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Ms. Ellen Peter, Chief Counsel
Ms. Lynn Terry, Deputy Executive Officer
Ms. Mary Alice Morency, Board Clerk
Mr. Steven Cliff, Manager, Program Development Section, Office of Climate Change
APPEARANCES CONTINUED

STAFF

Ms. Judy Friedman, Chief, Program Evaluation Branch

Ms. Shelby Livingston, Manager, Environmental Justice & Special Projects Section

ALSO PRESENT

Rafael Aguilera, Climate Protection Campaign

Malaki Amen, CA NAACP

Craig Anderson, Solar Turbines

Jasmin Ansar, Union of Concerned Scientists

John Arensmeyer, Small Business Majority

Dale Backlund, Dow Chemical

Laura Baker, Center on Race, Poverty and the Environment

Marian Balster, Olam International

Michael Barr, High Desert Power Plant

Andrew Barrera, LA Metro Hispanic Chamber of Commerce

Brian Bateman, Bay Area AQMD

Nidia Bautista, Coalition for Clean Air

Kate Beardsley, PG&E

Susie Berlin, McCarthy & Berlin, LLP

Tony Bernhardt, E2

Douglas Bevington

David Bischel, CA Forestry Association
APPEARANCES CONTINUED

ALSO PRESENT

John Bloom, CEMEX
Louis Blumberg, Nature Conservancy
Luke Breit, Forests Forever
Julia Bussey, Chevron Corporation
Mark Byron, GWF Power Systems
Robert Callahan, Cal Chamber
Julian Canete, CA Hispanic Chamber of Commerce
John Canfield, eBay Green Team
Frank Caponi, Sanitation Districts of LA City
Juan Carlos de la Cruz, small business owner
Bill Carnahan, SCPPA
Megan Ceronsky, VanNess Feldman
Strela Cercas, CA Environmental Justice Alliance
Ann Chan, Center for Clean Air Policy
Eric Chung, PacifiCorp
Jeff Cohen, EOS Climate
Randy Compton
Jeff Conant, Global Justice Ecology Project
Erin Craig, TerraPass, Inc.
Casey Creamer, CCGA/WAPA
B. Todd Delaney, First Environment
Kristin Eberhard, NRDC
APPEARANCES CONTINUED

ALSO PRESENT

Eric Eisenhammer, Coalition of Energy Users

Steve Elias

Michael Endicott, Sierra Club

Caroline Farrell, Center on Race, Poverty and the Environment

Tim Feller, registered professional forester

Jamie Fine, Environmental Defense Fund

Tony Fisher, Anrafi Associates

Austin Ford

Susan Frank, CA Business Alliance for a Green Economy

Jodi Frediani, Central Coast Forest Watch

Randy Friedman, U.S. Navy

Helen Galvan, American GI Forum of CA

Willie Galvan, American GI Forum of CA

Steve Gandola, Sacramento Hispanic Chamber of Commerce

Pete Gang, Climate Protection Campaign

Anthony Garvin, University of CA General Counsel

Dan Gies, AECA

Larry Greene, Sac Metro AQMD

Gary Grimes

Kassandra Gough, Calpine

Elizabeth Hadley, Redding Electric Utility

Lane Hallenbeck, ANSI
APPEARANCES CONTINUED

ALSO PRESENT

W. Michael Hanemann, UC Berkeley
Frank Harris, SoCal Edison
Robert Hassebrock
Scott Hauge, Small Business California
James Hendry, San Francisco Public Utilities Commission
Bonnie Holmes-Gen, American Lung Association
Alex Jackson, NRDC
Addie Jacobson
Ruben Jauregui, Latine Institute for Corporate Inclusion
Craig Jones, State Water Contractors
Jacqueline Kepke, CA Wastewater Climate Change Group
Leilani Johnson Kowal, LA DWP
Patti Krebs, Industrial Environmental Association
John Larrea, CA League of Food Processors
Robert Lawrence, Orrick Law Office
Joel Levin, Climate Action Reserve
Michael Lipsett, Department of Public Health
David Lizarraga, TELACU/US HCC
Edwin Lombard, Edwin Lombard Management
Sue Lynn, Cascade Action Now
Bill Magavern, Sierra Club
Julee Malinowski-Ball, CA Biomass Energy Alliance
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ALSO PRESENT

Josh Margolis, Cantor CO2e
Tim Martinez, San Joaquin Co. Hispanic Chamber of Commerce
Paul Mason, Pacific Forest Trust
Bruce McLaughlin, attorney
Sabrina Means, California Transit Association
Evelyn Rangel-Medina, Ella Baker Center for Human Rights
Jeanne Merrill, CalCAN
Karen Miki
Danielle Osborne Mills, CEERT
David Modisette, CA Municipal Utilities Association
Bruce Moorhead
Gregg Morris, Green Power Institute
Jim Mortensen, Del Monte
Craig Moyer, Manatt, Phelps & Phillips
Edward Murphy
Brent Newell, Center on Race, Poverty and the Environment
Brian Nowicki, Center for Biological Diversity
Justin Oldfield, California Cattlemen's Association
Ciyin Oliveira
Mauro Oliveira, SOL Communications
Calla Ostrander, City and County of San Francisco
Robert Parkhurst, PG&E
APPEARANCES CONTINUED

ALSO PRESENT

Cindy Parsons, LA DWP

Mark Parsons, Metro Water District of SoCal

Michelle Passero, The Nature Conservancy

Mark Pawlicki, Sierra Pacific Industries

Norman Pederson, Hanna and Morton, LLP, SoCal Public Power Authority

Ed Pike, ICCT

Pam Pinkston

Shankar Prasad, Coalition of Clean Air

Adam Quinn, CREDO Action

Armando Ramirez

Juan Ramirez, small business owner

Tamara Rasberry, Sempra Energy Utilities

Ethan Ravage, International Emissions Trading Association

Catherine Reheis-Boyd, WSPA

Betsy Reifsnider, Catholic Charities, Stockton

Robert Richards, Kern Oil & Refining Co.

Susan Robinson, Ebbet's Pass

Erin Rogers, Union of Concerned Scientists

Emily Rooney, Ag Council of CA

Dorothy Rothrock, CA Manufacturers & Technology Association

Dave Rosenheim, Jambuse
APPEARANCES CONTINUED

ALSO PRESENT

Steven Schiller, CA Energy Efficiency Industry Council
Jeff Shellito
Brian Shillinglaw, New Forests
Mik Skvarla, CCEEB
Sarah Sharpe, Fresno Metro Ministry
Bill Snyder, Cal Fire
Mahaia Sol
C.C. Song, The Greenlining Institute
John Spangler, US Marine Corps
Stephen Tassaro, Climate Protection Campaign
Tim Tutt, SMUD
Nicholas Van Aelstyn, COPC
Barry Vesser, Climate Protection Campaign
Joy Warren, Modesto Irrigation District
Chuck White, Waste Management
Jill Whynot, South Coast AQMD
Stephanie Williams, Transportation and Renewable Energy Dialogue
Marily Woodhouse, Sierra Club
Barranca Wren, Ebbetts Pass Forest Watch
David Wright, City of Riverside Public Utilities
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CHAIRPERSON NICHOLS: Good morning, everybody.

And welcome to the December 16th, 2010, public meeting of the Air Resources Board.

This is our last meeting of the year, the last meeting before we transition to a new administration as well. It's an exciting two-day meeting that we have in front of us. And we very much appreciate all of you who are here today to speak to us.

I'll talk a little bit about logistics. But before we formally convene, I would ask that we open the meeting as we always do with the Pledge of Allegiance.

(Thereupon the Pledge of Allegiance was recited in unison.)

CHAIRPERSON NICHOLS: The Clerk will please call the roll.

BOARD CLERK MORENCY: Dr. Balmes?

BOARD MEMBER BALMES: Here.

BOARD CLERK MORENCY: Ms. Berg?

BOARD MEMBER BERG: Here.

BOARD CLERK MORENCY: Ms. D'Adamo?

BOARD MEMBER D'ADAMO: Here.

BOARD CLERK MORENCY: Ms. Kennard?

BOARD MEMBER KENNARD: Here.

BOARD CLERK MORENCY: Mayor Loveridge?
BOARD MEMBER LOVERIDGE: Here.

BOARD CLERK MORENCY: Mrs. Riordan?

BOARD MEMBER RIORDAN: Here.

BOARD CLERK MORENCY: Supervisor Roberts?

BOARD MEMBER ROBERTS: Here.

BOARD CLERK MORENCY: Professor Sperling?

BOARD MEMBER SPERLING: Here.

BOARD CLERK MORENCY: Dr. Telles?

BOARD MEMBER TELLES: Present.

BOARD CLERK MORENCY: Supervisor Yeager?

BOARD MEMBER YEAGER: Here.

BOARD CLERK MORENCY: Chairman Nichols?

CHAIRPERSON NICHOLS: Here.

BOARD CLERK MORENCY: Madam Chairman, we have a quorum.

CHAIRPERSON NICHOLS: Okay. A couple of announcements at the beginning.

First of all, anyone who wishes to testify today should have already signed up. If not, please do sign up as early as possible with the staff in the lobby outside so we can organize the testimony as much as possible.

We will be imposing a time limit today. It will be three minutes as usual, although we may shorten it up depending on how many speakers we have. And we appreciate it if you have written testimony if you make sure that we
know we have your written testimony and do not read it, but just summarize it and go straight to your main points, because your written testimony will automatically be entered into the record of the hearing.

We do have the Coastal Hearing Room next door, which is available for those who would rather sit in a little more comfort. There's both audio and visual contact with this room so you will know when you're about to be called and have time to get over here if you're planning to testify.

I'm also required to tell you that there are emergency exits in this room at the rear and to my right side and that, in the event of a fire alarm, we are required to evacuate this room immediately, go downstairs, and outside of the building. Our assembly area is across the street in the park. And we're supposed to wait there until we hear an all-clear signal and then return to the room.

So the business of today's meeting is to consider the adoption of the proposed cap and trade rule for greenhouse gas emissions as well as some compliance offset protocols and also amendments to the mandatory reporting rule for greenhouse emissions. And we expect this meeting to take all day.

I think that in light of the numbers of
witnesses, we will take very short breaks for the court reporter and others, but not take our usual one hour lunch, because I do plan to end the hearing today at 6:00. If we haven't finished our work, we can come back early in the morning tomorrow. But many of us have evening plans and I just don't think it makes sense to go on later than that. So we'll see how that goes as we get there.

And other than that, we expect to be able to accommodate everybody, although we've had indication of people who want to be grouped together; some organizations where individual speakers have decided they will defer to another so their overall viewpoint comes across. To the extent that is possible, that would be really great.

We will probably organize the Board's discussion, because this is not the first time that the Board has thought about this rule or heard about this rule, into sort of issue areas. And the more that we can group the testimony around specific issues like, for example, protocols or use of offsets or reporting whatever, I think it will be helpful to us when it comes time to actually have the discussion with Board members and any offered amendments or changes that we're going to want to make as we begin the final decision making process.

We will be considering a resolution, and there will be a lot of specifics. And I know many of the people
here have participated at great length in the development of the regulations and are very interested in specific language that will be in the Board resolution and the direction to the staff. And we'll be talking about a lot of pretty detailed issues probably as we get towards the end of the meeting. But we're going to do our best to have all of us keep track of the issues that we're most concerned about and be ready to have that formal discussion at the end of the day.

Let me just start out by saying that we are at a really critical point in the implementation of AB 32. The Board has been working since 2006 on a schedule that was created by the legislation beginning with the adoption of a Scoping Plan that laid out how the State would reduce our levels of greenhouse emissions to 1990 levels by 2020. That plan suggested that we use a diverse portfolio of tools, a mix of different kinds of measures to achieve a goal as a most cost effective way to get there. One item in that portfolio was the idea of a market-based program for trading in emissions, a Cap and Trade Program that we're going to be considering today.

