September 19, 2016

Ricard Corey
Executive Officer
California Air Resources Board
1001 "I" Street
Sacramento, CA 95814

RE: Turlock Irrigation District Comments on the August 2, 2016 Amendments to the MRR

Dear Mr. Corey,

Turlock Irrigation District ("TID" provides the following comments on the August 2, 2016 *Proposed Amendments to the Mandatory Reporting Regulation for Greenhouse Gas Emissions* ("Proposed Amendments"). As discussed below, the ARB should remove the proposed amendments to Section 95111(b)(1)(m)(3), which would clarify that the REC serial number reporting requirement will not be enforced by the ARB. This change will undermine California ratepayers' investments in out of state renewables by sending a signal to the market place that "null power" can be purchased and delivered at a zero emissions factor even though the importing entity did not purchase the RECs, which include all "green attributes". Green Attributes is defined to include the emissions attributes of renewable resources. This signal will also exacerbate the direct delivery concerns the ARB has faced in implementing the RPS adjustment requirements.

The WREGIS operating rules define a REC to include all Renewable and Environmental Attributes", which includes "any and all credits, benefits, ***emissions reductions***, offsets and allowances-howsoever titled-attributable to the generation from the Generating Unit, and its avoided emission of pollutants." (emphasis added). In other words, while RECs cannot necessarily convey a right to claim avoided emissions in a cap-and-trade program, but the holder of the REC has a contractual right to claim the emissions attributes over other counterparties that may have purchased the null power from the facility. The ARB should recognize these contract rights by removing the proposed changes to Section 95111(b)(1)(m)(3) and instead clarifying that the ARB will enforce the requirement to report REC serial numbers for specified imports. This proposal will align the carbon obligation with the party that actually procured the environmental attributes.

TID does not agree with the suggestion that assigning an unspecified emissions factor to null power would constitute a violation of the Dormant Commerce Clause. A state law violates the Dormant Commerce Clause when the law discriminates against out-of-state competition to

benefit local economic interest, or is unduly burdensome on interstate commerce.[1] The proposal to require null power be reported as unspecified is not an attempt to control prices on the face of the regulation and therefore is not a violation of the Dormant Commerce Clause. Moreover, California's interest in protecting and preserving its air quality justifies any incidental burden the enforcement of the REC serial number reporting requirement may pose for entities that knowingly purchase null power without the green attributes from a renewable energy resource.[2]

TID is very concerned that this proposal will exacerbate the direct delivery requirement issues the ARB and reporting entities have faced with implementing the RPS adjustment requirements. Moving forward with the proposed amendments Section 95111(b)(1)(m)(3) will exacerbate these issues and devalue California's ratepayer's investments in out of state renewable resources in favor of other market participants. For these reasons, TID respectfully requests that the ARB retract the proposed revisions to Section 95111(b)(1)(m)(3) and enforce the REC serial reporting requirement in the current version of the MRR. At the very least, the ARB should continue to evaluate these proposed changes in conjunction with the proposals for addressing the RPS adjustment issues in the Cap-and-Trade Regulation.

Respectfully Submitted,

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Ken R. Nold
Turlock Irrigation District

[1] See C&A Carborne, Inc. v. Town of Clarkstown, 511 U.S. 583 (1994); Pharmaceutical Research and Manufacturers of America v. Walsh et al, 538 U.S. 644 (2003); Maine v. Taylor, 476 U.S. 1138 (1986); Rocky Mt. Farmers Union v. Corey, 730 F.3d 1070 (2013).

[2] See Pharmaceutical Research and Manufacturers of America v. Walsh et al, 538 U.S. 644 (2003); See also, Rocky Mt. Farmers Union v. Corey, 730 F.3d 1070 (2013).