

Monday, January 11, 2010

Via: web submission at <http://www.arb.ca.gov>

Mary D. Nichols, Chairman
The Air Resources Board
1001 I Street
P.O. Box 2815
Sacramento, CA 95812

Via: email to eaac@arb.ca.gov

Economic and Allocation Advisory Committee (EAAC)

Re: The Greenlining Institute Comments on Carbon Pricing Mechanism is Preliminary Draft Regulation for A California Cap-and-Trade Program and the January EAAC Report

Dear Chairman Nichols and EAAC:

Thank you for the opportunity to comment on the implementation of a Carbon Pricing Mechanism under AB 32. These comments are addressed simultaneously to the EAAC members and the ARB members and staff and are relevant to both the Preliminary Draft Regulation (PDR) for the cap and trade program and the final EAAC recommendations.

Greenlining's Role in AB 32 Implementation

Our organization's focus and role in this public process is to ensure that low-income communities and communities of color do not disproportionately suffer, and also benefit from, the programs, mechanisms, and investments under AB 32. We fully welcome and embrace an equitable green transition that is informed by the real world experiences of communities of color, that currently represent the majority of the population; as well as small and minority-owned businesses which represent the largest share of business in California.

The Greenlining Institute and its 38-member multi-ethnic coalition are extremely invested in the development of equitable impacts and positive economic development from AB32 implementation, in particular on California's most disadvantaged communities. As a national and state-wide coalition we have worked closely with small minority businesses, economic development non-profits, utilities and with financial institutions. As such, we have a unique perspective on the possible impacts on businesses, households, community non-profits and goods and services. With this in mind, Greenlining encourages ARB to adopt approaches that ensure California's mitigation of carbon includes fairness, transparency and accountability to the state's most vulnerable (low-income constituents and small minority businesses).

EAAC Recommendations Should Highlight Vulnerable Communities as Senior Recipients of Allocation Value

The Economic Allocation Advisory Committee submitted its final report recommendation on the Cap and Trade allocation. The Greenlining Institute would like to acknowledge the effort on the part of ARB staff

to conduct regular public comment. We provided comment on several occasions. We are encouraged by the inclusion/reference to several of our recommendations and concerns.

❖ **Support for Allowance Value from Full Auctioning - Provide Equitable Distribution while Avoiding Windfall Profits for Industry**

Full Auction- The Greenlining Institute supports recommendation 6.3, that “ARB rely principally and perhaps exclusively, on auctioning as the method for distributing allowances”¹. We agree with the committee that free allocations of allowances should be a very small share of the value, but would encourage the quickest approach to zero allocation and full auctioning. Full auction provides transparency and accurate price discovery, which will be the key to the overall success of the program. More importantly, a full auction preserves the public ownership of a common asset, the air we all breathe – equally.

Avoiding Windfall Profits -We agree with the EAAC recommendation “against supporting industry profits with allowance value”². There is a significant difference between corporate/industry stakeholders and private/public investments. Unlike polluting industries, which have access to capital through tax incentives and shareholder investment to improve their business model, smaller and more localized businesses are often thwarted by the lack of access to capital. In the current economic crisis this lack of access to capital is devastating business. To this end, we draw the additional distinction that small *minority* businesses are *worse off* and will need targeted outreach, tailored financing programs, as well as greater incentives to upgrade to cleaner and more efficient equipment. Free allocation will not help businesses to this end, whereby a robust auctioning program can.

The Greenlining Institute believes that the burden of a carbon price must return to the polluters. In anticipation of a very aggressive market in the trading of GHG emissions, any value gained from this trading scheme must be used to assist the people of California make the transition to a green economy and not through give-away allowances.

❖ **Support for Stringent Limits on Offsets - Directing Projects to California Communities**

We strongly urge both CARB and EAAC to place stringent limits on the use of offsets. Offset projects by their very nature run counter to the goals of environmental justice by allowing companies to purchase offsets in lieu of reductions that would otherwise be required. This in turn leads to the outsourcing of environmental benefits and green jobs and the exacerbation of hot spots of pollution in communities historically overburdened by air pollution, which tend to impact the poor and people of color. Additionally, the full promise of AB 32 may not be met, and the environmental integrity of the program could be put in jeopardy, if an over-reliance on compliance offsets is allowed. We encourage you to lower the offset limit and prioritize offsets that provide environmental and health benefits to California, and in particular, those communities that are already suffering disproportionately from unhealthy air pollution.

¹ “Allocating Emissions Allowances under California’s Cap-and-Trade Program”, Economic Allocation Advisory Committee - Draft Report January 2, 2010. Pg 63.