The proposed regulation that's before us was released at the end of October. And as I'm sure most of you in the audience are very well aware, California has been known for many years now as a world leader in energy
So the proposed Cap and Trade Program really builds on a history, a legacy of leadership in our state. It does provide another opportunity for us to take a leadership role. It will establish, if we adopt it, the nation's first broad-based cap and trade system that uses market forces. And it will cover the sources of about 85 percent of our emissions, although the rule itself doesn't try to achieve all of those reductions through the market system.

Because it places a cap on emissions, the program will ensure that we reach our goals. And it will also do it in a way that promotes efficiency, helps to reduce use of petroleum, and to clean up our air and protect our environment. It will also have some very beneficial effects of reducing dependency on imported petroleum and help to improve our energy, security, and reliability.

But we also are very well aware that California is still facing some tough economic times, and there are people who have asked whether we should move forward to do this right now.

It's our belief -- and I think it has been now well supported by the public at large -- that, indeed, adoption of a program like this is probably California's best insurance against future recessions. The Cap and
Trade Program sends a clear signal to the global investment community that investment in California's clean technology and clean energy industries will be rewarded. It will maintain our status as a magnet for clean tech investments and help drive the development of clean jobs and clean innovation. This will help our economic economy.

Last month, when voters were presented with the opportunity to suspend the implementation of AB 32, they defeated that measure soundly. We take that as a sign that the public believes that California is on the right track when it comes to clean tech and clean energy and that we need to continue down that path.

At the same time, we're also well aware that we in California are indeed on a different path from many other states in terms of our willingness and eagerness even to be out in front on the issue of reducing greenhouse emissions and that we're not likely to see comprehensive federal climate legislation in the next Congress, as many had hoped. And, therefore, California, along with other states that are willing to move forward, has the opportunity but also the responsibility to take actions that demonstrate that we can address climate change in a way that actually improves the environment and protects the economy.
We have much to lose if we just wait for things to get better, and we have even more to lose by waiting than we do by acting.

But at the same time, we must act in a way that allows for continuous feedback, mid-course corrections, and that provides for very careful monitoring of the effects of the rules that we will be putting in place I hope by the end of today.

We do believe that today's decision is an important step in the fight against global climate change, even though it's only one small step for the world as a whole.

So with that, I'm going to turn to the staff and ask them for an overview of the regulations, and then we will go to the public testimony after we see and hear the overview of the proposals.

So I'll turn to our Executive Officer, Mr. Goldstene.

EXECUTIVE OFFICER GOLDSTENE: Thank you, Chairman Nichols. Good morning, Board members.

Staff will present for your consideration the proposed cap and trade regulation, including four offset protocols as well as amendments to the mandatory reporting regulation. We'll present the key elements of the regulations. And since the two regulation packages are so
closely linked, we're going to present them together, but you will vote on each of them separately.

I'd like to build on Chairman Nichol's comments about the importance of California and other states moving forward to act on climate change. In designing the Cap and Trade Program, we worked closely with our partners in the Western Climate Initiative to design a regional greenhouse gas market program. The regulation you'll consider today includes the framework for linking California's program with those implemented in other Western Climate Initiative jurisdictions. We anticipate three or four of our partners, New Mexico, British Columbia, Ontario, and Quebec to have programs approved by early next year. Staff will be back in the second half of 2011 with specific recommendations on linking with those programs so that broader WCI market system can be launched when our program starts in 2012.

Looking beyond the Cap and Trade Program, we're also working with our WCI partners at a broader array of emission reduction measures needed to achieve our overall goals. We've been participating in what we call the three regions effort with other jurisdictions, the RGGI initiative in the northeast and the Midwest Governor's Accord. The point is while we're taking strong leadership in what we've been doing here in California, we're not
Now I'd like to ask Dr. Steven Cliff from our Office of Climate Change to begin the staff presentation. (Thereupon an overhead presentation was presented as follows.)

PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: Thank you, Mr. Goldstene. Good morning, Chairman Nichols and members of the Board.

Today, I will present staff's proposed regulation for the California Cap and Trade Program, including four compliance offset protocols. I will also present our proposed amendments to the mandatory reporting regulation. Although I'm presenting these two items together, they are two separate action items for your consideration.

The Scoping Plan identified cap and trade as an important measure for reducing California's greenhouse gas emissions and achieving the goals of AB 32. As such, about 80 percent of California's emissions will be covered by the program in 2020.

The Cap and Trade Program you are considering today is the final major piece of California's climate change mitigation strategy. Through a declining emissions limit, the Cap and Trade Program provides emissions certainty but also allows the State to achieve its
emission reduction goals in a cost effective manner.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: Here is an outline for today's presentation.

First, I will provide an introduction to cap and trade and our program development.

Next, I will discuss the details of the proposed Cap and Trade Program, including four compliance offset protocols and proposed amendments to the mandatory reporting regulation.

Then I will describe how we plan to implement the program, including revisions to the proposed regulations based on public comments, staff recommendations, and any changes requested by the Board today.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: Cap and trade is an effective environmental tool for reducing emissions. It has been used successfully by the U.S. EPA to reduce acid rain and is used to regulate greenhouse gas emissions in the European Union and ten states in the eastern U.S. A well-designed Cap and Trade Program provides green benefits. It puts a price on emitting greenhouse gases which provides incentive for reducing emissions and spurs innovation. Cap and trade stimulates reductions from covered sources without requiring an
individual regulation for all greenhouse emissions. Pricing greenhouse gases and creating a market allows for participants to seek out the most cost effective emission reductions, lowering the program's overall cost. Cap and trade also establishes a framework for a low carbon economy and drives long-term investment in cleaner fuels and more efficient use of energy. The proposed program is designed to complement other measures, including standards for cleaner vehicles, low carbon fuels, renewable electricity, and energy efficiency. It will also support California's existing efforts to reduce criteria and toxic air pollutants. Another feature of this program is that it can be linked to others, such as our partners in the Western Climate Initiative, or WCI. Linking with the WCI will create a regional market that will provide greater emission reductions than would be possible if California acted alone.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: As I mentioned earlier, the Cap and Trade Program establishes a limit, or cap, on the amount of greenhouse gases that can be emitted by all covered entities. The cap provides certainty in the total tons of greenhouse gases that may be emitted. Cap and trade uses allowances to limit total
emissions, allowances or permits, and each one is equal to one metric ton of emissions. The number of allowances issued is equal to the cap.

The cap declines each year, which means that covered entities must either reduce their own emissions or compete for a decreasing supply of allowances available in the market. To comply, covered entities must turn in allowances equal to their emissions.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: We developed the proposed Cap and Trade Program with unprecedented public input. Staff held 40 public workshops on specific Cap and Trade Program design elements. We consulted with other agencies, stakeholders, universities, and experts from around the world, and we also received input and advise from the Market Advisory Committee and two Advisory Committees created under AB 32: The Economic and Technology Advancement Advisory Committee, ETAAC, and the Environmental Justice Advisory Committee, EJAC.

Additionally, the Economic and Allocation Advisory Committee, EAAC, was created to assist ARB in developing the Cap and Trade Program. Staff carefully considered the input from these Committees during the program's development. In addition
to workshops, staff had hundreds of individual stakeholder meetings and considered thousands of comments.

In November 2009, staff released a conceptual framework for the Cap and Trade Program called the Preliminary Draft Regulation, or PDR. Staff held a workshop on the draft in December 2009. The primary purpose of releasing the PDR was to solicit early input on the proposed structure and content of the program.

In response to the PDR, staff received over 130 written comments that were considered in the development of our proposal in front of you today.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: As we develop California's Cap and Trade Program, we've been leading the effort to design a regional program. California and other WCI partners recently met in Washington, D.C. with our counterparts in the Regional Greenhouse Initiative and the Midwestern Greenhouse Reduction Accord as part of an ongoing effort called The Three Regions. Three Regions members are sharing experiences in the design and implementation of regional Cap and Trade Programs, informing federal decision making on climate change policy and exploring the potential for further collaboration.

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addition to our regional activities, we are also working with our federal counterparts. U.S. EPA has taken important first steps to initiate a national program to regulate greenhouse gases as required under the Clean Air Act, and ARB strongly supports their effort.

Continued strong State/federal collaboration maximizes California's long-standing and growing investments in low carbon technology, fuels, and energy efficiency. These efforts advance climate policies that significantly reduce greenhouse gases.

ARB is committed to working with EPA as they develop the federal regulatory framework to grant delegation or equivalency the California's climate program.

ARB plays many key roles in designing and administering the Cap and Trade Program, including setting the cap and creating allowances, tracking the market, approving linkage to other programs, and ensuring compliance.

And now let's turn to these details.

The cap is a subset of the statewide limit on emissions under
AB 32. Setting the cap at the right level is critical to achieving our 2020 goal. The regulation specifies the number of allowances issued each year, totaling 2.7 billion over the life of the program.

The cap applies to all the covered entities combined. Individual facilities do not have caps or specific emission reduction requirements.

The program establishes three-year compliance periods: The first from 2012 through 2014; the second from 2015 through 2017; and the third from 2018 through 2020.

To comply, a covered entity must submit allowances and offset equal to its emissions at the end of each compliance period. Once allowances and offsets are surrendered, they are permanently removed from the market.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: This slide shows how the cap works and how sources are phased into the program.

Beginning in 2012, emissions from electricity, including imports and large industrial facilities, will be covered. The 2012 cap is set at the expected emissions from these sources. This will be about 166 million metric tons. The cap declines starting in 2013 until 2015.

In 2015, the program scope is expanded to include
emissions from fuels. The 2015 cap adds the expected emissions from fuels to that of emissions covered in the first compliance period, increasing the cap to about 395 million metric tons. The cap then declines to 334 million tons in 2020. The Scoping Plan estimated the 2020 cap to be 365 million metric tons. This number was based on the emissions from entire sectors that we cover in the program. Since then, we have refined exactly which emission sources within the sectors that are covered under the program. The proposed regulation, therefore, sets the cap at 334 million metric tons in 2020. This does not increase the stringency of the program, but simply reflects a better estimate of covered emissions.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: What does the program mean for sources covered by the cap? A covered entity would need to register with ARB, report its emissions each year, and have its emissions verified by a third party, acquire and surrender sufficient allowances and offsets equal to its emission, and comply with recordkeeping, trading rules, verification, and other requirements in the regulation.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: Now that I've described what entities must do, I'd like to
turn to what they are allowed to trade.

The proposed regulation refers to things that can be traded as compliance instruments. These include allowances and offsets issued by ARB. I will discuss offsets later in the presentation.

Allowances and offsets issued by other programs we link to in the future will also be tradable. In addition, ARB may approve other compliance instruments, such as offsets issued by third party programs that I will describe later.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: We designed the program so almost anyone can trade. This includes covered entities, wholesale marketers, financial institutions, brokers, offset developers, and those who may want to obtain and voluntarily retire allowances.

Allowing broad participation in the market reduces compliance costs and increases market liquidity. Allowances can be surrendered for compliance, banked for future use, traded to another entity, or retired by ARB on behalf of a market participant.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: The program creates a gradual transition through the design of the allocation system. This approach relies primarily on
free allocation at the start of the program to minimize near term costs to California consumers and businesses, and to minimize emissions leakage. Although most of the allowances will be freely distributed in the early years, a small percentage will be directly auctioned by ARB.

To ensure that allowance prices do not get too low to stimulate emission reductions, the proposed regulation establishes an auction price floor of $10 per metric ton in 2012. This amount will increase to $15 in 2020. The number of allowances auctioned will increase over time as fuels are phased into the program in 2015 and transition assistance is phased out.

