KPC GEMB ENERGY LLC
ENERGY PROJECT DEVELOPER
700 L STREET, SUITE 950
SACRAMENTO, CA 95814
TEL: (916) 449-3920
FAX: (916) 449-8260

GLOBAL PRACTICE:

KPC GEMB LTD
10 ROCKEFELLER PLAZA
NEW YORK, NY 10020

KPC GEMB INTERNATIONAL LTD
10 OLD STREET
MALAHIDE, CO DUBLIN, IRELAND

UK PARTNERSHIP:

ECO POSITIVE LTD
41 LONDON ROAD
REIGATE, SURREY, UNITED KINGDOM

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Mary. D Nichols
Chair, California Air Resources Board
Sacramento, CA 95814

Dear Chair Nichols

As a global energy firm that has tackled the GHG emission issues on several continents, we know the difficult task that you and your dedicated staff at ARB had in meeting the dictates of AB 32. We here at KPC applaud you and ARB for meeting your difficult charge with diligence and dedication.

Since we have experience in UNFCCC CDM project based carbon credit markets in Asia, Africa and Europe, we will address our review and comments in the general comment section, although we will address Cap and Trade as it can be used to address Land Use, Urban Design & Planning and how these disciplines can be executed within local government. We will also address our comments on the integration and aggregation of green building and industry. Our comments will also address electricity production and utility issues in the implementation of renewable productivity.

One of the main issues concerning the implementation of AB 32 is the cost to industry and local government. The curtailment of GHG emissions by 30 % from business as usual levels will require a coordinated and integrated strategy from the community level to commerce and to government. If the implementation of AB 32 is not done in the most cost effective manner, than the rules and regulations

that ARB adopts are surely subject to legal challenges due to the legal constraints that AB 32 imposes on ARB concerning the cost of regulation.

The Economic Subgroup's charge to study the cost factors can be aided by examining the analysis that has been completed in areas of the globe which has more experience in addressing GHG emission reductions. As Governor Schwarzenegger and ARB have cited in the examination of Cap and Trade, Europe has addressed this issue with the vigor that is needed here in California. London is the capital of environmental derivative trade. Our UK experience has helped us here in Sacramento in assessing how a Cap and Trade program could be integrated with sound Urban Design and Planning. We have examined the role of local government that forms sounds transactional relationships with industry. This type of collaboration can utilize Design and Planning methodologies to create new development and more importantly retrofit existing communities into goal orientated GHG emissions.

The Design and Planning component, which requires the implementations of renewable energy, must address the method of encouraging community comportment. There are proponents that urge ARB to adopt a carbon fee or tax. This position is rooted in unassailable logic. The "stick" of a tax will change behavior and will result in lower GHG emissions. However, as insightfully examined in the Draft of the Scope Plan, measures must be effective and yet cannot result in a capital flight and business flight from California.

As such, a dynamic and robust Cap and Trade system which allows for transactional cooperation between government, industry and community will bear the most fruit in meeting the goal of the scoping plan. Such a system will allow for a significant growth of the Voluntary Early Actions. A goal your worthy Board seeks in complying with HSC § 38561(f), HSC § 38562(b)(3). Such a system requires ARB adopting a Cap and Trade system which allows for transactional ownership of the environmental credits to rest in the community implementing a Green Design and Plan for an existing community or a newly developed community.

The temptation that ARB must overcome is to create a state owned pool that exercises a domain interest over all credits created by renewable projects. Such a process has produced failure in other jurisdictions. In New York, the New York State Energy Research and Development Authority (NYSERDA) provides proportional grants for industry that desires to implement energy efficiency programs or renewable onsite energy generation. Their programs have had marginal success in that the grants do not effectively reduce the Return on Investment (ROI). However, these programs were used by energy consultants for their corporate clients as a component of the financing. NYSERDA thus served the State well if they partnered with a resourceful energy firm. This historic role of NYSERDA has been questioned recently and firms are reluctant to apply to their programs because the advent of emerging carbon markets has seen assignation clauses placed discreetly in the NYSERDA agreements. A recipient of a grant must assign any environmental credits over to NYSERDA. Clearly a savvy business entity will not agree to give up so much value for so little a grant.

If the government does not control the aggregated pool of environmental derivatives, how can California invest in renewable energy infrastructure? This question needs to be followed up with a question ARB raised on page 9 of the Draft Scoping Plan. "How do we develop solutions to reduce emissions from these sources and activities while making sure we also improve public health, promote a cleaner environment, preserve our natural resources and ensure that impacts of the reductions are equitable and do not disproportionably impact low income communities?"

As Europe struggled with these same questions, a wonderful model and case study developed which underscores the potential of the transactional model for Cap and Trade. The case study can provide some answer to ARBS question right here in California.

Varese Liqure is a small low- income town in the province of La Spezia in the Italian region of Liguria. It is about 30 miles east of Genoa. Due to the robust European Climate Exchange (Cap and Trade market) the local government entered into a transactional relationship with private industry to bring a renewable portfolio of wind and solar to the community. This collaboration driven by the free market for the derivative carbon credits brought cheaper cleaner energy to Varese Liqure The lower income community actually benefited from the transactional relationship between local government and industry The impetus for the collaboration is clearly the carbon market. The local government of Varese Liqure was able to obtain solid expert design and planning for the renewable retrofit that took the town off the grid.

