Ms. Mary Nichols
Chair, California Air Resources Board
P.O. Box 2815
Sacramento CA 95812

August 7, 2008

Re: City of Lakewood Comments on AB 32 Draft Scoping Plan

Dear Ms. Nichols,

Reaching true greenhouse gas emission (GHG) reductions by 2020 and 2050 will require emphasis on those technologies and efficiencies that can quickly affect fuels and vehicles. Emphasizing land use planning to that end is impractical and will show minimal results for decades in the highly populated areas of the state that are currently car-dependent. Expecting that market mechanisms, financing practices, and other free-market processes that led to the current development of the state can be undone by city land use decisions is completely unrealistic. Especially in light of the enormous deficit in public transit in this state, Californians will continue to drive their cars to work and play until better options (not worse) are presented to them. Buses that run hours apart won't entice them out of their cars, routes that force them into multiple transfers with long waits between buses won't do it, and buses or trains too full to allow seating won't do it either. Doubling or tripling the amount of time it takes Californians to get somewhere will not get them out of their cars.

In the decades-long gap between mixed-use planning and development results, increasing the amount of GHG reductions expected via land use would be punitive to local governments and ineffective in achieving the desired results. Envisioning a world even after mixed-use in which a majority of Californians work and live within walking distance is amazingly short-sighted. A city can plan for mixed-use without having enough, or any, employers move into their cities. Employers cannot be forced to hire only from the local population. Residents cannot be forced to work only in the city in which they live. The percentage of time this will work out remains to be seen, therefore increasing the percentage of GHG reduction via local government targets as has been suggested by and to the EJAC makes no sense.

The public participation process used thus far by the ARB has left the majority of individual cities without an opportunity to respond to the draft scoping plan. Inviting major member organizations to the table under the assumption that they speak for all of their members on an issue of this magnitude is inadequate. The League of California Cities has participated in the process, but they do not speak unequivocally for the 479 cities in the state. Certainly their point of view represents some highly dense, mixed-use cities which are models for "smart growth" and therefore will not be highly impacted by the ARB's regulatory actions, but for cities that will be highly impacted there has been almost no chance to be heard by ARB policymakers. ARB staff said the League was the conduit for information about this to cities in the state, but the League did not know that and talked to very few cities as a result.

Releasing the draft scoping plan on June 26, 2008 and requiring comments in just over four weeks did not provide the time required for those of us who even knew about it to analyze it, find the related protocols (for which there were even earlier comment filing deadlines) and get comments in. Then to have most of the detail come out in the Appendices just over a week before the comment deadline was almost guaranteed to ensure cities would fail in being part of the process. To comment in the fall for the first time would not be very effective, given that the ARB is required by AB 32 to adopt the final scoping document by which they will issue regulations by January 1, 2009. There is not enough time between October and January to expect new information to be useful to the ARB.

On the issue of local government retaining clear land use authority, policymakers (both regulatory and legislative) need to understand that such retention will not occur in a situation such as that set up by SB 375 in which another layer of regional oversight is added to our processes and will give our GHG targets to our MPO to give to us. That is especially true when the composition of that group will not include local electeds, but once again our representation will be only through a member agency whose members are not all in agreement and are not all alike. It will also include a host of others, such as environmental representatives, without apparently setting a standard for the knowledge base and qualifications of those people to help cities make development siting decisions. It's not clear that any of those members will have any planning training, knowledge or background of state laws and local issues by which to make informed decisions for us. This worries us.

General Comments

1. The notice for review and comment for this protocol was inadequate. Given that this document directly impacts all local governments within California, local governments must be directly contacted concerning their review and comment for this document. Notice to government associations and other affiliates by itself is insufficient. As such this process must be modified to allow for local government input throughout the plan development process.

Page, Location, and Comment

ES-2 Key Elements bullets. What is the "Renewables Portfolio Standard"?

What are "21st century land use planning and development practices"?

ES-3 Under "Comprehensive Approach." The recommendations include a mix of "market mechanisms", regulations, and fees. Incentives are not explicitly included here. A toolbox of incentive programs should be an integral part of a comprehensive approach. How does a mandate complement a regulation? Does ARB mean implementing a regulation supports a standard?