² “Allocating Emissions Allowances under California’s Cap-and-Trade Program”, Economic Allocation Advisory Committee Draft Report January 2, 2010. Pg 62

❖ **Support for Community Benefits Fund - Providing ‘Win-win’ Solutions Needed for Low-Income Constituents and Targeted Investment Opportunities**

As co-sponsor of AB 1405, the Community Benefit Fund (CBF), we are pleased that the EAAC recommended the inclusion of a CBF as a recipient of allocation dollars and more specifically as a vehicle for investment in disadvantaged communities, per AB 32 requirements. We also agree with EAAC when it says, “Disadvantaged communities face especially pressing investment needs. To assist these communities, allowance value could be targeted to local governments or devoted to vehicles like Community Benefits Funds designed specifically to mitigate the effects of climate change and support community adaptation efforts”³. This follows closely with our intent in AB 1405 legislation, and we are very pleased with its inclusion in the EAAC report.

We support the inclusion of this language in the final EAAC report because it will provide a clear signal to CARB staff that low-income communities will face greater challenges in the green economy, such as reducing their carbon footprint, dealing with energy hikes, transportation and food price increases, and accessing green jobs training.

Although no percentage was included, *and* EAAC was split in a decision to name a specific allocation value, Greenlining believes that a substantial percentage is justified. With so many Californians facing economic decline, a significant allowance value must be allocated to address the transition facing these communities. As asserted by AB 1405, we suggest that a commitment of 30% of the total allowance value towards the Community Benefits Fund. CBF has a unique function that can address several of the statute requirements of AB 32, and therefore should be given special weight and priority to offset the possible economic impacts of the regulation. In addition, targeted investment should first consider low-income rather than consider any ‘trickle-down’ investment model. Low-income communities are too often at the end of a list when dollar allocation is decided.

❖ **Support of EAAC Recognition that Private and Public Investment Have Additional Value when Directed Toward Disadvantaged Communities**

We concur with EAAC recommendation that ARB “devote a significant share of allowance value toward financing of public and private investments”⁴, specifically when these types of investments are directed to low-cost emission reductions, job training, adaptation to climate impacts and environmental remediation in the communities that have carried the burden historically- low-income communities.

As recommended in AB 1405, we encourage CARB to grant eligibility to public institutions such as schools, community colleges, community centers, senior centers, public transit as well as small and locally owned businesses. We also encourage CARB to take a broad look at eligible projects that help consumers and small businesses reduce their emissions. To be sure, the greatest gains to communities appear to come from energy efficiency upgrades and retrofitting in the built environment, decentralized renewable energy project, as well as green jobs training.

Directing substantial investment to these disadvantaged communities will spur economic activity in these locales, which are precisely those hardest hit by the current economic recession. Jobs will be created, workforce capacity will expand to meet the challenges and small business will once

³ “Allocating Emissions Allowances under California’s Cap-and-Trade Program”, Economic Allocation Advisory Committee Draft Report January 2, 2010. Pg 63

⁴ Ibid.

again thrive. This type of investment will have a multiplier effect that will buoy the state, as well as the local community

Other Targeted Investments

❖ **Support for Contingency Fund for Co-Pollutants**

The Greenlining institute supports the recommendation for allocation dollars to the Contingency fund that would devote resources to communities experiencing increased exposure to co-pollutants from AB32 implementation. A set-aside for the purpose of environmental remediation is a positive sign of intent. Given that there are many uncertainties at this stage, it is incumbent upon CARB to protect communities who may suffer adversely from implementation of AB32. We concur that “Air pollution in vulnerable communities should be monitored, with additional investments in monitoring infrastructure as needed”, as evidence of good intent. However, this recommendation should be in addition to the current inclusion of a Community Benefits Fund and Investments of Private/Public dollars to vulnerable communities. It is equally important to invest in adaptation to climate impacts and environmental remediation in the communities historically overburdened by air pollution and low-income communities.

❖ **Support for Targeted Investment Towards Small Business, Minority and Women Owned Businesses and Supplier Diversity**

In particular, we recommend significant investment towards the cost-effective and more carbon intensive emission reduction activities and programs for small businesses.

Diverse small businesses must also be supported to participate in the supplier pipeline. So we are encouraged by this recommendation from the EAAC report.

Supplier Diversity:

To ensure that small businesses are not adversely affected by the state’s effort to cap emissions and transition to a more sustainable community, it is imperative that the small business employers, and their employees, be included and benefit. Given California’s rainbow of cultures that make up its population, Greenlining encourages CARB to replicate the leadership regarding supplier diversity that the CPUC and state legislators have exhibited over the last several years.

California Legislators’ Support General Order 156 and Supplier Diversity.

ARB must not ignore the available mechanisms such as General Order 156 that can ensure protections for small minority businesses and in particular under the ‘fairness and equitable’ intent of AB32, provide opportunities for supplier diversity in private and public investment projects required to meet our aggressive emission cap objective. The American Recovery and Reinvestment Act supported by the Obama Administration calls for inclusion of all citizens, particularly those most burdened by the financial hardships in the current economy. AB32 also includes language of similar intent. We believe GO156 provides a successful model to incorporate and emulate. The CPUC model (GO156) serves as a guide to achieving positive results and can be adopted quickly without expending much effort.

