

October 24, 2013

Steve Cliff, California Air Resources Board
Shelby Livingston, California Air Resources Board

Cc: Arsenio Mataka, CalEPA, Assistant Secretary for Environmental Justice

Re: Comments to ARB on Cap and Trade Regulation



Dear Steve Cliff and Shelby Livingston,

Please accept these comments to the Cap and Trade Regulation for the ARB hearing on 10/25/13. GAIA tracks carbon trading schemes internationally, and we continue to be concerned that Cap and Trade programs will further harm environmental justice communities. You may be interested in our report on the Clean Development Mechanism and cement kiln incineration in Mexico, available at <http://www.no-burn.org/urge-to-stop-approval-of-waste-incineration-in-mexican-cement-kiln>

I would like to repeat my earlier request that there be an opportunity for public engagement – particularly from impacted communities and potentially impacted communities – when ARB addresses the question of whether to give an additional exemption from the Cap to municipal solid waste incinerators. The current exemption for incinerators will end in 2015.

We are greatly concerned about how ARB conducted its decision-making process on this issue earlier this year, without notice to the public that the issue would be raised at two board meetings and without an effort to hear from impacted communities. Thus we respectfully urge a public, transparent process for ARB's further decisions on this issue.

I also make the following recommendations, which have been deliberated with the AB32 Environmental Justice Advisory Committee (EJAC):

1. The Plan should emphasize the importance of using CalEnviroScreen to identify fence-line communities to target GHG reduction programs.
2. A minimum of 25%, preferably more, must be spent for the benefit of the communities most burdened by pollution and socioeconomic distress (as defined by CalEnviroScreen), with at least 10%, preferably more, to be spent directly in those communities, as required by SB 535. Investment of proceeds into community-accessible GHG reduction programs should include low-income energy efficiency, solar for low-income homes, transit operations and other low and no-carbon transportation alternatives, affordable transit oriented development and urban forestry and green infrastructure (including parks).
3. ARB should lead implementing agencies in the development of rigorous and consistent metrics to measure the GHG reductions and co-benefits of GHG reduction programs using environmental, economic and health metrics. Such measurements of program accountability should be based on sound science.
4. Adequate staffing and resources should be provided to said agencies to ensure transparency and

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accountability regarding the investment of this special source of public monies.

5. ARB should prioritize strict and ongoing evaluation of the Cap-and-Trade system, enforcement of caps and management to prevent toxic hot spots, including studying alternative carbon mechanisms to reduce GHG emissions.

6. ARB should evaluate the impact of fugitive methane emissions from conventional and unconventional oil and gas production (fracking) upon AB32 goals and programs.

7. ARB should minimize carbon offsets that could diminish direct emission reductions in disadvantaged communities.

8. ARB should not give any free allowances to provide certainty that the value of allowances will be used for the benefit of consumers and to further the purposes of AB 32 and to avoid rewarding industry stalling, delay, and obstruction. ARB should give equal consideration to the risk of overcompensating covered entities as it currently gives to leakage risk. Leakage risk should be subject to independent 3rd party analysis.

9. ARB should not extend transition assistance in lieu of requiring the industrial sector to purchase allowances at auction. ARB must provide sufficient supporting analysis prior to extending transition assistance.

10. The transportation fuels sector should be required to purchase 100% of their allowances at auction when they come under the cap in 2015.

11. The Department of Finance, ARB, and implementing agencies should ensure that covered entities are prohibited from receiving revenues from the Greenhouse Gas Reduction Fund.

12. Waste incineration facilities should be covered entities with compliance obligations under the Cap-and-Trade program.

13. The Adaptive Management Plan should provide for proactive solutions when unintended environmental justice impacts are discovered.

Thank you for your work on these issues.

Sincerely,

Monica Wilson
U.S. Director, GAIA
(Member, AB 32 Environmental Justice Advisory Committee)