Emission sources within the cap-and-trade program will have the choice of reducing emissions or purchasing allowances to cover their compliance obligations. How is it determined which emitters are placed in the cap-and-trade program? Is purchasing allowances to cover compliance obligations a fee for continuing to operate at existing levels?

ES-4 Further study is necessary to justify how joining the WCI will ensure that leakage does not occur. In today's world and economy, products may be grown and manufactured almost anywhere in the world. Combined with modern transportation infrastructure, cheap labor costs, and market demand, it is not anymore difficult for a business to relocate to another state or country outside of the WCI and still be able to bring their product to market for the same cost. Additional research and focus in necessary for ARB to learn to retain existing businesses while achieving the goals of AB32.

The plan should not be adopted until the WCI cap and trade program is ready to be implemented.

ES-5 Under "providing savings for households and businesses". "Revenues generated as part of the program could also be distributed in a way to substantially mitigate any price increases". It is unclear how the redistribution of fees would make provide savings for households and businesses. The statement itself seeks to mitigate price increases, not negate or reduce price increases. In addition, a portion of the fees collected will go towards sustaining the government's role in program administration.

ES-6 Paragraph two. In describing energy costs per square foot, the text references a website (www.cool-companies.org/profits). Energy costs would depend on a wide range of variables, such as the type and age of the structure, and the use of the building. Also, the website seems to be promoting the sale of a book. Is it appropriate for ARB to be promoting this website?

7 Figure 1. The pie chart shows that 2002-04 average transportation, electricity, commercial and residential, and industry account for 90% of GHG, yet Table 4 on page 17, these same sectors account for 85%. How will each sector change?

8. To what degree beyond forests does vegetation sequester C02? Could urban landscaping, parks, agricultural fields, etc. be counted for their ability to sequester?

17. See notes for page 7.

29. Vehicle Efficiency Measures. ARB is considering implementing a regulation that would require vehicle service providers to ensure that tires are properly inflated. ARB should consider the fiscal impact of such a regulation, including the costs to taxpayers for ARB to monitor and enforce such a rule. It is foreseeable that auto repair facilities would be allowed to charge for such a service which would create an additional cost to the general public. The decision to check tire pressure should be left to the vehicle owner and not state government.

31. Provide more information on how ARB plans to encourage local governments to incorporate GHG reduction measures into their daily and long range planning activities.

35. Agriculture. Agriculture is a critical component of the California economy and has the unparalleled responsibility of providing food to people throughout the United States and the world. A comprehensive analysis should be prepared on how regulation of this sector will impact food prices, and how those prices will further impact households already experiencing financial distress from these regulations.

36. Paragraph one. Prior to adoption of any plan, the carbon sequestration capacity of each plant species should be identified so that those plants may be considered by local governments when calculating reductions in their carbon footprints.

37. Congestion pricing. Disclose research sources stating that "sending market signals" improves transportation system efficiency. Ultimately, individual commuters will bear the fiscal impacts from congestions pricing. A comprehensive analysis should be prepared on how this additional cost will impact households. What will be the mechanism for exempting zero emission vehicles from the congestion pricing process?

38. Indirect Source Rules. Prior to adoption of this plan, these rules should be reviewed by all local and county planning offices as well as the California Chapter of the American Planning Association and its affiliate sections. It is unclear how these rules might conflict with established planning and land use law, including interpretation of the CEQA guidelines and General Plans.\

39. First paragraph. Prior to adoption of this plan, further analysis is required to determine how building efficiency upgrades as a condition of sale of real estate would affect the real estate market. Has the California Association of Realtors been solicited for their comments on this regulation?

39. Third paragraph. If electrical service providers are required to divest themselves of purchasing electricity from coal-fired power plants a d there is insufficient electricity available in the local marketplace, how does ARB propose that utility to distribute electricity (i.e. type of customer, lottery, rotating power outages, etc)?

39. Industry. ARB acknowledges the importance of industry to California's economy yet this plan proposes a cap and trade plan. Cap and trade plans do not guarantee compliance, especially for jurisdictions in other nations, which in turn does not ensure that the benchmarks of this plan will be achieved. Historically, cap and trade plans do not generate the level of results as originally targeted.

