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## MEMORANDUM

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**TO:** California Air Resources Board

**FROM:** Modesto Irrigation District  
Redding Electric Utility  
Turlock Irrigation District

**SUBJECT:** Proposed Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions

**DATE:** December 13, 2010

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### The Utilities

Modesto Irrigation District (MID), Redding Electric Utility (REU), and Turlock Irrigation District (TID), collectively the “Utilities,” appreciate the opportunity to comment on the “Proposed Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions” (Proposed Amendments) developed by the California Air Resources Board (CARB).

MID, REU, and TID are local publicly owned electric utilities. MID and TID are irrigation districts located in the Central Valley, while REU is a municipal utility within the City of Redding. MID serves over 111,000 electric customers with a peak load of over 620 Megawatts (MW). REU serves 42,000 customers with a peak load of 253 MW. TID serves about 100,000 electric customers with a peak load of approximately 600 MW. The Utilities maintain similar resource mixes, including hydroelectric, eligible renewable resources and fossil fuel sources. MID anticipates it will meet about 18% of its retail sales with eligible renewable energy in 2010 and will begin to meet over 27% of its retail energy sales with renewable energy in 2011. REU has long-term contracts to provide 31% of its energy from eligible renewable resources. TID is currently meeting 27% of its retail load with eligible renewable energy. In addition to the foregoing state-defined eligible renewable resources, the Utilities have ownership and/or contractual interests in large hydroelectric resources that meet up to 21% of their retail load. The Utilities also share similar challenges in implementing CARB’s Renewable Energy Standard, including weather patterns, demographics and local economics.

The Utilities have consistently supported the goals of AB 32 and participated CARB’s initial mandatory greenhouse gas (GHG) reporting proceedings in an effort to ensure that the reporting regulations were developed in a manner that was consistent with electric utility business practices. The Utilities are on record as supporting the original Mandatory Reporting Regulations (MRR) adopted December 2007, and have been active GHG emissions reporters

since the beginning of the program. The Utilities understand the need to coordinate the MRR with reporting regulations adopted by the Environmental Protection Agency (EPA) that occurred following the adoption of CARB's MRR, and also to effectively capture the information necessary to coordinate with the proposed CARB cap-and-trade program. The Utilities are supportive of the intent and goals of the Proposed Amendments and offer the following suggested changes.

### **§ 95103. Greenhouse Gas Reporting Requirements.**

*(f) Verification Requirement and Deadlines. Each reporting entity submitting an emissions data report for the previous calendar year that indicates emissions equaled or exceeded 25,000 tons of CO<sub>2</sub>e, including CO<sub>2</sub> from biomass-derived fuels and geothermal sources, and each reporting entity that has or has had a compliance obligation under the Cap-and-Trade Regulation in any year of the current three-year compliance period, must obtain third-party verification services for that report from a verification body that meets the requirements specified in Subarticle 4 of this article. Such services must be completed and a verification statement submitted by the verification body to the Executive Officer by ~~September~~ October 1 each year for operators, ~~and~~ suppliers, and ~~by October 1 each year for~~ electric power entities. Each reporting entity must ensure that this verification statement is submitted by the applicable deadline in this paragraph. Contracting with a verification body without providing sufficient time to complete the verification statement by the applicable deadline will not excuse the reporting entity from this responsibility. These requirements are additional to the requirements in 40 CFR §98.3(f).*

The Utilities request that the verification deadline be consolidated to October 1 each year for both operators and suppliers and electric power entities. While the Utilities believe that the deadlines for both reports should also be consolidated, we recognize that this is not possible due to the need to coordinate timing with the EPA requirements for facility operators and suppliers.

That said, CARB has the ability to consolidate verification requirements in an effort to increase administrative simplicity and harmonization for the reporter given that third party verification is not mandated under 40 CFR §98.3(f). This is especially beneficial to retail providers, particularly given that these reports are subject to enforcement action per 95107(a). We also see this as a method for reducing the cost of verification due to less site visits needing to be performed. For example, proposals submitted for REU's current verification services with a third party entity included on average 27% higher costs during those years that included site visits. If the verification for operators and suppliers and electric power entities are treated separately within this Subarticle, the Utilities are concerned that there is ample justification for verification site visits to also be treated separately, increasing the costs of this action on the retail providers.