❖ **Support for Dividends which Add to the Public Good - General Opposition to Tax Cuts that Benefit a Few**

Greenlining supports the EAAC recommendation to return the allowance value to the owners of the commons – all Californians. “Dividends”, or per capita lump sum payments, rather than through tax cuts which will disproportionately benefit the wealthy, is a very simple and effective way to redistribute wealth equitably. AB 32 must not facilitate any regressive taxing, as low-income communities have and continue to benefit the least from such recommendations. As the EAAC estimates, ‘even returning only 60% of allowance value dividends would allow 54% of households to avoid cost impacts of higher fuel and electricity costs resulting from the implementation of AB32.’⁵ We believe that the EAAC’s recommendation of a dividend policy can provide multiple benefits including:

- Establishment of a transparent and equitable method to provide rebates to consumers
- Provide economic stimulus to households
- Help low-income people who can least afford increases in energy and fuel prices

Indeed, consumers can fight global warming without worrying about disproportionately shouldering its costs. While we support dividends to be a strong mechanism that preserves the public’s ownership of the sky commons and it is simple and provides distributional equity, Greenlining would like to see that CBF serve as the primary economic engine for disadvantaged communities and would like to emphasize that one alternative should not neutralize another.

Opposition to Unsustainable Tax Cuts

California has been facing unsustainable tax cuts, branded as good business and job creating. However, with the broken government in drastic need of program funding for the good of the community, any thoughts about tax-reduction for the wealthiest Californians is regressive taxing for all Californians.

Greenlining understands the notion of ‘tax shifting’ which ‘reduces the burden of taxes on work effort and other productive activities while placing it instead on pollution or other damaging activities,’⁶ but we do not see it as the conceptual basis around why EAAC believes allowance value needs to be devoted to tax rate cuts. Instead, EAAC’s recommendations for this tax rate reduction centers around the notion of cost-effectiveness in allocating revenues. As EAAC points out in Section 5.4 ‘if allowance value were used to cut the rates of income taxes, then households that are already exempt from income taxes (perhaps because of very low incomes) would not benefit from the rate cuts.’⁷ We are in agreement that ‘this raises equity concerns’ and more importantly, are concerned with the possibility that reduction in certain sales taxes will result in less funding for important environmental programs that have reached low-income communities.

If allowance value is made available for tax cuts they should be dedicated to tax cuts that bestow the maximum benefit to low- and moderate-income families and small minority-owned businesses.

- ❖ **Support for the Establishment of Independent Investment Advisory Board that Reflects Low-income and Minority Small Business Interests**
- ❖ Section 38565 of AB32 is a directive for ARB that public and private investments be devoted “where applicable and when feasible...toward the most disadvantaged communities in

⁵ Ibid., Pg.53

⁶ Fullerton, Don. ‘A Conceptual Framework to Compare Environmental Tax Shift Policies.’ *Redefining Progress*. 1998. pg. 5

⁷ Ibid., Pg. 55

California". The Greenlining supports the EAAC's committee's recommendation to establish "an Independent Investment Advisory Board to assist in screening potential investments and investment vehicles⁸ with *one caveat*; this Advisory Board should include representation from low-income communities and small minority business working from and within the disadvantaged communities. Greenlining believes the EAAC report's inclusion of low-income communities, targeted investment toward small businesses and disadvantaged communities and 'dividends', came about because certain committee members of the EAAC fully understood the equity impacts and the barriers for these communities. Too often, minority and low-income needs are addressed from parties, organizations or individuals who do not empathize or comprehend the magnitude of day-to-day challenges faced by low-income communities. We believe that the Independent Investment Advisory Board should reflect representation from these communities and stakeholders.

All California Communities will Benefit with Continued and Ongoing Public Involvement

Greenlining would like to acknowledge the effort on the part of ARB staff to conduct regular public comment. We submitted written and oral comments regularly and we are encouraged by the inclusion/reference to several of our recommendations and concerns.

Given the level of complication that the Board is attempting to address in mandating a cap for California, Greenlining recognizes that the implementation process will need continued review and feedback. Vigilance must be paid to the impact on communities, business, and mitigation of carbon during the initial compliance period. As the EAAC warns, "ARB should avoid policies that create property rights or other entitlements that cannot be changed..."⁹. Through review of the policies, modifications can be made, particularly if co-pollutants or other climate change adverse impacts are created and adversely experienced by low-income communities. Having opportunities for modification is valuable to both correct imbalances and effectiveness, in addition to adjusting to any new information or technologies that will likely develop.

We are encouraged by the process at the EAAC meetings, and encouraged CARB to adopt the recommendations set forth in this submitted comment.

Sincerely,

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⁸ "Allocating Emissions Allowances under California's Cap-and-Trade Program", Economic Allocation Advisory Committee - Draft Report January 2, 2010. Pg 62.

⁹ Ibid., Pg. 59

