CLIMATE PROTECTION CAMPAIGN

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June 14, 2012

To: California Air Resources Board (ARB)

Re: Input on Investment of Cap-and-Trade Auction Proceeds following May 24, 2012 workshop

Thank you for providing this opportunity to comment on ARB's Plan for Investment of Cap-and-Trade Auction Proceeds. Our past comments have consistently encouraged ARB to auction the maximum amount of allowances to upstream emitters, include a rising price floor, and return most of the auction proceeds to the public following the Cap & Dividend model.

Dividends are the most effective use of revenue

We believe that the best use of revenues from an auction of permits under the AB32 cap-and-trade program is to return auction proceeds to the public through a dividend or rebate. The ARB has divided the carbon market into three sectors: industrial, electricity, and transportation. The electricity sector will likely see rebates to electricity customers, based on the proceeding currently held at the California Public Utility Commission. Based on the discussion at this proceeding there is a real question whether low income ratepayers will be eligible for these rebates, since they are covered by the CARE program, which already subsidizes their rates. Thus, the group that studies have shown will most negatively impacted by a carbon price will likely end up an increased burden relative to other income groups, unless the other two sectors also include rebates to California households. Even if the PUC ruling protects low-income residents in the utility sector, since costs from the carbon price will be passed down to them in the other sectors as well, we believe all sectors should include dividends.

UCLA issued a report on legal risk of various uses of cap-and-trade revenues due to the *Sinclair Paint* nexus issues related to use of revenue from a fee.[1] The report concluded that projects resulting in direct GHG reductions are most likely to be seen in court as advancing the objectives of AB32. Next in line are expenditures that accomplish the additional goals of AB32 relating to equity, and maximizing additional environmental, economic, and overall societal benefits.

[1] Horowitz, Cara et al. "Spending California's Cap-and-Trade Auction Revenue: Understanding the Sinclair Paint Risk Spectrum" March 2012, available at http://cdn.law.ucla.edu/SiteCollectionDocuments/Centers%20and%20Programs/Emmett%20Center%20on%20Climate%20Change%20and%20the%20Environment/Spending_CA_Cap_and_Trade_Revenue_March_2012.pdf

Unfortunately, the UCLA report considered those additional goals to only apply to expenditures in environmental justice communities, but overlooked how they could apply to universal dividends. AB32 explicitly requires that the Air Resources Board:

- "Design the regulations in a manner that is equitable;"
- "Maximize additional environmental and economic benefits for California;"
- "Consider overall societal benefits, including reductions in other air pollutants, diversification of energy sources, and other benefits to the economy, environment, and public health."

Dividends help accomplish all of these goals.

Furthermore, the moral basis for distributing proceeds of a sale of pollution rights to the atmospheric commons must be grounded in justice and equity, and the simplest formula to accomplish this is a per capita dividend.

We request that ARB include dividends within its investment plan. In these times of economic austerity, it should be easier for the state legislature to pass a bill that allocates revenues to all of Californians, than for any specific project or investment approach. We disagree with the analysis of the UCLA report for the reasons stated previously that returning funds as dividends to the public is as high risk under *Sinclair*, but in any case, the State has a compelling interest to defend and approach that is fair and will secure the long term viability of the Cap and Trade Program.

Weakness of purely investments approach to revenue allocation, especially large infrastructure such as high-speed rail

The panelists at the May 24, 2012 ARB workshop on this topic expressed support for a long list of programs including local government programs, research and development, and projects in sectors such as energy and water, transit, environmental education or health studies in disadvantaged communities, and natural resources such as urban forests or in the Bay Delta. Many of these projects are worthy of consideration.

There are two main issues presented by a strictly investments approach. 1) How to decide between the myriad of investment strategies and projects over multiple sectors? 2) What is the correct amount of investment to fund with AB32 revenue to insure effective implementation and positive public perception of the program? Deciding between projects will be a politically contentious problem, time consuming for ARB staff resources and the legislature and will likely require a high level of staff resources to continue to manage and monitor. Dividends provide a partial solution to these issues for ARB by reducing the amount of revenue for investments.

Although a large existing project, like high-speed rail, might also help ameliorate some of these issues, the problem with multi-billion dollar infrastructure projects such as this is that they could easily swallow up all the revenues from cap and trade, yet still be unable to contribute significantly to the state's GHG reduction goals by 2020. Investing solely in such projects will not broaden bipartisan public support for a continuously increasing price on carbon. Big projects will also do nothing to counter the criticism that a carbon price is a regressive tax.

There are also better sources of funding for investments in renewables and efficiency. Proceeds from the Cap & Trade program are not a good source of funding. The amount will fluctuate, and we don't know how much it will be, making planning and effective program delivery a challenge. A better source for the investments would be to reroute fossil fuel subsidies or existing subsidies for activities that cause emissions. In California, taxpayer funds are being continually invested in the parking structures, new highway lanes and widening roads, resulting in higher GHGs.

Recent experiences in the Regional Greenhouse Gas Initiative (RGGI) provide a cautionary tale for what could happen if allowance value is used for opaque efficiency programs that are invisible to most consumers. Funds that were supposed to be set aside for energy and environmental uses were raided to plug state budget deficits. Because consumers did not see a direct connection to the use of revenues, the lack of consumer support failed to prevent New Jersey's new Governor from withdrawing his state from the program a few months ago. A per capita dividend could help California avoid this fate.

Finally, a lump sum quarterly or annual dividend check will provide ARB a way powerful way to communicate with all Californians about the importance of climate change, the Cap and Trade program, progress being made and the availability of state and other programs, in a way that no other project investment can match.

Suggested framework for an Investment Plan based on the EAAC recommendations: 75% Dividend, 25% investments

It is difficult, perhaps somewhat arbitrary, to decide what level of the revenue should be allocated to investments and what level should be returned as dividends to California residents. We believe that the best work done on this subject was by the Economic Allocations Advisory Committee (EAAC), a group of experts assembled by ARB and the Governor's office to focus on this question. The EAAC recommended that "the largest share (roughly 75%) of allowance value should be returned to California households."[2] The EAAC report states that "roughly 75% of this value should be returned to households either through lump-sum payments…" and "roughly 25% of this value used to finance socially beneficial investments and other public expenditures" (pg. 70).

In deciding on how to expend the 25% for investments, we encourage ARB to prioritize local government activities that reduce GHGs, financing programs that leverage private capital for energy efficiency (i.e. PACE and on-bill financing, revolving loan fund for Community Choice Aggregation programs), projects in disadvantaged communities, and Research and Development programs (i.e. distributed generation, micro-grids, and web-enabled transportation information and networking systems).

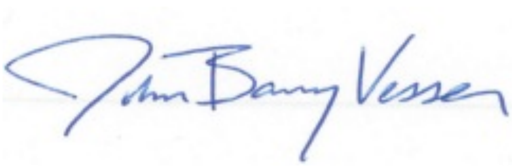
We recognize that the State of California is needs more revenue. So do the people of California. The good news for state legislators is if they do it in the right order, they can get both by sending the money directly to the people with dividends, and making the dividends taxable. This would result in a portion coming back to the State, free of the *Sinclair* restrictions. However, if the

[2] http://climatechange.ca.gov/eaac/

money is spent on programs first, then the public will see climate change as one more budget item, floating in a sea of underfunded social services. The state can still seize this prime opportunity to create a revenue-neutral program that reimburses the public for their share of revenues from the Commons. At the same time, it would create a new economic justice framework for understanding that the solution to climate change is a carbon price that protects and rewards the people of California.

Thank you for your consideration.

Sincerely,



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