 levels by 2020~~, and to achieve the maximum technologically feasible reductions on an ongoing basis~~."

V.A. Post-2020 Progress to Date pg. 74 – the last sentence in the first paragraph is confusing and potentially misleading. The statement makes the case that emissions after 2030 will increase without further actions. In paragraph two, it states that emissions will increase to 2010 levels by 2050. If we are talking about greenhouse gas emissions, this absolutely cannot happen because ARB has the authority and mandate to stay below the 1990 emissions limit. Measures currently in place like the Cap-and-Trade program will prevent those GHG emission increases above 1990 levels.

Conclusion

We believe that the setting of future GHG reduction targets are premature and create a high level of regulatory uncertainty for our agricultural businesses making investments today to meet the 2020 standards. Setting of further reduction targets, especially those as far reaching as S-3-05, sends a message that the investments we are making today will be insufficient and increases the likelihood of leakage and discourages business from locating in California. We appreciate the opportunity to provide our feedback on the Scoping Plan Update and are always appreciative of staff's willingness to discuss these issues with us. If you have any questions or wish to have further dialogue on our comments, please contact Casey Creamer at (559) 252-0684.

Sincerely,

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