When more allowances are auctioned, more revenue is generated, which could be used for public benefit. Staff recommends that auction revenue be used to protect California's consumers and to further the goals of AB 32. Specifically, staff recommends creating a per capita consumer rebate program, a community benefits fund, and a low carbon investment fund.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF:

Consistent with the EEAC recommendation, staff proposes to allocate allowances to the industrial sector to promote growth and minimize leakage. This approach includes what we've termed "transition assistance," which provides free
allocation at the end of the program to prevent economic impacts to businesses in California.

Transition assistance will decline over time as covered entities gradually adjust to the carbon price and adopt energy and carbon saving strategies and will settle at a level needed to prevent leakage. The allocation design is also intended to reward those who have already invested in energy efficiency and greenhouse emissions reduction, and will encourage continued investment in clean and efficient technologies in the future.

The allocation strategy starts with developing an emissions efficiency benchmark based on product output. This is done by determining the average emissions intensity for production within a sector and setting the benchmark at 90 percent of that average. By setting the benchmark below the average for all the facilities in the sector, it provides the greatest allowance benefit for the most efficient producers.

Since this approach also accounts for changes in a producer's output, it incentivizes continued clean intake production and helps prevent emissions leakage.

The risk of emissions leakage was determined by a quantitative assessment of emissions intensity and trade exposure for each industrial sector. The results of our analysis serve as the basis for calculating how allocation
to the industrial sector will change over time.

We received many comments regarding our assessment of leakage for different industries and will continue to refine this analysis and make recommendations to the Board for any changes to our assessment. Staff will continue to finalize the benchmark values as part of 15-day changes.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: In the electricity sector, staff proposes to provide free allowances to electric distribution utilities. Utilities must use the value for the benefit of rate payers and to further the greenhouse emission reduction goals of AB 32.

This approach achieves several objectives. It recognizes the early actions taken by many utilities to reduce their emissions, acknowledges the different emission intensity profiles of California utilities, and provides strong incentives for all utilities to continue to reduce their emissions intensity over time.

This approach also allows California to build on its aggressive actions and goals to reduce emissions in the electricity sector. Productions from strong energy efficiency goals and by increasing renewable electricity sector to 33 percent by 2020 under the renewable electricity standard recently adopted by the Board. The
The proposed allocation system builds on utility resource plans that are designed to comply with the 33 percent renewable requirement and to increase energy efficiency. We are working to ensure that our allocation strategy compliments this. Staff will finalize the details of the allocation system following additional data renew and analysis.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: The ability to trade is one of the most important ways to program reduces costs. The trading allows entities to find the lowest cost emission reduction. The proposed regulation also includes elements designed to further reduce compliance cost without compromising environmental integrity. The three-year compliance period provides flexibility by smoothing out annual emissions variation as seen in the electricity sector. It also gives covered entities a longer time frame to reduce their emissions.

Banking allows entities to hold spare allowances and use them for compliance in a later period. This provides an incentive for covered entities to make early reductions, since the declining cap could push allowance prices higher in the future.

I will discuss the allowance reserve offsets and
linkage in more detail in the next several slides.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: The allowance reserve is an account that holds allowances removed from the overall cap at the beginning of the program. Out of the 2.7 billion allowances issued for the years 2012 to 2020, about 124 million will be deposited into the reserve. Putting these allowances into the reserve tightens the cap, which could result in higher allowance prices.

To address this concern, an equivalent amount of additional offsets are allowed into the program. Each quarter, covered entities may purchase allowances from the reserve at specified prices. This provides covered entities with the ability to acquire allowances if prices are high or if they expect prices to be high in the future. The allowance reserve maintains the environmental effectiveness of the program while addressing the risk of high allowance prices.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: An offset is a credit that represents a reduction of greenhouse gas emissions from activities that are not covered by the cap. In the proposed program, offsets are equivalent to allowances and may be used by covered
entities for a portion of their compliance. Allowing offsets increases the supply of compliance instruments in the market, which reduces the overall costs of the program. Including offsets in the program also supports the development of innovative projects and technologies from sources outside capped sectors.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF:

Emission reductions achieved by offset projects must meet rigorous criteria to be approved as a valid compliance instrument.

Offsets must be real, additional, permanent, verifiable, enforceable, and quantifiable. Offsets must also result from the use of ARB-approved portfolio. The regulation specifies a Board approval process for offset protocol.

A supply of compliance offsets is important to achieving the program's overall cost containment goals. To ensure that a sufficient supply of high quality offsets is available, the regulation establishes rules for third parties that operate offset programs to fulfill some administrative role. This will allow us to access the existing capability of third party registries so that the offsets program can be deployed quickly. These programs be subject to ARB audits and oversight.
Under the proposed program, a covered entity may use no more than eight percent offsets to satisfy its emissions obligation. When combined with the allowance reserve, this limit ensures that a majority of reductions come from covered entities, if the reserve is not fully tapped.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: The proposed cap and trade regulation includes four compliance offset protocols that may be used to generate offsets in the program. They include the U.C. Forest Projects Protocol, the Livestock Manure Digester Projects Protocol, the Urban Forest Protocol, and the U.S. Ozone Depleting Substances Projects Protocol. These four protocols were initially developed by the Climate Action Reserve and the protocols included in the regulation are virtually identical to those developed by CARB for use in the voluntary offsets market.

CARB's protocol process included extensive contributions from stakeholders and experts to fashion effective solutions to difficult problems. Offsets using the CARB protocols are already being generated for the voluntary offsets market. Recognition of CARB's work provides continuity and stability for existing offset projects both within California and in other parts of the
U.S.

PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: To ensure that a sufficient supply of offsets is available, we propose to evaluate additional protocols next year and bring them to the Board for adoption.

In February 2011, we will hold a public meeting to identify additional project types for the next round of offset protocols.

PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: Per AB 32, the regulation encourages early action and recognizes early voluntary reduction. The regulation includes a process for accepting offset credits from qualified existing offset projects into the program. This will help create an initial supply of offset credits for covered entities to use. We have received many comments on our early action offset program and are dedicated to making a streamlined and effective transition.

There are currently four types of projects identified in the regulation for early action offsets. The project types are: U.C. forest projects, urban forest projects, U.S. ozone depleting substances project, and livestock manure digester project. There could be additional offsets that qualify for early action in the
future. As staff proposes additional compliance offset protocols, it will evaluate whether existing offsets should be accepted for compliance on a protocol by protocol basis.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: California has the opportunity to encourage international offsets to reduce emissions. The proposed regulation has a framework for accepting sector-based offset credits from developing countries. We're currently not proposing to approve any sector-based offset programs or adopt any related protocols at this time. However, our proposed framework will help provide incentives for developing countries to reduce their emissions and to establish sector-based offsets programs of high quality.

Each program will need to be approved by the Board, and we anticipate that only a limited number will be ready for evaluation in the near term because of the intensive review each program under undergo.

Since 2008, we have been working on issues related to reducing emissions from deforestation and forest degradation called REDD, through existing partnerships, such as the Governor's Climate and Forest Task Force, or GCF. REDD is likely one of the first sectors to be proposed to the Board for consideration.
Last month, Governor Schwarzenegger held the third annual Governor's Global Climate Summit. At the summit, the Governor announced an MOU between California, Acre, Brazil, and Chiapas, Mexico, to create a subnational working group to develop recommendations for REDD specific requirements. This partnership will further our goals of allowing high quality international offsets into the program.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: The proposed regulation establishes a general mechanism for California to link to other Cap and Trade Programs. The Board will need to approve linkage through a separate regulatory action.

The design of each Cap and Trade Program will vary, including the degree of stringency and environmental integrity. Allowances and offsets from linked programs could be used for compliance in California.

Our program will take on some aspects of those we link with so we will need to carefully evaluate each program before we decide to link. Once California links to other programs, California sources can use allowances for offsets issued by the linked programs for compliance, and vice versa. This fungability of compliance instruments will allow sources in both programs to seek
out the lowest cost reductions across systems. Such flexibility will lead to a more liquid and better functioning market.

While the proposed regulation establishes a framework for linkage, we aren't proposing any linkages at this time. Several CWI partners are working towards implementing their programs by the 2012 start date. These include New Mexico, British Columbia, Quebec, and Ontario. We intend to evaluate linking to these partners in 2011.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: The proposed program is designed to ensure a well regulated market. We are developing a market tracking system, which will allow us to track information about those who hold and trade compliance instruments. The market tracking system provides a chain of custody for allowances and offsets that may be used in the program. The program requires that any entity acquiring compliance instruments register with ARB.

The proposed program establishes rules to balance safeguards against market manipulation with transparency. The regulation has extensive requirements for information disclosures to assist in market monitoring. The regulation also deals with efforts to corner the market. We've included limits on how many allowances an entity may
hold or purchase at an auction. The holding limit is high enough to allow covered entities to accumulate allowances on a buy-as-you-go basis.

Some large emitters have commented that the holding limit does not allow for sufficient banking for later compliance periods. We will continue to work with stakeholders to find the right balance between preventing market manipulation and providing enough flexibility for large emitters.

PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: The proposed program includes robust enforcement to discourage gaming of the system and to deter fraudulent activities. All entities covered by the program will be subject to registration, reporting, and third-party verification requirement. These requirements ensure that data submitted to ARB are valid and checked by an independent third party. If an entity turns in sufficient compliance instruments by the deadline, one allowance is needed to cover one ton of emissions. If they don't turn in enough compliance instruments by the deadline, they must surrender four allowances for each ton they were short. This strongly encourages compliance.

The program also requires entities to submit compliance instruments for a portion of their reported
emissions each year of the three-year compliance period.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: To support our proposal, staff performed multiple analyses, including environmental, economic, and emissions assessments for the program.

The environmental assessment is contained in the programmatic functionally equivalent document. This assessment addresses direct and indirect environmental impacts of the regulation and identifies feasible mitigation that could be used to reduce significant adverse effects on the environment.

The economic analysis assessed the effects of the regulation on the California economy. In addition to this analysis, through a compliance pathway analysis, we looked at the potential emission reduction opportunities available to sources covered by the program, and the emissions leakage assessment shows the allowance compensation needed to minimize leakage.

The co-pollutant emissions assessment focuses on the potential for direct, indirect, and cumulative emission impacts of the proposed cap and trade regulation. It evaluates the potential co-pollutant benefits from the rule, scenarios which might lead to potential increases in co-pollutants, and cumulative emission impacts on
communities already adversely impacted by air pollution.

In addition, the California Department of Public Health conducted a health impact assessment of the potential non air quality public health impacts of the cap and trade framework which was released on Monday.

I understand that Michael Lipsett and Max Richardson from the Department of Public Health are here today to discuss the health impact assessment.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: The Cap and Trade Program consists of many parts and covers the cumulative actions of a large number of participants. For this reason, we will monitor the program to ensure that it is meeting all of the objectives of AB 32 and is not resulting in unanticipated outcomes.

We will report to the Board on implementation at least once a year. This evaluation will be conducted in advance of the end of each compliance period so that if we find that changes are needed, we will have sufficient time to adjust the program before the start of the next compliance period.

One of the potential adverse consequences that has been sited by stakeholders is the potential for increases in localized air pollution as the result of the proposed regulation. Although we believe that emission
increases due to the cap and trade are extremely unlikely, we are committed to avoid any localized air quality impacts.

ARB will implement an adaptive management strategy to monitor how entities comply, the emissions impacts, and, if necessary, promptly develop and implement appropriate responses.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: This concludes my overview of the proposed Cap and Trade Program. Now I'll turn to the other action item before you today, which is staff's proposed amendments to the regulation for the mandatory reporting of greenhouse emissions.

The proposed amendments are designed to support the Cap and Trade Program. The scope of the Cap and Trade Program is broader than that of the current reporting regulation, such as new reporting requirements for fuel suppliers. Modifications are also needed to include reporting of electricity imports consistent with the first deliverer approach. To support cap and trade benchmarking, there will be additional reporting requirements, such as the collection of production data.
Preventing emission leakage is a primary goal of the cap and trade allocation strategy for industrial sources. The current reporting thresholds are 2500 metric tons from power plants and 25,000 metric tons from other facilities. Adoption of the proposed amendments would lower the reporting threshold for facilities and fuel suppliers to 10,000 metric tons to monitor emissions at and potential leakage to industrial facilities and suppliers below the cap.