### **§ 95107. Enforcement.**

- (a) *Each day or portion thereof that any report required by this article remains unsubmitted, ~~or is submitted late, or contains information that is incomplete or inaccurate within the level of reproducibility of a test or measurement method~~ is a separate violation. For purposes of this section, “report” means any emissions data report, verification statement, or other record required to be submitted to the Executive Officer by this article.*
- (b) *Each day that information contained within any report required by this Article remains incomplete or inaccurate within the level of reproducibility of a test or measurement method more than 30 days after the reporting party becomes aware of such error is a separate violation. Except as otherwise provided in this section, each day or portion thereof in which any other violation of this article occurs is a separate offense.*
- ~~(c) *Each metric ton of CO<sub>2</sub>e emitted but not reported as required by this article is a separate violation.*~~
- ~~(d) *Each failure to measure, collect, record or preserve information needed for the calculation of emissions as required by this article or that this article otherwise requires be measured, collected, recorded or preserved constitutes a separate violation of this article.*~~
- ~~(e) *The Executive Officer may revoke or modify any Executive Order issued pursuant to this article as a sanction for a violation of this article.*~~
- ~~(f) *The violation of any condition of an Executive Order that is issued pursuant to this article is a separate violation.*~~
- ~~(g) *Penalties may be assessed for any violation of this article pursuant to Health and Safety Code section 38580. In determining whether to assess a penalty and any amount assessed, all relevant circumstances shall be considered.*~~
- ~~(h) *Any violation of this article may be enjoined pursuant to Health and Safety Code section 41513.*~~

The Utilities recommend that when a reporting entity becomes aware of or is notified by CARB that the entity’s report is not considered to be complete or contains an error, a cure period should be provided to allow the reporting party to resolve these issues, through interaction with the appropriate staff or submittal of corrections. This would be equivalent to the 30-day resolution period allowed under section 95857(c)(4) in the “Proposed Regulation to Implement the California Cap-and-Trade Program” whereby if the Executive Officer has determined that a covered entity has excess emissions, the covered entity is given 30-days to surrender the required allowances for these excess emissions.

Further, the Utilities recommend that 95107(b) and (c) be stricken from the regulation as these provisions are duplicative. For example, subsection 95107(a) is all-encompassing; the failure to report a ton of CO<sub>2</sub>e would result in an incomplete and inaccurate report. Moreover, subsection (b) as proposed is too vague for the context of this regulation.

### **§ 95111(b)(3) Calculating GHG Emissions of Imported Electricity from Specified Asset-Controlling Suppliers.**

*EFacs= Supplier specific emission factor published on the ARB Mandatory Reporting website (MT CO<sub>2</sub>e/MWh). ARB will assign Bonneville Power Administration a default system emission factor equal to ~~zero.20 percent of the default emission factor for unspecified sources.~~*

The Utilities are curious as to why BPA would be assigned any emission factor other than zero, as BPA controls no assets other than hydro, nuclear, or wind generation. As such, any power delivered into California generated from BPA system should have an emissions factor of zero and not carry a compliance obligation.

#### **§ 95111(g)(5) High GHG-Emitting Facilities of Units.**

*(C) The information reported within the section is for informational purposes only; the reporting entity shall not incur a compliance obligation or liability based on the submittal of this information.*

The Utilities recommend that language be inserted into this section to clearly articulate that this information is being submitted to CARB for informational purposes only, and that the reporting entity is not liable for the compliance obligation of these reported emissions if they are not brought into California.

#### **§ 95130(a) Annual Verification.**

*(1)(A)(A) The emissions data report is for the 2011 data year- and the reporting entity did not submit a full verification report for the 2009 or 2010 data year.*

The Utilities do not believe that a reporting entity who had a full verification the first year it was required of the three year cycle (data year 2009), should be required to have a full verification in 2011. Redding is an example of a covered entity began our current contract for verification in 2010 for our 2009 emissions. Redding's 3-year contract specifies a full verification must be performed in year one only, per the current CARB reporting regulations. If Redding were required to perform an additional full verification for its 2011 data year, Redding would be obligated to reopen its existing consultant verification contract and would see an increase in verification costs of up to 20% above Redding's currently budgeted costs. Thus, the Utilities offer the above language for consideration.

#### **Clarification on the use of out of State REC's:**

The Utilities highly recommend that CARB not use the WCI Recommendation that does not allow the environmental benefits of a Renewable Energy Credit (REC) to count for GHG

Accounting purposes. If CARB chooses this approach, resources eligible under the RES and RPS programs will not be recognized for the GHG reductions that are being achieved.

CARB's rationale for passing the RES under the authority of AB32 was to offer a complementary program that encourages GHG emissions reductions. The CEC and CARB are using a robust and clear way of tracking REC's through WREGIS. Under the proposed MRR, utilities purchasing variable renewable energy under a firming and shaping agreement are required to turn in emissions credits for the associated energy imported into California. This is inconsistent with existing RES and RPS statutes, and will in effect charge California ratepayers twice for the emissions reduction - once for the REC, and once for the allowance needed for imported energy assigned with system emissions. California entities must already match REC's with a NERC Etag documenting the energy import to count for RPS compliance through WREGIS. The WREGIS system prevents double counting by providing a REC for every MWh of generation, and attaching these REC's to energy imported to California means that that import should receive the renewable facility's emissions profile.

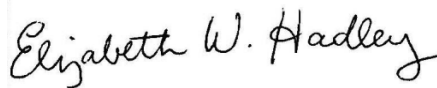
### **Conclusion**

The Utilities appreciate the opportunity comment on the Proposed Amendments, and would welcome the chance to discuss these concepts further.

Respectfully submitted,



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MODESTO IRRIGATION  
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