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August 27, 2008

James Goldstene, Executive Officer  
Air Resources Board  
1001 I Street  
Sacramento, CA 95812

*RE: San Diego City Attorney Comments on the Cap and Trade Component  
of the AB 32 Draft Scoping Plan*

Dear Mr. Goldstene:

I am writing to urge Air Resources Board to exclude the cap and trade carbon emissions program from the AB 32 Scoping Plan.

California's laudable and essential effort to reduce greenhouse gas emissions is by its nature an extremely complex undertaking. There is no reason to make the task even more complex by creating a highly structured program for trading emissions.

As the Draft Plan acknowledges, the creation of this trading system will involve a host of difficult questions, including how to distribute the initial emission allowances, the level and nature of offsets that will be permitted and how to coordinate California's trading scheme with that of other proposed emission trading proposals, to mention just a few.

The creation of this trading scheme will therefore require an enormous volume of intellectual and physical energy – and this will not be energy of the renewable variety.

Instead, the time and energy devoted to setting up and then endlessly tuning an emissions trading system will be time lost from dealing with the truly essential efforts required to dramatically reduce GHG emissions.

And to what end? In June, we learned that despite the institution of a cap and trade system within the European Union, GHG emissions continue to rise.<sup>1</sup> The trading system there was launched with too many trading permits, causing the value of the allowances to crash. Now what has been described as a “ferocious” battle is underway to reduce the number of emission allowances and to charge polluting companies for their emissions.

Europe’s GHG regulators now face the large and formidable lobbies of polluting industries in a second round effort to make the trading system work. I fear there will be many more rounds and many more stumbles, as government regulators seek to close loopholes that well-financed lobbies have great incentive to exploit.

And it’s not like California is without experience in energy market failures. One need only recall the tens of billions of dollars lost by utility customers during our state’s disastrous effort to deregulate the electricity market to understand the consequences and great difficulty of seeking to design, effective, tamper-proof markets.

Recalling that debacle and the prospect of a new market for emissions, The Los Angeles Times said, “In other words, unless the cap and trade program is designed extraordinarily well, we could be looking at deregulation déjà vu.”<sup>2</sup>

There is a simpler alternative, namely, carbon fees. As opposed to the complexity of design an emissions trading market, the imposition of carbon fees could be a straightforward method of reducing GHG emissions. As The Los Angeles Times noted, carbon fees or taxes are harder to manipulate but because taxes or fees are politically unpopular, state regulators are moving ahead with the riskier emissions trading strategy.<sup>3</sup>

But the Air Resources Board has a glorious history of tackling issues that are initially unpopular. The Board’s perseverance and leadership have helped California lead the way in improving our environment. Now confronted the greatest environmental challenge, I call on the Board to rise once again to the occasion: Reject cap-and-trade emissions schemes and press forward with far simpler and more effective use of carbon fees.

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<sup>1</sup> EU Carbon Trade Offers Cautionary Tale to U.S., June 20, 2008, International Herald Tribune.

<sup>2</sup> California’s cap-and-trade won’t work, March 10, 2008 editorial, The Los Angeles Times.

<sup>3</sup> Ibid.

As the Congressional Budget Office concluded, "A tax on emissions would be the most efficient incentive-based option for reducing emissions and could be relatively easy to implement."<sup>4</sup> There is no better course.

Very truly yours,



Michael J. Aguirre  
City Attorney

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<sup>4</sup> Policy Options for Reducing CO2 Emissions, pg. viii, a CBO Study, February 2008.