The market here in California can achieve similar results if ARB does not create artificial barriers around the derivatives of a renewable project. The regulations should allow local government the opportunity to create transactional models with industry to achieve renewable energy, GHG emission reductions and economic streams of income. The Carbon market in the United States is expected to grow to trillion-dollar market by 2020, according to renowned London carbon financial analyst New Carbon Finance. In response to this projected growth several large business transactions have occurred. The New York Mercantile Exchange has partnered with Morgan Stanley, Credit Suisse, JP Morgan Chase, Merrill Lynch, Constellation Energy, ICAP Energy LLC, TFS Energy and several capital firms to form the Green Exchange. The Green Exchange is a US based market for environmental derivatives. Bluenext is a transactional exchange between NYSE Euronext and French investment bank, Caisse des Dépôts. Bluenext has as a stated business plan to expand into the developing North American market. In addition to these private exchanges, there are two very large public exchanges which are developing.The Regional Greenhouse Gas Initiative(RGGI). RGGI is a cooperative between the state governments of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. In addition, the District of Columbia, Pennsylvania, Ontario, Quebec, the Eastern Canadian Provinces, and New Brunswick are observers. The cooperative has formed the first mandatory cap and trade market in the United States. The goal is to commence the market with the power generation industry and then roll out the mandatory regulation to other Green House Gas (GHG) emission industries. The market will utilize the environmental derivatives that can be verified pursuant to the United Nations Framework Convention on Climate Change (UNFCCC). A larger more dynamic public market is being developed. The Western Climate Initiative (WCI) is a cooperative between the US states of Arizona, California, Montana, New Mexico, Oregon, Utah and Washington; the Canadian provinces of British Columbia, Manitoba, Ontario and Quebec. In addition the cooperative has the following observers; the US states of Alaska, Colorado, Idaho, Kansas, Nevada, Wyoming, the Canadian province of Saskatchewan and the Mexican states of Baja California, Chihuahua, Coahuila, Nuevo Leon, Sonora, Tamaulipas. The WIC will create a North American market for carbon credits. The emission regulation the WIC promulgates through MOU’s and local regulation will generate the market for verifiable derivatives.

Our Cap and Trade must empower the community with ownership of the derivatives. The market is large enough to do splits and options. The state could create an aggregated pool based upon a transactional fee. Perhaps a hybrid of a tax on a successful transaction, similar to a mortgage tax

could meet a state goal of procuring funds for the development of technology and renewable energy. The ability of the consumer to gain form this trillion-dollar market will provide the incentive needed for successful participation in GHG emission reduction.

It will create new industry and allow establish industries to flourish while they adopt new methodologies. Community ownership will allow local communities and urban designers and planners to create sustainable developments, which would comport with the dictates of the San Bernardino settlement with the Attorney Generals office. Thus developments in the Inland Empire and through out the State can occur without the fear of a credible CEQUA challenge. Designers and developers will be motivated to create green communities powered by renewable projects to gain either financing or streams of income from the market. Local governments will be able to integrate light rail infrastructure in collaboration with the developer, if they have access to this large capital market.

Several comments from local government raised the question, in response to the Draft Scoping Plan's call for local government action and regional targets, as to who will finance these targets. As the local government in Varese Liqure proved flexible carbon markets can provide the streams of income needed to set pronounced targets of GHG emissions.

A large component of the emerging carbon economy in the United States is the voluntary market. The environmental derivative in the US that bears value, even with out a cap and trade program, is the Voluntary Emmision Reductions (VERS). As the voluntary market develops, the issue of verification also develops. These developments create perfect solutions to the Scoping Plan desire for Voluntary Early Actions. The early experience of the other voluntary exchange in the US, the Chicago Climate Exchange has provided a road map as to what is need to encourage viable Voluntary Early Action. A solid verification process will prevent fraud and double counting. The Green Exchange has looked to the UNFCCC to capitalize on the growing VER market. The European countries and industry achieve a significant portion of GHG emission by purchasing CERS from Clean Development Mechanism (CDM). A CDM project involves an annexed 1 country (industrialized nation) under the Kyoto protocol to invest in a renewable energy project in a developing country. A strict standard of verification of the project and its GHG emissions are investigated and confirmed by a third party called a Designated Operational Entity (DOE). The amounts of GHG emission reductions are represented by a commodity called a CER.

The same standard is being applied to voluntary renewable projects. The gold standard and the world renowned Climate Group have provided solid verification methodologies which can turn California's Voluntary Early Actions into VERS. VERS that meet the Climate Groups Voluntary Carbon Standard (VCS) can find markets in the lucrative corporate sustainability market. Citigroup for example has a corporate sustainability program and goal to invest 50 billion dollars in climate projects over the next 10 years.

As such California industry can be encourage to employ green building and LEED certification in their design for new buildings and existing buildings renovation plans. The Scoping Plan should design regulations that allow Voluntary Early Action to create valuable VERS pursuant to the VCS. The same regulation should allow industry to engage in renewable onsite generation and energy efficiency projects. This type of regulation will prepare facility mangers to meet the 30% reduction contemplated by the statute.

The Scoping Plan does not address the fact that utilities need to be subject to AB 32 regulations promulgated by ARB that ban them from erected barriers to exporting from onsite generation. Until the renewable industry matures, the utilities must not be allowed to charge connection fees, to an industry or development that is trying to get off the grid with onsite renewable energy.

Thank you for your consideration.

Very Truly Yours,

Gerard McCabe