Those sources between 10,000 and 25,000 metric tons will use an abbreviated reporting procedure. Combustion emission would be calculated directly from fuel input, and third party verification would not be required.

Consistent with the WCI's harmonization proposal, the proposed amendments will align most California requirements with those of U.S. EPA. This will allow most facilities and suppliers to avoid having divergent federal and State reporting requirements.

To support the accuracy needs of the Cap and Trade Program, California reporters would often be directed to higher tier more rigorous methods for quantifying their emissions. Moving forward, third party verification would continue to apply to reporters above the cap and trade.
threshold of 25,000 metric tons. The amendments include a biofuel verification requirement until a biofuels certification program is in place.

Finally, we have proposed the addition of a qualified positive verification statement for cases of minor non-conformance without material misstatement of emission. If approved by the Board, these new requirements are expected to be in place for reporting 2011 emissions in 2012.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: Staff has a busy year ahead. We will be working on 15-day changes to clarify and finalize the regulation.

In conjunction with this, we will conduct additional public meetings to sort through the details. As we implement the program, we will continue to coordinate with our WCI partners, especially in the development of a comprehensive market tracking system that will be functional by January 2012.

In 2011, we will also evaluate additional offset protocols for adoption, and we plan on proposing linkages to WCI partners. These efforts will allow us to bring in an additional supply of high quality compliance instruments.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: We have received many comments from stakeholders that will help us clarify the regulatory language. We will work with stakeholders to make clarifications to the regulation language, as needed.

As part of the 15-day changes, we will also be finalizing the allocation method to individual utilities and working to finalize our benchmark values. There is a lot of support for recognizing investments made voluntarily in renewable energy. We will continue to evaluate the role of voluntary renewables in the overall cap and trade framework.

There is also still some work needed to make the compliance offset protocols consistent with all the requirements in the proposed regulation. We have been consulting with stakeholders on this issue and will address any changes needed in 15-day language.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: There are also elements of the mandatory reporting regulation that staff will address in 15-day language. Our local partners at the air districts can play an important role in implementing the program. We propose to clarify the role of air districts as verification bodies as part of the 15-day rule making.
We also need to clarify that we are not requiring reporting of fugitive methane emissions from farms, livestock, or landfills. Agricultural pumps need to be added to our specific list of exclusions, which is consistent with the U.S. EPA's approach. We will clarify the reporting rules for those entities between 10- and 25,000 metric tons. This involves including fuel use inputs as the mechanism for reporting combustion emissions and deleting requirements to report process emissions.

U.S. EPA has made recent changes to their reporting rule, including requirements for oil and gas. As part of 15-day changes, we will align our requirements with these changes, to the extent they are consistent with the goals of the Cap and Trade Program.

And finally, we will adjust our reporting and verification requirements as needed to add clarity and respond to stakeholder comment.

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PROGRAM DEVELOPMENT SECTION MANAGER CLIFF:

Developing the Cap and Trade Program has been an incredible and unprecedented three-year journey. With the help of stakeholders and experts from around the world, we have developed new strategies and innovative solutions to very difficult problems. In the absence of federal action on climate change, attention has once again turned to
California. The adoption of the Cap and Trade Program will establish the first-economy wide cap on greenhouse gas emissions in the U.S.

Therefore, we recommend that the Board adopt the proposed Cap and Trade Program, including the four compliance offset protocols, and adopt the proposed amendments to the mandatory reporting regulation.

Thank you. We would be happy to take any questions.

CHAIRPERSON NICHOLS: Thank you, Steve. I think the ripple of laughter you heard when you mentioned that staff was going to have a busy year ahead reflected a general acknowledgement on the part of everyone, both of the huge amount of work that has gone into this rule and also the fact that although we are clearly at a point now where the total design of the rule can be laid out and I think some changes adopted, I do believe that we've seen that there are quite a large number of important implementation of details, not the least of which is the market operation itself, which we're going to have to do a lot of work on before the program actually goes into effect.

So lest anybody is worried about our staff, the Board, or not having enough to do, I think they're well aware of the fact that after a well-deserved break for the
holiday, they're going to be back in the thick of it soon. I expect that there are going to be a number of issues the Board members are going to want to discuss and some proposals that will be coming from Board members in terms of the resolution or amendments, but I think that at this point we should just limit ourselves to any questions that people have of the staff, if there are questions, before we hear from the witnesses.

Are there any questions anyone would like to address at this time?

Okay. If not, I'd like to call first as our first witness Michael Lipsett of the Department of Public Health. As the staff indicated, Steve indicated in his statement, we had an unprecedented collaboration here with the Department of Public Health, which has performed an analysis that I believe has never been done before on something of this magnitude. So we've invited them to come and give us a presentation. Good morning.

Mr. LIPSETT: Good morning, Chairman Nichols and members of the Board.

My name is Michael Lipsett. I'm Chief of the Environmental Health Investigations Branch at the California Department of Public Health and a former long-time member of the Air Resources Board Research Screening Committee.
I'm going to be presenting a brief summary of the findings of the health impact assessment that was referred to in the prior testimony. And this was done of a potential Cap and Trade Program in California.

The HIA was conducted by staff in our department, or CDPH, with input from the Climate Action Team Public Health Work Group.

The HIA highlights potential health effects, both positive and negative, associated with the Cap and Trade Program and identifies possible distributions of these effects.

The HIA process was initiated in fall 2009 and the final document which was completed earlier this month is based on information available at that time. So it is not focused specifically on the proposed rule before you today.

So stakeholders from the Public Health Work Group were asked to highlight potential health concerns or health benefits associated with various aspects of program implementation. CDPH staff evaluated the most plausible of these public health effects. The Public Health Work Group held open meetings throughout the process to discuss and convey its findings. And CDPH staff also consulted with academic advisors throughout this process.

Initially, stakeholders identified five core
areas of interest, specifically:

One: Changes in emissions;

Two: Changes in employment and demand for labor;

Three: Changes in energy costs;

Four: Economic, environmental, and health effects from specific offset projects;

And five: Distribution of allowance revenue towards community investments.

ARB staff conducted the air emissions analysis while a CDPH health impact assessment evaluated the impacts of the last four of these five areas.

Overall, the HIA found that a Cap and Trade Program may cause negligible to minor health effects which could most likely be reversed with targeted mitigations.

In addition, a Cap and Trade Program has potential health co-benefits, and we identified opportunities to enhance these potential positive health impacts.

So I'm going to review the four areas that we evaluated before concluding.

The first, net changes in employment are expected to be minimal. Job dislocation and insecurity will effect some households, clearly. However, the HIA suggests the potential health impacts of job loss can be reduced by adopting worker transition assistance programs, investing
in adult education, and providing temporary insurance for
displaced workers. These mitigation efforts may be most
helpful if targeted to effected workers and populations
that have historically been vulnerable to unemployment.

Second, health effects from changes in
residential energy costs are likely to be mixed. For most
households, any potential changes in energy costs can be
absorbed, and improvements in home energy efficiency will
help meet core program goals and benefit public health.

Low-income households, however, do not generally
have a capital to make home energy improvements and are
more likely to be adversely effected by rising home energy
costs. CDPH recommends that a portion of allowance
revenue be used to assist low-income households with home
energy improvements and to subsidize utility costs in
these households as necessary, in coordination with
existing energy assistance programs.

Third, the four offset protocols before you today
are on the whole likely to be net beneficial for public
health. Targeting offset projects to fill in existing
need, for example, directing urban forest projects to
vulnerable communities, with limited green space or tree
canopy coverage would maximize the public health benefits
associated with the offset project. Because the most
immediate health co-benefits are likely to be local to a
particular offset project, keeping these projects in California when feasible will maximize the positive health benefits associated with them.

Finally, the greatest stakeholder concern we heard was the potential for a Cap and Trade Program to effect community health, both positively and negatively. Overall, local health impacts are likely to vary and not be accurately predicted. However, we know that existing health disparities may increase a community's vulnerability to economic and environmental risks. Directing a portion of any revenues towards investments in community health and healthy community environments would increase local resiliency and promote community capacity to adapt to impacts of climate change and to mitigate environmental and economic risks associated with climate changes or efforts to address it.

We recommend that any such revenue investments be based on our department's highly successful tobacco control program, which has averted about a million tobacco-related deaths and lowered health care costs by about $86 billion. This model involves foraging partnerships between the state and local health departments, which in turn facilitates the creation of broad-based community coalitions to help design and implement local programs.
Improving surveillance and reporting of environmental health risks will increase our understanding of potential health impacts and allow for mitigation of negative local health impacts, should they occur.

In sum, we found that a Cap and Trade Program in California is unlikely to substantially effect public health. Offsets will help limit the impact of economic health determinants, but there is clearly a tradeoff with on-site emissions reductions.

Targeting positive offset projects to communities with a demonstrated need can help increase health co-benefits. Steps should be taken to ensure that vulnerable communities are not negatively effected by employment transitions or increases in home energy costs.

And finally, directing a portion of allowance revenue to investments in community health and healthy community environments is likely to have the most substantial positive health impact.

The full report should be found on the web sites of the Climate Action Team or Public Health Work Group and on the website of our environmental health investigation. Thank you again for this opportunity to present these comments.

CHAIRPERSON NICHOLS: Thank you for coming today and for presenting this information. And I do want to
indicate that recognizing the directives of AB 32, it
certainly is our intent to continue to work with your
department along the lines that you've suggested and try
to develop the best possible way to assure that our state
is prepared to deal with the effects of global warming,
which we know are already underway. So it's going to be
an ongoing collaboration I think.

Do Board members have any questions?

Dr. Telles.

BOARD MEMBER TELLES: I feel this is very
important part of the program.

Could you give us an example of what you're
suggesting as far as a community health program would be
perhaps funded by this?

MR. LIPSETT: I'm going to introduce Max
Richardson of our staff, who actually did most of the work
on this for our staff on this health impact assessment,
and he will address some of the specific examples.

MR. RICHARDSON: As he said, I'm Max Richardson,
California Department of Public Health.

As far as specific example in the report we lay
out, there's a long history that goes through some
successful past health interventions.

But, overall, the broad story is that we see that
interventions that can focus on reducing existing health
disparities as well as building on communities' capacity to adapt to climate change are both -- would be both beneficial within the context of community health.

CHAIRPERSON NICHOLS: To bring it maybe down to a more specific level, what are you talking about? Things like putting air conditioning in senior citizen centers or that sort of thing?

MR. RICHARDSON: Yeah. Sure. A lot of the specific examples focus on, say, environmental shaping. So it could be addition of green space to a community or building on urban forests even outside of the offset boundaries.

CHAIRPERSON NICHOLS: Thank you.

Dr. Balmes.

BOARD MEMBER BALMES: Thank you, both, for that presentation.

As the Board member who proposed the resolution that was adopted to do a health impact assessment of AB 32, I want to thank the California Department of Public Health for their hard work and partnership on this matter. And I'd like to echo the Chairman's hope that we can continue to work together. I think it's important that we always assess the public health impacts as we move forward with AB 32 regulations.

CHAIRPERSON NICHOLS: Any other questions? If
not, thanks very much.

I'd like to next call on Dr. Michael Hanemann from Berkeley, who has worked with us over the years on the economic implications of climate change. And I believe you have a letter to present.

DR. HANEMANN: Thank you, Madam Chair and members of the Board.

I'm here today on my own behalf, but also representing 57 colleagues, economists who have worked in and on California and who signed a letter delivered a couple of days ago.

One of the signatures is Professor Kenneth Arrow from Stanford, but there are many distinguished and experienced economists among the signatories. We make four points. I'm going to summarize them briefly.

