November 4, 2016

**Via Electronic Submission**

Clerk of the Board, Air Resources Board

1001 I Street

Sacramento, CA 95814

**Re: October 21, 2016 Workshop and the Informal Staff Proposal for the Industry**

**Assistance Factor Calculation**

The Wonderful Company LLC (“Wonderful”), on behalf of Wonderful Pistachios and Almonds LLC (“WPA”), appreciates the opportunity to provide feedback to the California Air Resources Board (“ARB”) regarding the October 21, 2016 workshop and the Informal Staff Proposal for the Industry Assistance Factor Calculation (“Staff Proposal”).

Fundamentally, Wonderful does not support the Staff Proposal to decrease assistance factors post 2020. We believe that ARB should, at a minimum, maintain the current assistance factors (those allocated in the 3rd compliance period) for 2021-2023, and review additional emissions leakage data from 2018 through 2020 before considering assistance factor refinement.

From the onset of the Cap-and-Trade (“C&T”) program, ARB provided for an allowance allocation methodology that designated food production sector facilities as “medium” leakage risk, whereby granting the food industry free allocation assistance factors of 75 percent through the 2018-2020 compliance period. In 2011, ARB directed staff to investigate and recommend potential improvements to the industrial allowance allocation to better meet the objectives of the establishing legislation (AB 32) by looking for ways to minimize leakage from domestic (California) industries to the extent feasible.

As part of this directive, ARB commissioned three independent studies that utilize different methodology to answer the larger question of the potential leakage risk associated with recalculating the assistance factors for the C&T program. Although specifically commissioned by ARB, staff is only proposing to use two of the three studies to develop assistance factor methodology post 2020. We find this approach to be problematic, as we do not believe the two relied upon studies accurately represent emission leakage risk, which is the intent of the ARB’s directive.

At their core, the two utilized studies, Gray et al. (domestic study)[[1]](#footnote-1) and Fowlie et al. (international study)[[2]](#footnote-2), fail to accurately assess genuine industry specific emissions, the principal reason for ARB commissioning these studies. We cannot support ARB moving forward with the Staff Proposal for assistance factors when the relied upon calculation methodology utilizes results from studies that are incompatible with industry specifics – especially the food industry – and that do not accurately measure emissions leakage for California entities. Some of the more pressing issues we have with the two utilized studies are highlighted below:

* There is no mention of a comparison between California emission control efficiencies versus international emission control efficiencies or other states’ control efficiencies. Without comparing the emission controls between industries outside of California, ARB cannot possibly quantify emissions leakage.
* The authors of the two studies acknowledge that they based their conclusions on insufficient statistical data, whereby making it impossible to accurately predict direct leakage risk to California based entities. The authors in the domestic study (*Gray et al.*) acknowledge the study’s limitations to predict long-term effects of a carbon price to any degree of certainty; and the international study (*Fowlie et al.*) recognizes that quantifying production leakage rate to international markets solely from California is difficult due to the limited data set available. This fact required the authors to simulate how such a transfer rate may appear, rather than making calculated projections.
* The studies do not adequately represent the leakage risk between California and neighboring US states. The study by Fowlie et al. only compares California to international markets, and the Gray et al. study is focused on how additional carbon prices (emission credits) will affect California industries.
* The food processing industry is a unique category of emitters and should be specifically studied to provide adequate projections as to the impacts of decreased assistance factors post 2020. ARB staff are not proposing to use the data from the third leakage study by *Hamilton et al.*[[3]](#footnote-3)which specifically looks at data from the agricultural sector, because staff believes that study was too conservative. We do not agree with ARB’s assessment of this study and support ARB reevaluating the conclusions derived from the *Hamilton et al* research.

The aforementioned deficiencies in the two studies are outstanding. We believe it would be counterintuitive and inappropriate for ARB to develop long-term (post 2020) program elements based on studies wherein the authors acknowledge their own limitations to predict long-term effects to any degree of certainty. It would be fundamentally flawed for ARB to use any assumption in place of a fully vetted study for emission control comparison. The intent of AB 32 is to reduce California Greenhouse Gas (“GHG”) emissions, and in turn, reduce global GHG emissions, since California as an individual state is a large contributor. However, there is no value in reducing California emissions if that would lead to an increase in GHG emissions elsewhere in the globe as GHG emissions reside in the atmosphere *globally*. In fact, without adequate quantification of industry specific emissions efficiencies between California and non-California facilities, there is no guarantee that production leakage from California (no matter how small) will not generate an overall increase in global GHG emissions.

Furthermore, we believe it is incorrect to assume that there is a one-to-one market transfer rate when it comes to emissions leakage. For example, California currently has some of the most energy efficient, most emission efficient, and least GHG emitting facilities in the world. With the onset of AB 32, California emitters were required to produce lower emissions per metric ton than similarly producing facilities almost anywhere else in the world. As such, there is already a disparity in comparing California and non-California emitters. The third study ARB commissioned by *Hamilton et al.* (determined to be insufficient by ARB) elaborates further on this emission efficiency disparity:

*For the case of California food processors, the typical plant operates on natural gas; however, global food processing plants including those in other U.S. states rely on other sources such as coal and fuel oil. In 2002, 52% of total energy supply utilized in the U.S. food manufacturing industry was natural gas, 21% net electricity, 17% coal, 3% fuel oil, and 8% other (e.g., waste materials). In aggregate, the market transfer of California production to producers in other U.S. locations in the U.S. therefore is likely to occur to plants relying on a mix of fuels that produce higher levels of emissions per MBtu. In the case of tomato processing, global market transfer that occurs to food processing facilities in China is likely to result in greater emissions per ton of processed tomatoes, as energy used to process tomatoes in China is generally derived from coal-fired plants.*

In light of the challenges outlined with the studies above, we respectfully request that ARB reevaluate its assistance factor methodology prior to finalizing the Staff Proposal.

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Thank you for your consideration of our comments on the October 21, 2016 workshop and the Informal Staff Proposal for the Industry Assistance Factor Calculation. We would be happy to discuss at your convenience.

Sincerely,



Melissa Poole

Senior Counsel/Director of Government Affairs

1. Gray, W., Linn, J., and Morgenstern, R. (2016). *Employment and Output Leakage under California’s Cap-and-Trade Program.* Accessed 11/4/16: <http://www.arb.ca.gov/cc/capandtrade/meetings/20160518/rff-domestic-leakage.pdf> [↑](#footnote-ref-1)
2. Fowlie, M., Reguant, M., and Ryan, S. (2016). *Measuring Leakage Risk.* Accessed 11/4/16 <http://www.arb.ca.gov/cc/cap-and-trade/meetings/20160518/ucb-intl-leakage.pdf> [↑](#footnote-ref-2)
3. Hamilton, S.F., Ligon, E., Shafran, A., Villas-Boas, S. (2016). Production and Emissions Leakage from California’s Cap-and-Trade Program in Food Processing Industries: Case Study of Tomato, Sugar, Wet Corn and Cheese Markets. Orfalea College of Business, Ca Poly San Luis Obispo. Accessed 11/4/16: <http://www.arb.ca.gov/cc/capandtrade/meetings/20160518/calpoly-food-process-leakage.pdf> [↑](#footnote-ref-3)