39. Cement. How does ARB realistically propose to oversee that the amount of cement used at a job site does not exceed the amount necessary for each pour?

41. Carbon Fees, second paragraph. When will ARB release its fee schedule for paying for implementation of AB 32? When is the comment period for that fee schedule?

41. Last paragraph. Be specific on how the $4 billion collected annually as carbon fees would be spent.

42. First paragraph. It is unclear how revenues generated from carbon fees will decrease costs borne by consumers. Revenues are not absorbed by businesses rather they are passed on to consumers directly or indirectly. Ultimately it is the consumer who will be paying those revenues. Furthermore, a percentage of the revenues will be used to fund some ARB activities that are not

returned to the public in the way of programs (such as salaries). Therefore if 100% of those revenues are not returned to the public, it is not possible to decrease costs felt by consumers.

42. Prior to adoption of this plan, ARB must be able to demonstrate that carbon fees will help meet specific emission targets. If ARB has a concern that carbon fees provide less certainty towards meeting emission targets, why adopt such fees?

43. Last paragraph. What methodology is being referred to here?

44. Third paragraph. How do offsets outside California improve air quality inside California, if the emission source is just across the border of another state or Mexico? This would not reduce emissions it would simply relocate them. Furthermore, how would ARB guarantee that such facility is not double counted as an offset source for another offset agreement elsewhere in the nation?

45. Last sentence. A rule, or preferably legislation, should prohibit GHG revenues from being placed in the state general fund or used for any other non-ABR/GHG purpose.

57. Potential Impact on Small Businesses. Prior to adoption of this plan, in depth analysis is necessary to determine how small businesses will be able to significantly reduce energy consumption. For many businesses, this may require a large investment in appliances, buildings, and other equipment. Addition study is necessary to determine the ability for small businesses to have access to capital to make such improvements, and how such debt would affect their cash flow.

59. Second paragraph. Prior to adoption of this plan, additional analysis is necessary to determine how the expansion of ethanol fuels will affect food supplies and food costs at the household level.

71. Program funding. ARB estimates that $55 million per year will be required to fund implementation by ARB. How will that money be generated and specifically, how will it be spent?

<u>Comments on Water</u>

The state's Climate Change Draft Scoping Plan contains an element related to water. The Plan calls for 6 initiatives to reduce greenhouse gas emissions:

1. Water Use Efficiency: a reduction in water use of 20 percent per capita by 2020. The plan expects that a 20 percent reduction will reduce water use by 1.75 million acre feet, which would result in a reduction of energy use to produce and deliver water to customers by 1.4 $MMTCO_2E$ (Million Metric Tons of CO_2 Emitted).

    - The water portion of the plan only addresses the urban water use; agricultural reductions are not adequately addressed in the Agriculture section of the appendices. The agricultural community consumes 80% of the water used in California. The initial

scoping plan does not require any required efficiencies related to the enormous amount of energy for crop irrigation, or irrigation pumping. This huge statewide drain on water and energy is given a pass.

- Water conservation efforts carried southern California through the drought in the early 1990s. Many residents replaced water guzzling devices, planted drought tolerant landscape and changed water habits during this time. The push to reduce water use an additional 20 percent per capita, would require draconian measures and lead to unkempt landscape. A typical Lakewood family uses 12,000 gallons in a month. A 20 percent per capita reduction would require an individual to save 600 to 1,000 gallons a month. This type of conservation, in a non-drought situation, would impact the quality of life for our residents.

- A 20 percent per capita reduction would force water utilities into the enforcement mode. Staff would be required to monitor water use, conduct mandatory water audits and serve as the water police.

- The city of Lakewood is essentially built out. Changes in landscape, and water using devices, with or without a subsidy, will cost the typical homeowner thousands of dollars. To retrofit these homes with solar water heaters, water efficient washing machines and expensive irrigation timers would save water, but the costs would outweigh the benefits.

- Some of the water efficiency elements are targeted toward water runoff and wastewater reuse. These elements need to be separate from those that are related to water supply/demand.