We commend you, the Board, for your vision and leadership in the design of the proposed cap and trade scheme. And we applaud you for the action you are about to take creating the nation's first broad-based cap and trade system.

We believe that this can improve our energy security, create new business opportunities, and create more jobs and provide the incentives for innovation for California and for the United States. What you're doing today is really a landmark.
Second, we support the maximum use of auctioning as the method of allocating allowances for three reasons. We believe auctioning is preferable. It provides a sharper price signal and a more effective market incentive. It avoids competitive advantage on incumbents, and it raises revenue for the state of California that can be used to offset any cost burdens.

Free allocation doesn't do this in an equitable manner, as the EU experience has shown. It provides a risk of windfall profits. We would add two qualifications. One is there certainly needs to be a transition period, an initial period of adjustment. And secondly, we support a modest amount of free distribution allowances to a carefully considered subset of trade exposed industries.

But -- and this is our next recommendation -- we recommend a midcourse update of the identification of sectors singled out for special treatment.

The Board staff has conducted a detailed analysis based on emission intensity and trade exposure. But there are limitations to that analysis, because the model used coming from the EU or Australia deals particularly with international trade and competition from other countries. As the staff report notes, there is an issue and maybe a greater issue of competition from other states in
California.

The data available to the staff didn't really focus on that, on the interstate competition. This reflects limited resources, limited time, limited funding to collect data sources. In my own view, what is needed to supplement this is an analysis based on establishment data. And there is proprietary database which is expensive but I think could be considered called the National Establishment Times Series Database, which tracks every manufacturing facility in the United States and would provide clearer resolution on whether the manufacturers close in California and move elsewhere or whether they move as though it's connected with cap and trade or unrelated.

So I want to state the staff did a good job subject to the time and resources, but I think it was still somewhat coarse. A more detailed analysis might not change but might make them a little less generous. The recommendation is that the Board complete a re-assessment of leakage risks say by the end of 2014, rather than committing now to the protocol for special treatment that would apply in the latter part of the trading period.

And then the last recommendation is that significant portions of the allowance revenue be used for the benefit of California consumers and people in
California and to further the goals of AB 32. As economists, we would recommend retaining the maximum flexibility in using this revenue for those purposes. So to close, we commend you. And we believe the action today will be for the benefit of the California economy. Thank you very much. Thank you for this opportunity.

CHAIRPERSON NICHOLS: Thank you.

Could I just follow up briefly on the point that you were making about the need for further analysis on the trade-exposed industries, because timing is obviously an issue here.

Under AB 32, we are required to begin implementation of all of our regulatory programs in 2012. We've designed this rule with three-year compliance periods and check in and so forth. I just wanted to make sure that you weren't suggesting that we had to wait to implement the program until we completed all of this.

DR. HANEMANN: No, absolutely not. We are recommending a midcourse correction either for the second or maybe during the second or the third program. But just not to commit for the entire period.

CHAIRPERSON NICHOLS: You feel that for the beginning phase transition that we'll be okay?

DR. HANEMANN: Absolutely.
CHAIRPERSON NICHOLS: Yes, Dr. Balmes.

BOARD MEMBER BALMES: Professor Hamemann, you said that the National Establishment Time Series Basis is an expensive database. What are we talking here?

DR. HANEMANN: You know, if you have to ask, you can't afford it.

I don't know. And I'll say I became aware -- I was originally aware of it when I was a graduate student 35 years ago. But PPIC did a report about five years ago on the effects of the electricity prices on employment and jobs in California. Daily new market PPIC bought the data or acquired it just for California. When I asked him about it, he said it was expensive and I didn't want to ask.

And the point is one needs to collect data for other states, states that are plausible places where leakage would occur or did occur. And so that's all I know. So the point is it's not enough to look at the establishments in California. We have to look at the places where they might go to.

BOARD MEMBER BALMES: But given the revenue at stake, it seems like it would be a reasonable investment

DR. HANEMANN: I believe so. I think this is obviously an issue of great concern. And it's very important to high resolution data on plant closings and
plant openings.

CHAIRPERSON NICHOLS: Sounds like an issue for our Research Screening Committee then.

Yes?

BOARD MEMBER TELLES: In this regard, in the presentation today, slide 32, there's going to be some 15-day changes on benchmarks which has to do with the leakage issue. Is that a realistic amount of time to be able to get back to all your stakeholders and come up with something that is more acceptable? Seems like it's a pretty short amount of time, especially over the holiday season.

CHAIRPERSON NICHOLS: I think it's perhaps time to give an explanation about what you mean by "15-day changes." We use that term lightly.

EXECUTIVE OFFICER GOLDSTENE: I'll talk about that process, but I would like to say we're not familiar with this database, but we'll be in touch with Dr. Hanemann and learn more about that.

The 15-day process is a process that we use at ARB to take your suggested changes from what we initially proposed, work with stakeholders to finalize them, and then do a somewhat similar process to what we just went through in terms of public comment. Given some of the complexities of what I'm sure we're going to be dealing
with, it's likely we would workshop some of what came out
of this.

And then when we're done, we're guessing sometime
late spring or summer, we would then post the finalized
changes for 15-day public comment, even though they've
already been through a very extensive set of new comments.
People can comment on those.

And then we are under the administrative process
obligated to respond to any new comments. If we feel like
we've resolved everything, we would finalize the rule
hopefully by summer or late summer of 2011.

CHAIRPERSON NICHOLS: So 15 days the first of the
legal amount of time that is required for formal comment.
It's not the actual amount of time it actually takes to do
the changes. It takes as much time as it takes to make
the changes is sort of misleading. It's like a period
we've just been through is a 45-day comment period. But
obviously we've been working with stakeholders for a lot
longer than 45 days.

DeeDee.

BOARD MEMBER D'ADAMO: Follow-up question on
that.

And the process that you just outlined makes a
lot of sense. There is quite a few substantive issues
you're going to have to deal with.
But as far as compliance, at some point, we're going to butt up against another challenge. And that is making sure people have certainty. So what can you tell us about how that 15-day change process interfaces with the need to at some point say this is what it is?

EXECUTIVE OFFICER GOLDSTENE: That's an excellent question.

We hope that today sends a strong signal with regard to certainty so the companies can plan about the direction they need to go.

But there should be things we're going to be finalizing. And we hope to get most of what we're trying to get done as quickly as possible in the next few months so businesses can plan. And then we just have to complete the process, which takes time. The administrative process is a very public process the way we run it here. It's very transparent. There might be more economic analysis that need to be done and other things.

And all of that information is required to be public. And often depending on what it is, we'll workshop probably some of the more challenging areas. But we hope that we can get all of this -- the majority of this done in the next few months, at least so people can see the direction we're going.

Again, I think today actually we hope -- we've
been doing all we can to make sure that every company,
every regulated entity, all of the NGOs that everybody
knows what we're proposing and where we're going. So
we're hoping that any changes that come out of today will
not be that significant that people will all of a sudden
have to change course from what they've already done.

CHAIRPERSON NICHOLS: There's going to be a lot
of assessment going on in the next year. And clearly if a
determination is made that we're not ready to actually
begin the program, we also have discretion at any point
administratively to delay enforcement of the program. So
that has happened before, too.

Yes?

BOARD MEMBER SPERLING: Could I see into this,
could I check to see if I understand what really the goal
is here today?

And to me, what it is is to see if there are any
major structural issues that are either unacceptable or
need change or whether -- in which case, you know, we
might have to postpone or have further deliberation, or
whether we are identifying only small details -- maybe not
details to some people but details in terms of the
structure of the program that can be accommodated and
dealt with over time by the staff. That to me is the
number one -- that's what I'm thinking is the one goal.
And the other goal is to create a process or ensure there is a process in place to make sure that whenever there are unanticipated consequences or problems that come up that there is a way to deal with them, whether it goes back to the Board or the Executive Officer can act on it. And to me -- I just want to check with everyone and make sure that's how I'm approaching this day and these deliberations. Is that shared by staff and by --

EXECUTIVE OFFICER GOLDSTENE: I think that's a good suggestion, yes. I think generally so.

But I also think some of you may have other more detailed questions. But I think generally that is the idea. And I can assure you and the audience that many of them already know that we have built in many points in the process to check back with you to keep the stakeholders informed. That's an ongoing commitment that we have tried to signal very clearly to everybody.

CHAIRPERSON NICHOLS: Well, there's obviously balance given the scope and the importance of this regulation between the need to have a full Board addressing the issues and really aware of them and giving specific policy guidance to the staff and the need for the program to become operational.

And one person's detail is another person's
fundamental design issue. So it's not really easy to draw
that distinction. But it seems to me we're here today
because the staff feels, and I agree, that we are at a
point where the basic structure of this thing is clear
enough and most of important elements are clear, that we
can and should seek endorsement from the Board.

But having said that, the recognition here is
that this is going to be an evolving program, not just in
the months, but really the years ahead. So we're going to
have to get comfort with an iterative process with some
form of oversight -- and I think we'll be talking about
what kind of oversight there needs to be in addition to
the Board and the staff to make sure that this thing is
working the way it's designed to -- that we will be able
to move forward fairly smoothly.

Probably the closest analogy that I can think of
at the moment is the low carbon fuel standard, which has
been moving forward for the past year, two years now
really with a lot of guidance from the expert work group.
And now there's going to be another Advisory Committee.
And that's only related to fuels.

So imagine the scope of what we're dealing with
here, and I think it's almost impossible to think that
there won't be some issue that we didn't think of that
will come up that we'll have to be prepared to address and
respond to it. Hopefully that helps.

In terms of how we proceed with the testimony from here on out, we have a large group of people. And I know many of us -- perhaps all of us have already -- thank you very much -- have been receiving e-mails and phone calls from individuals and organizations that are very concerned about the forestry protocol. And although the protocols were presented at the end of the staff overview, because they're obviously only one of a number of protocols that we hope will be used to establish offsets in this program, the issue has become so important in the eyes of many members of the public that it seemed to me it would be a good idea to get that issue clarified first. And that way people who are really only here because of their concerns on that issue will be free to go on with their day as well.

So with that in mind, I have 15 witnesses who have indicated this was their primary issue that they wanted to address. And I'm going to just call them ahead of the rest of the group. And if you are a person who is a forestry witness and you're not on this list, you should probably indicate that to the clerk and we'll try to group you together here.

So I'm going to start with Michael Endicott followed by Tim Feller and Bill Snyder.
MR. ENDICOTT: Good morning, Chair and fellow members.

My name is Michael Endicott and I'm here on behalf of the Sierra Club California. And I'm part of a coalition of 47 environmental groups that are very concerned about the way this protocol currently treats our forests.

We have submitted specific comments already as to why we think it is critical that for the first part of Phase I that you do not adopt a protocol without removing the portions that would allow the biggest emitters of greenhouse. To offset their emissions by purchasing credits or subsidizing timber operators that would clearcut our lands in swaths up to 40 acres.

We are meeting now in the Cal/EPA building, which is a tribute to our recognition of the life cycle sciences and modernization and being on the cutting edge. But whether this building is actually effective at achieving its purposes or not depends on how we operate it.

AB 32 is also a tribute, a recognition of one of the preeminent issues that face our environment that will effect not my life, but the life of my children and their children and yours as well. But how AB 32 acts, whether it is effective or not, whether it keeps us on the cutting edge depends on how you operate it now as you pass the
Our natural forests pick your favorite one in the sierras -- is a attribute to how well the laws of nature work. And they depend on the diversity of age, of habitat, of species. It's all interconnected. And that resilience is so importance in how we get to the point of actually being adaptive to climate change as well as trying to control our emissions.

We have been submitting comments since January as to some major portions of the protocol that create problems and risks not only to the forests, but also to the integrity of the program. And so that we would ask that you can go ahead with the three out of the four parts of the forestry protocol that you have, which involve reforestation, prevention of conversion from forested lands to other uses such as development or golf courses, and promotion of improved natural forest management practices.

