



**Western States Petroleum Association**  
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**Catherine Reheis-Boyd**  
President

July 15, 2016

Ms. Rajinder Sahota  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

via e-mail at: rsahota@arb.ca.gov

Re: WSPA comments on proposed amendments to the AB 32 Cap & Trade Regulation on Program Linkage and Sector Based Offsets

Dear Ms. Sahota:

The Western States Petroleum Association (WSPA) is a non-profit trade association representing companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in California and four other western states. WSPA appreciates this opportunity to provide comments on AB 32 Cap & Trade rulemaking concepts presented by Air Resources Board (ARB) staff during its April 28, 2016 public workshop on program linkage and sector based offsets. The comments that follow were separately discussed with your staff during a meeting on June 2, 2016 and are reiterated here for inclusion in the Cap & Trade rulemaking record.

WSPA encourages ARB to consider approaches that will maximize the benefits of program linkage. As a matter of policy preference, ARB should focus on linkage to well-designed, broad greenhouse gas (GHG) emissions markets. Market linkages could be based on a few key criteria such as cap stringency, offset levels and comprehensive monitoring and reporting. WSPA believes that this approach would satisfy ARB's statutory requirements for linkage referenced below.

When ARB pursues linkage on a smaller scale, such as with the Canadian province of Ontario, it should focus on streamlining procedures, protocols and program requirements that can stimulate creative approaches to GHG reduction and facilitate compliance for the regulated entities responsible for delivering those reductions. As a general rule, approaches that are overly prescriptive, preserve existing design flaws in California's program and import design flaws from linked jurisdictions, will discourage the very actions ARB is seeking to incentivize through program linkage and sector-based offsets.

WSPA previously submitted comments to ARB, dated April 29, 2016, addressing ARB's proposals for sector-based offsets in general and Reducing Emissions from Deforestation and Forest Degradation (REDD) programs in particular. We incorporate those comments herein by reference as they are relevant to the subject matter of ARB's program linkage proposals.

## **ARB's Linkage Policy is Overly Prescriptive**

State law requires that the Governor make certain findings before California's Cap & Trade program can be linked to another jurisdiction.<sup>1</sup> These findings pertain to the stringency and enforceability of program requirements in the target jurisdiction. However, the statute does not dictate specific criteria for program linkage. ARB's proposed approach to linkage with Ontario is excessively prescriptive. It compels the candidate jurisdiction to conform to California program requirements, such as holding and purchase limits, which will needlessly complicate program implementation and increase compliance costs for regulated entities. Holding and purchase limits become increasingly burdensome with new linkages to jurisdictions where regulated entities have additional compliance obligations.

## **Potential Ontario Linkage Impacts**

Ontario's Cap & Trade program needs modification before it can be linked to California's program. For example, the Ontario program sets the point of regulation for the electricity sector on the natural gas supplier/distributor rather than on electricity generators. This approach will diminish incentives for Ontario electricity generators to implement emission reduction measures. It also ensures that Ontario will be a net buyer of GHG emission reduction credits. Thus, linkage to Ontario as proposed can be expected to adversely affect the California allowance market and likely result in increased compliance costs for Cap & Trade regulated entities based in California. ARB staff acknowledged this concern and indicated they would raise it with Ontario officials and explore potential solutions. We look forward to further information from ARB relative to those discussions.

## **Auction Floor Price Adjustment**

The Ontario regulation includes a formula that sets the auction floor price per metric ton of carbon at a level that is higher than California's current floor price (C\$18 (US\$14)). Accordingly, ARB's proposal to set a joint auction floor price at the highest price established by any linked jurisdiction would increase compliance costs for California based entities participating in the allowance market. In addition, it is unclear how the floor price would change in California based on future currency fluctuations in Ontario. The increased floor price and potential for future volatility driven by outside markets would also complicate long term business planning, especially for corporations with operating entities in multiple jurisdictions.

Any adjustments to California program design to accommodate linkage should seek to maximize economic efficiency. Accordingly, if ARB continues to pursue policy linkage to markets on a detailed requirement-specific basis, the auction floor price should not be increased for any market participant. WSPA recommends that ARB eliminate language in the Cap & Trade regulation at section 95911(c)(3)(E) authorizing the auction administrator to set the auction reserve price at the highest market value of any participating jurisdiction.

WSPA recommends that ARB require linking jurisdictions to use the California floor price. WSPA is opposed to any proposal that would increase the floor price in the California program. WSPA also recommends that ARB fully disclose to both covered entities and to the public the potential impacts of linking to a jurisdiction with a higher floor price. ARB staff acknowledged these concerns and agreed during our June 2, 2016 meeting to explore alternative approaches with Ontario officials.

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<sup>1</sup> Government Code §12894.

## **Linkage Process Transparency**

In response to WSPA's request for greater transparency in the linkage process, ARB also committed to include in the Staff Report for the proposed amendments to California's Cap & Trade regulation a comparison of program requirements among all three linked jurisdictions – California, Quebec and Ontario. WSPA appreciates ARB's recognition of the need to disclose this information to Cap & Trade program stakeholders.

## **One-Way Linkage for Sector-Based Offsets**

WSPA supports the use of sector-based offsets and REDD. We also recommend that ARB pursue a more flexible approach than currently contemplated. Adoption of sector-based offsets in the Cap & Trade regulation should not trigger the programmatic linkage envisioned in Government Code section 12894. Pursuant to California MOUs with Acre, Brazil and Chiapas, Mexico, REDD offsets would flow only in one direction (out from the REDD jurisdiction). We appreciate ARB's desire to establish enforceable agreements with host jurisdictions to ensure that offsets generated from REDD programs can be verified and do not result in emissions leakage. However, ARB need not follow the same approach used for Quebec and contemplated for Ontario in establishing one-way linkages for the sole purpose of crediting REDD offsets. Other jurisdictions, including the European Union, New Zealand and Canada do not require linkage agreements to recognize offsets generated in another jurisdiction. Moreover, some potential REDD jurisdictions may lack their own requirements for GHG emissions reductions and thus may not satisfy the California statutory criteria for programmatic linkage.<sup>2</sup> This problem, and future problems related to differences in individual program requirements, could be eliminated by linking to well-designed, broader GHG emissions markets. There is no need for ARB to require a formal linkage process to allow compliance entities to use subnational or international offsets.

While WSPA and its members will continue to comment on various ARB staff proposals as necessary to provide technical input and assistance, WSPA believes that AB 32 does not authorize the Governor or the ARB to establish a greenhouse gas emissions limit that is below the 1990 level and that would be applicable after 2020. Furthermore, pursuant to California Health and Safety Code Section 38551, ARB may not rely on Executive Orders that purport to extend or expand the scope of AB 32.

WSPA appreciates ARB's consideration of our comments and we look forward to your responses. If you have any questions, please contact me at this office, or Tom Umenhofer of my staff at (805) 701-9142 or email [tom@wspa.org](mailto:tom@wspa.org).

Sincerely,



cc: Richard Corey - ARB  
Edie Chang - ARB  
Mary Jane Coombs - ARB  
Tom Umenhofer - WSPA

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<sup>2</sup> See Government Code §12894(f)(1).