2. Water Recycling: increase in use of recycled water from 10 to 23 percent by 2030.

    - Lakewood's recycled water system was initiated in 1989. It saves enough potable water savings to serve approximately 880 Lakewood families. This initiative does not give credit for the efforts already accomplished by water agencies that have already spend millions of dollars to implement a recycled water system.

    - Approximately 70% percent of the potential recycled water uses have been connected to the existing system. Expanding the recycled water system to reach the small number of potential schools, parks and parkways is currently not cost effective without grant money or rebates for recycled water use. Expansion of the city's recycled water system would cost an estimated $2.5-3.5 million, and would result in an additional 60 to 100 acre feet of recycled water used annually.

    - The recycled water customer base is limited by regulation to supply to non-residential landscape and other commercial uses. Expansion of use of the existing distribution system would require regulation changes by the California Department of Public Health and the LA County Health Department, such as expansion of the use of dual piping in commercial buildings and irrigation use in residential areas beyond irrigation of professionally managed common areas. The increase in the ratio of recycled water used

for groundwater recharge would also require a philosophical change by the state's Department of Public Health.

- The state has not placed a dollar value on this initiative, which makes it difficult to make constructive comments. Are we to assume unlimited funding?

3. Water System Energy Efficiency: The proposed scoping plan set a target of a 20 percent reduction in energy use from the 2006 level for water related production, including water waste treatment. The state expects utilities to increase pumping efficiency by evaluating the energy use to determine feasibility of efficiency programs and better manage the energy demand associated with operating the water system.

    - Water utilities are experts at monitoring and altering pump efficiency as a method to save money. This is an on going function of the department in an effort to keep water rates low and water reliability high. The market should be the driver for utilities to implement energy efficiencies in the water system. The city of Lakewood water utility routinely performs wire-to-water efficiency tests of its water production facilities. Production facilities not meeting the required level of efficiency are either replaced or rehabilitated. The water utility staff works with Southern California Edison to operate the most energy efficient facilities during peak energy periods and the remaining at off peak hours. Lakewood is always looking for energy alternatives to reduce dependence on the electrical grid. The water utility is installing a solar array to operate a water storage facility during daylight hours.

4. Reuse Urban Runoff: the capture and distribution of stormwater runoff. In addition or vegetated channels to allow for the infiltration of stormwater into the groundwater table, the scoping plan calls for the development of regional and neighborhood infiltration facilities.

    - The quality of urban runoff is not adequate for groundwater recharge or immediate reuse. This would require the construction of water treatment facilities at an unknown cost to the community.

    - The 0.2 $MMTCO_2E$ saved by this initiative does not have a cost associated with it, which makes it difficult to provide constructive comments.

5. Increase Renewable Energy Production from Water: This initiative requires the capture and use of gases from wastewater treatment to be used to for energy generation.

    - The city is not in the wastewater business, and will not comment on this initiative.

6. Public Goods Charge for Water: Water utilities would collect a flat fee, between $10-50 annually, from water customers to be used to pay for programs to reduce water-related GHG emissions. The flat fee would not be charged to low-income residents, defined as customers on lifeline billing. The utility would collect the fee, but the plan seems to indicate that the revenue would be forwarded to the state for local, regional and statewide programs.

- If the state wants to tax the citizenry to pay for the implementation of water efficiency measures then the state should be the collectors of these funds. This initiative places the burden of collection on an organization that might not obtain any benefit from the fee. If low-income residents are not going to be required to pay the fee the "more effluent" ratepayers will bear the entire cost.

- The utilities must respond to the ratepayers' negative response to the increase in water rates. Utilities are already struggling with the balance between the cost of operation and infrastructure needs related to aging systems and capital requirements to meet new water quality regulations. Collecting an additional fee will appear like the utility is gaining revenue, but those funds will not be available to the utility for direct benefit to its customers.

- The initiative calls for non-payment of the public goods charge on water for those individuals that are "lifeline" customers. Most water utilities don't have lifeline customers. In fact most municipal water utilities no longer have a "free" quantity of water associated with the basic charge for service fee, which allows every residential customer a water allowance without payment of a quantity charge.

Thank you for your consideration of the above comments on the AB 32 draft scoping plan.

Sincerely,

Lisa G. Novotny
Deputy City Manager
City of Lakewood