But the last one, clearcutting, is not ready for prime time. It has major issues with how you do the accounting, which are critical to determining whether or not you actually have additionality, verification of that additionality, and also whether you're permitting leakage. These issues have been put off for future dates by the Climate Action Reserve and they will get to them. But you
should not launch it at this part of the program and now.

So I would ask that you think back to what you're trying to accomplish with this program, that you actually want to sequester carbon, as well as promote good forestry practices and put off including clearcuts until we've dealt with the issue of base lines of the issue of soil carbon accounting.

Thank you.

CHAIRPERSON NICHOLS: Thank you. Appreciate that. We are trying to impose a time limit.

Tim Feller, Bill Snyder, Mark Pawlicki.

MR. FELLER: Madam Chair, members of the Board, good morning.

My name is Tim Feller. I'm a registered professional forester, and I'm here to support the forest protocols.

As a practitioner of forestry in the sierras for over 30 years, I've used both even aged and uneven aged systems. And I do applaud your recognition of utilizing all of the silviculture systems in your protocol to achieve the carbon sequestration, reduce the emissions, and have sustainable forestry.

A salient issue for me is retaining management as a viable silvicultural system. To take that off our book of tools would be a tragedy. We do have a lot of cut-over
timber lands. We have disturbance oriented fire eco
systems. And we have large fires that occur in the state
of California. And whether by design, mother nature, even
aged management meets the goals of the state of many lands
owners. And with the recognition there are forest
practice rules and forest practices acts, CEQA and other
guidelines, even aged management achieves distribution of
landscape habitat, forest productivity, fuel reduction,
and long-term sustainability.

Once you get past the harvest and initial
available starkness, newly planted trees begin to grow
much like kids. And each one of my three kids have their
place in the forest where their age and the stand age are
the same age, which I've captured over time. I've
included some photos for you. Photo one is a picture of
my son, Gage, at age ten in 1999. This is a planted
forest. And as you can see, it's been pruned and thinned.

Step ahead 20 years and you have Gage in exactly
the same spot at age 20. Now these are close-ups. And
photos three and four are the same spot at age 10 and 20.
And I wanted to point out to you that in looking
at photo three, you will see that there are thinnings.
There's pruning. And this really is a capital investment
to get it where it's at today. We don't have to do this
type of activity. But to get there, we have to make an
investment.

Photo four is the same spot. And you can see that after ten years the richness of floristic diversity that's occurred since that original thinning, planting --

CHAIRPERSON NICHOLS: Your time is up.

Could I -- I'm going to ask you the question what is photo five. Might as well identify it.

MR. FELLER: What are they by?

CHAIRPERSON NICHOLS: What is it? Photo five.

MR. FELLER: Photo five is after another seven years of growth is the thinning that occurred on one of these stands where I've got numbers in my letter that show you the tonnage and the biomass that was resolved.

CHAIRPERSON NICHOLS: Thank you very much.

Bill Snyder, are you here? And then Mark Pawlicki and Jeff Shellito.

MR. SNYDER: Madam Chairman, members of the Board. My name is Bill Snyder. I'm Deputy Director for Resource Management Programs for the Department of Forestry and Fire Protection.

You should have a copy of our letter today, and I'm just going to cover a few of the things very quickly that we included in that letter.

First of all, I'd like to commend the staff for their cooperation over the past few years as we work
through a number of these things, including the
development of the forestry protocols. And I think one of
the key elements of those protocols is the key premise
that whatever we do, the carbon that we register truly has
to be additional. And I really do think the protocols
have gotten it right, recognizing there are still some
controversial pieces of that. But as they're currently
structured, I think additional carbon is at the heart of
it. And I think that's an important goal and outcome to
make sure we achieve in any offset.

I also think as we look at the approaches to
biomass and look at how biomass was treated as a biogenic
source within the report, fully support that concept,
recognizing there are issues relative to that surrounding
sustainability to make sure our forest landscapes are
sustainable and there are in a capacity to sequester
carbon that is emitted from biomass operations.

There are a few things in a process and
verification piece that we would certainly like to
continue to work with with your Board staff. And I think
it's going to be very important to people who are involved
in the verification process, particularly the forestry
side, are truly skilled in applications that are
necessary. So we'd offer to continue to work with your
staff in that area.
And I think as we look at continuance for other strategies that might be available to us to take advantage of sequestration for the capacity of the forest lands and continue to work with your staff on the development of protocols to deal with those pieces of it.

And also as we look at this, I think we're going to hear a lot of testimony today, a lot of concern. And I think it's going to be important for us to interact with other stakeholders and people interested in application of these protocols and measurement and verification, that we continue to keep an open door. But the rest of that is contained in the letter, more specific information.

Thank you very much.

CHAIRPERSON NICHOLS: Thanks for joining us today and for your interest in continuing to work with us on these issues. I appreciate the comment.

MR. PAWLLICKI: Good morning, Madam Chair, members of the Board.

I'm Mark Pawlicki representing Sierra Pacific Industries. And I'm a licensed forester in the state of California.

The Board has before it today forestry protocol that was developed in large part over an 18-month period by a multi-stakeholder group under the Climate Action Reserve. And that's a process that Cal/EPA actually
funded. You remember a couple years ago when you visited this issue, you directed CAR to go back and work on that protocol they had come up with several years ago to improve it to include a wider array of participants.

In our view, except for some technical cleanup, it meets your objective of providing offsets that are real, permanent, quantifiable, verifiable, enforceable, and efficient. Now, at Sierra Pacific Industries, we are managing our forests for the long term. We're going to be operating under the protocol. We're going to meet the standards. And we're also going to operate and continue to operate under the state's very strict forest practice rules that are developed by the Board of Forestry and implemented by any number of agencies.

In short, we urge you to adopt the package that's before you today including forestry protocol. Thank you.

CHAIRPERSON NICHOLS: Thank you.

Jeff Shellito and then Michelle Passero and Paul Mason.

MR. SHELLITO: Thank you, Madam Chair. My name is Jeff Shellito. I'm speaking on behalf of myself today relative to the forest protocols.

Three years ago, I spoke to you on behalf of the a group that was part of a coalition of environmental groups and land trust groups that urged you to adopt the
forest protocols that were part of the early actions taken by this Board. They were the ones that were originally adopted by our predecessor to the Climate Reserve as a result of some 2002 legislation that was enacted before AB 32. As many know, that was a measure authored by Former Senator Byron Sher, the man for whom this auditorium is named for.

Three years ago, we urged adoption of those original protocols because in the words of the Chair, investment in this market will lead to forest management projects that will both store carbon and benefit California wildlife and watersheds.

Unfortunately, today, the forest protocols that are embodied in this proposed cap and trade regulation no longer meet that standard because they were substantially amended by the Climate Reserve in 2009. And much of that was done to accommodate the desires of timber companies like Sierra Pacific Industries and trade groups like the California Forestry Association.

Those groups, as many recall, opposed the protocol in 2007 because of issues that they were concerned about, largely because they didn't allow clearcutting is one example. Specifically, clearcutting allows native forests to be converted to mono culture tree plantations. The protocols before you today allow this.
That's why I, myself, along with a number of other groups that will speak after me are urging that you not include these forest protocols as part of your regulation unless they are amended to specifically exclude even aged management. Pretty simple and straightforward policy action you can and should take today. And I would urge you not to refer this issue back to the Climate Reserve or to ARB staff or further study, but allow these flawed protocols to move forward intact.

These issues were raised at a Board meeting in 2009 -- September 2009, and basically nothing has been done about them by CAR. Instead of fixing the problem, CAR has refused to even calendar for discussion a compromise that many of the groups that will speak next after me had put together. This was a compromise proposed back in January.

I think my added concern of referring this back to the Reserve is it's not a State agency and not bound by the open meeting laws or other transparency requirements that the Air Board and other State and local government agencies are required to follow.

In our respects, we think that CAR has bent over backwards. We urge you to not adopt these protocols unless they're amended to remove the clearcutting issue.

BOARD MEMBER D'ADAMO: Thank you.
Michelle Passero, followed by Paul Mason, and then Bill Magavern.

MS. PASSERO: Thank you.

Michelle Passero with the Nature Conservancy.

First, we'd like to commend ARB and staff for this tremendous accomplishment. This is an important milestone not only for the overall climate but also for the recognition that forests and nature must play a role in climate change solution.

TNC supports the overall Cap and Trade Program being proposed by staff. But in spirit of also being constructive, we do have a few recommendations for your consideration.

My colleague will speak for a couple of other recommendations that we have and I'll speak to forest protocols and biomass if I have time.

With respect to forest protocols, we support the adoption of the forest protocols. We believe they're rigorous and provide an opportunity for cost effective reductions and include an important pathway for forest and nature to be part of the climate change solution.

In response to concerns -- some of the concerns raised about the prospect of more diverse natural forests being converted to conditions that are less diverse and more simplified, we recommend that ARB clarify that forest
offset projects not do this, they do not receive credit.

We also recommend that ARB include lying dead wood and soil carbon where there is significant disturbance in the accounting. We realize these were optional pools considered in the protocols in the Climate Action Reserve version and staff was looking to standardization and have required pools. And, therefore, these pools aren't part of the required pools.

It is important to include lying dead wood and soil carbon where there is significant disturbance from accurate accounting perspective. And it can also help get at the issues and concerns around conversion.

With respect to biomass energy and fuels, we do support biomass for these purposes. However, we do also believe that the combustion of biomass and the associated greenhouse emissions should have compliance associated with it. While the combustion may be offset by forest regrowth upstream, there is not a guarantee you could have emissions that increase upstream to produce the materials for combustion downstream.

So related to this, we do in the mandatory reporting recommend that suppliers and providers do report on biomass. This is important from an accounting perspective and also from a double counting perspective. You could imagine there would be offsets coming from
certain forested areas as well as materials being provided
for biomass energy.

Again, we could support the cap and trade package
and congratulate you and thank you. And I'm happy to help
as you work on these next year.

CHAIRPERSON NICHOLS: Thanks.

Paul Mason and then Bill Magavern and Addie
Jacobson.

MR. MASON: Good morning, Chairman Nichols,
members of the Board.

I'm Paul Mason with the Pacific Forest Trust.
And we do also -- I'll echo my colleague Michelle's
comments. We do congratulate the staff on such an
outstanding and enormous project, doing all the
stakeholder outreach, and putting together this complex
regulation. And we do urge you to move forward with cap
and trade regulation and adoption of the forest protocols.

We do have a couple of issues to flag. I'll
start with two issues I want to focus on are biomass and
forest protocols.

With biomass, one of our biggest concerns with
cap and trade regulation is the presumption that
biomass -- particularly forest biomass -- would not need a
compliance obligation and would not be available to
generate energy without having to account for those
emissions under the cap. We believe that biomass should be under the cap and should be required to generate a compliance obligation. And there should be monitoring of where the source materials are coming from so you could distinguish between biomass material that is a benefit versus that which is creating a greater carbon debt. Not all material is going to be created equal from the emissions perspective.

If ARB decides they don't want to put biomass into the cap -- we think it should be -- but we would also urge you to at the very least make sure that you're getting good monitoring and reporting of where the material is coming from so you could monitor whether the lack of a compliance obligation creates an incentive for mining the forests for exact carbon to create that energy and so you can keep track and potentially use adaptive management if you do need to take steps to bring biomass under the cap.

In regards to the forest protocol, again we support the adoption of the protocol and urge you to move forward with that, while flagging three areas that we think are important to address. I'll start with two that are related to just getting the accounting correct and making sure we capture the important carbon pools of lying dead wood and soil carbon. We are doing activities that
disturb the soil. These have both been part of previous versions of the protocol, are viable. And as the white paper that the Climate Action Reserve commissioned on both of these topics in response to the controversy around this more than a year ago, they are clearly significant pools that should be included just to make sure that we are not missing important pieces of the accounting.

