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LATHAM & WATKINS LLP

June 22, 2022

California Air Resources Board (ARB)
1001 I Street,
Sacramento, CA 95814

RE: June 23, 2022 ARB Board Meeting

ARB Board Members:

Latham & Watkins LLP, on behalf of its client, the Coalition for California Climate Ambition, a coalition comprised of a diverse group of stakeholders that consider the California Cap-and-Trade Program to play a crucial role in achieving ambitious greenhouse gas emission reductions in the state of California, respectfully submits this comment letter for the record in advance of the June 23, 2022 Board Meeting.

The Board Meeting Public Agenda, last updated on June 20, 2022, states that "The California Air Resources Board will hear an overview of the Proposed 2022 Scoping Plan and draft Environmental Analysis for the 2022 Scoping Plan. The proposed plan recommends a suite of actions to achieve carbon neutrality in California no later than 2045." Our comment letter is being submitted in response to this agenda item. In particular, our letter focuses on the importance of the Cap-and-Trade Program in California climate policy and argues that cap-and-trade should be a central, i.e. leading, component of any scenario adopted by ARB in the Final Scoping Plan Update expected to be published later this year.

The Cap-and-Trade Program has been a core feature of California's climate policy since the adoption of the first Scoping Plan in 2008. Today, it covers 450 compliance entities that account for roughly 80% of the state's greenhouse gas (GHG) emissions. The design of the Cap-and-Trade Program has been carefully refined over the years through extensive public consultation, most recently in 2017 through AB 398. As noted by the Draft Scoping Plan Update, the design modifications ushered in by AB 398 contain important enhancements to climate ambition and cost containment measures, including:

- "Doubling of stringency with an annual cap decline of 4 percent per year from 2021–2030
- AB 398 price ceiling
- AB 398 redesigned allowance price containment reserve with two tiers
- AB 398 100 percent leakage assistance factor for industry
- AB 398 lower offset limits: Usage limit cut from 8 percent to 4 percent, and half of offsets must provide direct benefits to California"

To date, the Cap-and-Trade Program has enabled California to meet the state's GHG targets, has raised billions of dollars that are reinvested into much needed climate adaptation and resiliency programs, and has bolstered California's role as a global leader on climate change. As California enhances its climate ambition through 2045, it will be even more important for the state to rely on the Cap-and-Trade Program to achieve its targets for the three reasons set out below.

1. First, the Cap-and-Trade Program's design allows for a predictable and stable decline in emissions such that even the most ambitious emission reduction targets can be achieved. This is particularly the case when coupled with a robust enforcement mechanism, which in California has secured near perfect compliance to date.

2. Second, cap-and-trade is the most cost-effective way to reduce emissions, which translates directly into costs borne by consumers in goods and services supplied by compliance entities. As the cap declines and allowance prices increase over time, covered entities are incentivized to reduce their emissions more effectively while keeping production costs down.

3. Third, the more work the Cap-and-Trade Program is allowed to do in California, the greater the revenue available for GHG reducing activities throughout the state. According to an April 2022 press release by the Office of Governor Gavin Newsom, "to date, $18.3 billion has been appropriated for the statewide [California Climate Investments] initiative that puts Cap-and-Trade dollars to work reducing GHG emissions, strengthening the economy, and improving public health, with nearly $10.5 billion in implemented projects." In 2021 alone, "more than $1 billion in funding was directed to projects benefiting [disadvantaged communities and low-income communities and households, known as] priority populations."[1] Thus, in addition to providing a cost-effective approach for reaching carbon neutrality, the Cap-and-Trade Program can finance many of the state's complementary climate programs.

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[1] Office of Governor Gavin Newsom, "California Climate Investments Program Implements $10.5 Billion in Greenhouse Gas-Reducing Projects, Expected to Reduce 76 Million Metric Tons of Emissions," April 12, 2022, available at https://www.gov.ca.gov/2022/04/12/california-climate-investments-program-implements-10-5-billion-in-greenhouse-gas-reducing-projects-expected-to-reduce-76-million-metric-tons-of-emissions/

There is no downside to relying on the Cap-and-Trade Program. Rather, California only stands to gain from increasing its reliance on the Program through 2045. Thus, while we welcome the Draft Scoping Plan Update's position that the Cap-and-Trade Program "will remain critical as we work toward carbon neutrality," we urge ARB to model the role of Cap-and-Trade through 2045 in the Final Scoping Plan Update. This is crucial not only for the three reasons outlined above but also for market certainty.

As of the last Scoping Plan Update in 2017, it was forecasted that cap-and-trade would only account for roughly 38 percent of the state's abatement efforts, with other complementary policies accounting for the remaining 62 percent. We therefore also urge ARB to, when conducting this modeling, adopt an increased role for the Cap-and-Trade Program whereby it acts as the primary policy, or the "workhorse," for achieving the state's emission reduction targets. We also encourage ARB to conduct a cost-benefit analysis to demonstrate how the approach advanced in this letter is the most cost-effective among the available options.

Finally, we believe that all readers of the Final Scoping Plan will benefit from a description of how the Cap-and-Trade Program works and why it is such an important tool in the state's climate policy toolkit. In this same context, we believe that it is important to discuss environmental justice concerns and how they are addressed by the Cap-and-Trade Program. For example, we find that the amount of cap-and-trade revenue invested in priority communities is noteworthy, as is the fact that air pollution in disadvantaged communities where covered entities operate has decreased, per a recent report by the California Office of Environmental Health Hazard Assessment. Our view is that the inclusion of this additional context will provide a centralized and complete record for public reference in advance of the cap-and-trade rulemaking process that ARB intends to undertake in 2023 after the Final Scoping Plan Update has been published.

Sincerely,

Michael Carroll

Michael J. Carroll
of LATHAM & WATKINS LLP