The final issue I would address would be the controversy around clearcutting and the conversion of natural forests to a more simplified condition. And in my mind, this stems from a lack of clarity in the protocol around what is natural forest management. That has always been a core element of the protocols, and we think it's important to clarify what qualifies as natural forest management. That is a critical element. Thank you.

CHAIRPERSON NICHOLS: Thank you.

I'd like to reiterate a plea from our staff if you want to testify, if you think you want to testify, if you may want to testify that you please put a card in now so we can get a better sense of when we can take breaks and also how to group people. It's really unhelpful to us if you wait until the last second. You can always decide not to, if you decide you don't want to testify, but please put a card in if you're going to.

Mr. Magavern, good morning.
MR. MAGAVERN: Good morning. My name is Bill Magavern. I'm Director of Sierra club California. And we were an early and active supporter of the Global Warming Solutions Act. We've participated throughout the implementation process and have consistently taken the position that we could support a well-designed cap and auction system.

We're here today to ask for several improvements in the proposal in front of you today. And because we believe these improvements are essential to having an effective program, we ask that you not approve this proposal without incorporating these improvements.

We also submitted comments from 3,309 Californians. We submitted them all grouped together to your website, because we didn't want to bombard anybody's e-mail inbox. But these comments called for making polluters pay for their allowances and limiting offsets and particularly avoiding inclusion of clearcutting into the offset program.

Offsets we think need to be limited to assure the integrity of the emission reductions and fulfill the letter and spirit of the law. The staff presentation, you heard that a majority of the emission reductions required under this rule would have to come from the emitters themselves rather than from offsets. But the flip side of
that is that up to 49 percent of the emission reductions
required under this rule could come from offsets. We
think that's far too high, that one of the great promises
of AB 32 is to green our energy economy. And that means
making our industries more efficient, move to cleaner
sources, which is not consistent with letting them achieve
a great deal of their compliance by purchasing offsets
which may not even be in California.

We did support legislation that would have
limited the offsets to ten percent of the emission
reductions that passed the Legislature, was vetoed by the
Governor, but that shows where a lot of people think is a
good place to start.

In terms of the allocations, we do think that the
proposal is far too generous in the industrial sector in
terms of the free allocations, the bulk of which go to oil
extraction and refining. We think it was a mistake to
classify those industries as highly at risk for leakage.
We think they actually are low leakage risks. Should be
reclassified accordingly, because otherwise what you're
talking about is giving what is really a very valuable
public asset to these companies, which by the way are
making very good profits right now. But most importantly,
it's a misclassification, because they don't need the
help. So it would amount to essentially windfall profits.
In terms of where money is spent that is raised by this system, we do support having the full value of the allowances in the utility sector returned to the used for furthering the purposes of AB 32 through energy efficiency, renewable energy, and rebates to low-income consumers. Thank you.

CHAIRPERSON NICHOLS: Thank you.

I can see that I have now have another 15 people who have signed up on the forestry issues. So I'm going to impose a somewhat shorter time limit on folks at this point. I think we get the basic points that you're trying to make. So I'm going to ask -- we're going to cut it back to two minutes for now and we'll see where that gets us. Thank you.

Ms. Jacobson.

MS. JACOBSON: I'm Addie Jacobson. I'm with Ebbet's Pass Forest Watch. I'm also a Board member of the Sierra Nevada Alliance, which is an organization whose alliance encompasses 85 organizations, both large and small, across the Sierra.

But today I'm here like I was 15 months ago to address you as much as an individual, as a mother and a grandmother and a citizen of the Sierra. And, today, there is not just the 30 people who have signed up to talk, but there is even more people who have come. And
some of them have worked their way into the room, and I'd like to have them raise their hands and acknowledge themselves because some of them are trying not to impinge your time by talking. So I want you to know all of us got up before light and we made our way through the fog and this is important to us. We have no financial gain. We only want to see everything get done right.

And we are the people who have worked on "No on 23." We believe in the AB 32. We believe climate change is real and that California holds the promise to do it right. And we want you to do it right. I live in the Sierra. I see what happens. Climate change is here.

It's real.

But the worst thing we see is the clearcutting. It's got the least co-benefits of any timber harvesting methods and the least co-benefits under AB 32. And there is no point in having it in your protocol. This diminishes what you're doing, and we want to see California be the leader, not be a laughing stock. Thank you so much.

CHAIRPERSON NICHOLS: Thank you. Go ahead and clap. Thank you all for coming and for yielding your time. We appreciate it.

Susan Robinson, Doug Bevington, Karen Miki.

MS. ROBINSON: Good morning. Thank you for the
opportunity to speak.

My name is Susan Robinson. I live in Arnold, California.

My dad had a Master's degree in forestry from Pen State. I grew up in a forestry family. He taught me what good forestry is and what bad forestry. What we see in the sierra and throughout this great state is massive and massive amounts of clearcutting. We see on the ground the destruction. We see the plantations that do not look like biodiverse forests, and that's because herbicides are repeatedly applied to these tree plantations to keep out native plants.

I, too, supported AB 32. I, too, supported No on 23. Campaigned actively for candidates that would support these climate changes initiatives. It is disappointing but not surprising to me that after this Board directed CAR to deal with the clearcutting issue, the soil carbon issue, and the dead wood issue nothing happened in all this time. So here we are again trying to get this right. It is very, very important for our future that this gets done right. Pushing it back to CAR is unlikely to produce the results that we need for our forests.

Let's not forget the pictures that I've passed around and shown you that shows the clearcutting damage in our area. And now they're coming back and cutting
clearcuts next to clearcuts. All of this is something that California should not want to export to other countries like Mexico or Amazon. We don't need this brand of clearcutting in those countries, too. What we need is clearcutting removed from the protocols. Thank you.

CHAIRPERSON NICHOLS: Thank you.

Doug Bevington, Karen Miki, Dave Bischel.

MR. BEVINGTON: Hello. I'm Doug Bevington, Forest Program Director for Environment Now.

I've the good fortune to work with community groups around California that are working to protect their forests, and the message I'm hearing from all those groups that I see is that this protocol should in no way incentivize clearcutting. That's why more than 50 groups from throughout California basically representing all of the grassroots forest protection groups in California are sending a clear message. Not just no conversion, but no clearcutting. I think it's important to understand the distinction there, because there's some discussion of no conversion goal.

No conversion would sacrifice hundreds of thousands of acres that have already been cut in this most egregious manner. To remain in this devastated state, it would provide incentives to keep clearcutting those areas over and over again. If we want not only to protect what
we have left but enhance and restore diversity which is compatible with the goals of this protocol, we need not only to not allow new clearcutting -- not only not allow conversion, but the Board needs to take action now today to stop any form of clearcutting from being incentivized. We do not want clearcutting to become the face of AB 32. Thank you.

CHAIRPERSON NICHOLS: Thank you.


MS. MIKI: Hello. My name is Karen Miki. I'm from the Loma Prieta Chapter of the Sierra Club. I'm a member of it, which is located in the San Francisco Bay Area.

So I'm here today to ask you to remove clearcutting -- no surprise -- as an eligible protocol for improved forest management. And there is really two reasons for that. One of them is the accounting that we have right now for clearcutting, it's not accurate. It has problems with the base line. It has problems with leakage. It also has problems with the amount of carbon in the soil. A lot of people think that's up to 50 percent. So that's not assessed properly.

Another issue I'd like to bring up is that forests are very important, not just for carbon
sequestration and wood, but they're really important for water and for purifying our water for our air, for animal habitat. And clearcutting makes you wonder -- it really denigrates all that. It makes it harder for the foresters to provide for climate change to continue to be able to provide these things.

In the newspaper you will hear a lot. The 20 percent of carbon emissions comes from deforestation. And REDD calls for us paying developing countries not to deforest their lands. And, to me, clearcutting looks a lot like deforestation. I mean, it's temporary and it's eventually they plant trees there. But for 20 years, it looks kind of like deforestation. And, in fact, it's a net emitter of carbon for 20 years. So it's going to make it harder for us to make our goal of 1990 levels by 2020 because we have ten years until 2020 and clearcuts that happen now will still be emitting carbon by 2020. So I'm asking you please to remove it.

Thank you for letting me talk.

CHAIRPERSON NICHOLS: Thank you.


MR. BISCHEL: Madam Chairman, members of the Board, thank you for giving us the opportunity to talk on these important issues today.

My name is Dave Bischel. I'm President of the
California Forestry Association. We're a trade organization that represents over four million acres of private forest land owners in the state, about 95 percent of the primary producer of wood products, over 400 megawatts of renewable energy.

And just as a point of fact, our association has no publicly-traded corporations as members of our association. All family-owned businesses, privately held companies that own and manage private forests on a long-term sustainable basis.

I'm a registered professional forester with degrees in forestry from Cal and wildlife fisheries from Davis. Managed forests for over 20 years before I got involved here in the policy arena.

And I do want to touch on the fact -- well, first and foremost, I want to say that we support the regulation that you have -- that staff has put forward, the complex regulations, and the forest protocol as presented.

I was a member of the work group that met for nearly three years, a multi-stakeholder work group of forest land owners of State and federal agencies of environmental organizations that met every third Friday for almost two-and-a-half years and completely public input process as well. We brought in scientists. The protocol that was developed based upon science. It is
fundamentally based on maintaining the high quality protection measures that California has.
And I've given you a paper there that identifies a number of the more significant protection measures that clearcutting and even age management have. And I do want to point out that clearcutting in California is not clearcutting. It's not deforestation. It is, in fact, regeneration. Thank you for the time.

CHAIRPERSON NICHOLS: Thank you.


I don't want to take up too much of your time by repeating things that people have said, but I want to make the point that forests are the lungs of the earth. And we must not allow clearcutting to be part of the protocol, because it will have the opposite effect of what this Board is trying to achieve. We'll have more weakened forests and -- well, that's about it.

Thank you.

CHAIRPERSON NICHOLS: Thank you for coming. We know your position.

And in fact, I'm going to read out the names of a number of other people who have indicated they're here to testify: George Gentry, Board of Forestry; Jodi Frediani,
Randy Compton, Barrance Wren, Marily Woodhouse, Mauro Oliveira, Ciyin Oliveira, Mahaia Sol, Jeff Conant, Brian Nowicki, Edward Murphy, Brian Shillinglaw, Steve Elias.

If you feel that you have something to say that has not been covered, of course, we will let you come and speak. But if not, we're happy to just note your position and take it into the record. If you do feel like you need to speak, please come forward and just line up and give us your comments. Just state your name.

MR. ELIAS: Good afternoon. My name is Steve Elias. I consider myself a concerned citizen of California.

I do have something to say that hasn't been said so far, although I would urge you to really take to heart the comments of Bill Magavern, Michael Endicott, Addie Jacobson, and Susan Robinson. They're very heartfelt and they were all very, very explicit and true.

I want to cover something that hasn't even been mentioned so far, and that is the effect of clearcuts on the snow pack. You know, I think the number two-thirds is a correct fraction for how much water flows out of that Sierra snow pack that is so critical to California that we all depend on. I personally have been to State Water Resources Control Board who said, "Well, you know, clearcutting might create a problem with the snow pack, in
addition to global warming. But that's not really our
purview. You need to take it to the Board of Forestry."
I've been to the Board of Forestry. They said, "That's
not really our concern. You need to take it to the Water
Resources Control Board."
So I mean, basically that is an unintentional run
around, but you need to take the snow pack into
consideration. We all depend on it. It's critical to the
health of California. And as far as I'm concerned, all
the science that I've read points to clearcutting as
having a devastating affect on the water we all need. So
please, please take that into consideration when you make
your decision.
Thanks.
CHAIRPERSON NICHOLS: Thank you.
MS. FREDIANI: Thank you. My name is Jodi
Frediani. I'm Director of Central Coast Forest Watch and
environmental forestry consultant to the Santa Cruz
Chapter of the Sierra Club.
I would like to say there is no place and there
should be no place for clearcutting in the protocols. As
you've heard, our forest provides, in addition to
sequestering carbon, they provide habitat for wildlife.
They provide protection for water for our endangered fish
and for drinking water. As climate change progresses,
we're going to see drinking water become an even greater issue for the state of California. We need to make sure that we have water as well as we're not adding to the carbon problem.

We've heard that the trees and forests, the carbon is sequestered not only in the mass of the trees and the root systems, but a huge percentage in the soil which has not been taken into account here. The more activity in the forest, the more carbon is lost in the soil and clearcutting is the most damaging to the soil and therefore is releasing even more that's not been taken into account.

So you all doing that disturbance, essentially what you do if you allow for clearcuts is to reward those timber operators, those land owners who are doing the most destruction both for wildlife habitat, for the water protection, clear quality water for the state of California and releasing carbon through the loss of the forest mass, the large wood that will be disturbed and the soil disturbance, and you're going to reward them for doing business as usual and then allow that as an offset for another industry. I think that's really inappropriate. Encourage you to make sure that clearcutting is removed from the protocols.

Thank you.
MS. WREN: My name is Barranca Wren. I'm speaking on behalf of Merita Callaway, Calaveras County's Supervisor, as the county supervisor in the Ebbet's Pass area of Calaveras. The forests, both public and private, play an integral role in our community. The forests support recreation, jobs, and the environment. Allowing clearcutting to be a key component of the cap and trade offset will have a detrimental impact to our area.

We support timber harvests both for its contribution to our economy and to maintaining safety communities, yet utilizing clearcut harvest as a forest carbon offset diminishes what we are doing in the realm many of land use, transportation, and housing.

I appreciate the challenge ARB faces to monitor and reduce greenhouse emissions. Ebbets Pass will work to be part of the solution, but clearcutting as part of this will have a negative environmental impact. I ask that the Air Resource Board weigh the impact of the forest protocol on the local area with the goal you are trying to reach for all of California.

MR. COMPTON: Hello. My name is Randy Compton. I'm a life-long resident of Round Mountain. I was raised -- it's a logging community, sawmill community. My family, all my friends, everybody I knew is all come from the timber industry.
At this point, the forests in our area is being reduced the bare dirt. You can see all these clearcuts where all the species have been eradicated and poisoned. The grounds have been sterilized with herbicides.

On the outside of those clearcuts, much of the land has been eradicated of oak trees. There is a systematic process where they're hacking into oak trees, poisoning them, leaving them stamped dead in the forest. Oak trees are the heart of the food chain in the forest for all the wildlife.

You know, at this time when NASA says, "The main human activities that contribute to global warming are the burning of fossil fuels, coal oil, and natural gas and the clearing of land."

U.S. Wildlife Service says, "The growing body of evidence has linked accelerating climate change with observed changes in fish and wildlife, their populations and their habitats in the United States. Climate change has the potential to cause abrupt ecosystem changes and increase species extinctions."

Now the timber industry has the best scientists money can purchase. And they will tell you that all this eradication of the ecosystem is good for the wildlife. I'll tell you it's a lie. I've lived there all my life. I've watched the streams, the rivers, it all be polluted
and degraded beyond -- it's beyond irresponsible. It's
criminal.

And I urge everybody to get on Google Earth and
look at really what is going on throughout the Sierra
Nevada, because it's just a criminal act to allow this
clearcutting to go on. Thank you.

CHAIRPERSON NICHOLS: Anybody else? If not, I'm
about to --

MS. OLIVEIRA: My name is Ciyin. I'm in fifth
grade. I have recently been published in a national gold
addition 2010 poetry collection from the American Library
of Poetry. I've written you a poem.

"My name is Ciyin. Clearcutting is a sin. When
they clearcut, they take the trees' lives away, and that's
what I'm here to remind you to today. That when they
clearcut the trees, the trees aren't the only thing that
get hurt: Bugs, animals, and even dirt. Because the
pollution, herbicide, and that's no solution.

Don't you see, when they cut down the trees, they
make it bare. Do you care?

Let the forest stand and the land go free. It's
part of you and it's part of me.

The trees breathe for you and the trees breathe
for me. When your great, great grandchildren wonder why
and look back on this day, will they curse you or bless
you. It's your decision to say.

I reside where the tall ones fall. It makes me cry to look at them all. They once were so beautiful and full of life. There's still some left. Please help end this strife.

My name is Ciyin. Clearcutting is a sin. In God's name I pray."

Thank you.

CHAIRPERSON NICHOLS: Thank you, Ciyin.

I would like to ask please if you have a copy of what you read, if you could leave it with us, because I think the court reporter didn't get all the words. And we'd like to have them permanently. So if either you or your family could send us a copy, that could be great.

MS. SOL: Hi. My name is Mahaia Sol.

I don't see any positive things in clearcutting. All the animals run from their homes and the trees to the suburbs and cities. They get hit by cars or shot at.

Many just starve to death.

Next, cutting the trees and leaving one or two dead trees is still clearcutting. I go to the areas where there's clearcutting and I never see any natural biodiversity or any other trees. I don't care if they cut one out of ten trees. But when they cut 20 to 30 acres at a time with nothing left is heartbreaking.
I live on 40 acres. Do you know how much life is on 40 acres?

I don't see why we can't just make paper and building products out of hemp. It's a weed. It grows back in a few months, unlike trees, which take 100, 200 of years to grow back.

When all these trees are cut, the ground, water, and animals are poisoned with big machines they clearcut with. They are also poisoned by the chemicals they spray to make it impossible for anything to grow except for their only natural saplings. Even humans get poisoned because the chemicals go into the air and our drinking water.

Last year, Sierra Pacific sprayed nearly 70,000 pounds of their poison into my county for clearcuts.

Amphibian population is down. Bird population is down. The porcupine are gone. Cancer is on the rise. My friends are spilling proteins. You should know I used to live in a town that had mills. Loggers used to have jobs and work. Clearcutting takes one man, one machine, and it can ruin the forest and ruin a town.

Tell me, what are you leaving for your children and your children's children? And one day they all ask you why.

CHAIRPERSON NICHOLS: Thank you.
MR. OLIVEIRA: My name is Mauro Oliveira. I'm with Stop Clearcutting California. I'm also here as a father.

Steve Homberg was with the IPCC, and he helped with the original protocols here with them. And here's what was said in an interview with him in Science.

"It's one of those things I was a member of the IPCC special report on land use change and forestry that was published in 2000. I was a lead author. And as we were thinking about the implications of land use and forestry as it relates to the Kyoto protocol, on a very long time frame, one can think of these things as imbalance. So if we cut that forest down, the carbon will be replaced over the rotation link. The problem is the time interval that it takes. So it's going to take 80 or 100 years to get that balance, which is a very long time when we think about carbon budget. We sort of made a sweep of the hand. It was just one of those things nobody did the critical thinking. We all said it roughly right."

The problem is it's not. And these things happen. It was just momentum. It started back then and it can end today.

There was a man who was with this process. His name was Carl Zichella. Back about 15 months ago he was hit by a car. He was Sierra Club's Western Energy
Manager. And he said on the way out of the meeting at CAR where they approved the protocols, he said, "We had to do this in a hurry because we had a time line to get this vote in. But there was a problem with the clearcutting and we need to go back and fix it." Carl assured all of us that that was going to get done. And frankly that's why you haven't heard from me over the last year. I had no way to imagine this was going to come up again, that this was going to get fixed.

So I brought Carl with me today to remind you that that has got to get fixed.

Time is up.

CHAIRPERSON NICHOLS: Thank you.

MS. WOODHOUSE: Hi. My name is Marily Woodhouse, and I represent Battle Creek Alliance. I also live in the mountain communities where the images have been held up from. And I'd like to show you something. The place that I live, I've lived there for almost 22 years. And when I moved there, all the trees were as tall as this room at least and all over. And now they there are a lot of places that have trees this side instead. This is what you're allowing when you allow clearcutting. You're allowing big trees to be replaced with this. And this is not going to help us in the next 20 or 30 or maybe more years.
And that's what's really important about this. We need this now. Anybody that can read knows that we're in deep trouble right now. We can't wait for big trees to grow again. We need them to stay and do their job as they can.

I gave you a packet of information also. Hopefully you already have the packets. There are a number of aerial imagery of the different sierras in there of the different parts of the sierra in there that show how this has been done throughout the Sierra.

Also another thing that has not been mentioned here -- it's not bad enough the way it is, but by law they can go back and cut the areas in between the clearcuts within five years. So all we will have is massive little small plantations like this. And that's not going to help us.

That's all. Thank you.

MR. CONANT: Good morning. And thank you, Madam Chair, members of the Board, for the opportunity to share my testimony here today.

My name is Jeff Conant. I'm here with the Global Justice Ecology Project based in Oakland. California has always been a leader in environmental policy and action and is set to be a leader in climate legislation as well. But leadership in this
field will not happen through offset based emissions reductions.

My comments today are in regards to offsets in general but specifically in regards to something that has barely been mentioned yet, the program known as REDD, Reducing Emissions from Deforestation and Degradation. I understand that the offset protocol through REDD is not on the table today, but the decisions made here today will open the door for the REDD protocol, which exemplifies all of the problems with offsets in general.

Offsets do not and will not provide real emissions reductions. As the name implies, they will offset the responsibility of the State and polluting industries. On the one hand, this will allow pollution in California to continue largely on the date both in the form of CO2 emissions and in the form of the more immediate toxic threats from refineries, incinerators, power plants and so on, leading to the kinds of immediate health impacts we see around the Richmond refineries, Kettleman City, West Oakland, Fresno, and other industrial impacted areas.

I would recommend that offset allowances within AB 32 be kept to a minimum in order to truly encourage clean and green economic alternatives for California.

I've just returned from the United Nations
Climate Summit in Cancun, Mexico where REDD was one of the most controversial topics on the table. The UN states the chief aim of its program for reducing emissions from deforestation and forest degradation is "to make forests more valuable standing than they would be cut down by creating a financial value for the carbon stored in trees." On its face, that is a great idea and extremely appealing. But the devil, as they say, is in the details. What we saw in Cancun was the vocal core of forest-dependent communities, environmental justice advocates, and the business organizations opposing REDD.

Given that my time is up, I would just like to say that when REDD comes down the pike, California does not want any hand in it as it will lead to massive land evictions and human rights abuses.

Thank you very much.

MS. LYNN: My name is Sue Lynn and I come from Chess County and I represent a small group called Cascade Action Now.

I wanted to make two points about the forest protocols and the clearcutting aspect.

And one is a point I don't believe has been made so far, and that is the impact on forest fires. When you replant a clearcut area with a tree plantation, all of the research indicates that that plantation is much more
vulnerable to fire than the forest it replaced. And the
reason for that is that the trees are all more or less the
same size. They're usually Ponderosa Pine, which happen
to be highly flammable. They grow up very tightly spaced
and with all the branches kind of connecting. An older,
more diverse forest will resist fire much more easily
because some of the trees are old. They have thick bark.
They're much higher. A lot of the undergrowth will burn,
but not all the large trees.

I live right next to an area that was replanted
about 20 years ago, and it's a forest fire ready to
happen. So we're terrified up there.

Second point, I think people have mentioned this
a number of times, but I just want to reiterate that if
you read the academic forest scientists as opposed to
listening just to the timber companies, you will learn
that it's very clear that forests store carbon -- diverse
older forests store much more carbon than a young
plantation tree farm. If you compare a very small tree to
a very large tree, yes, that small tree will absorb carbon
more quickly than the older tree. But if you look at the
entire forest and compare the carbon storage of that
forest, it will take anywhere -- according to the
scientists, anywhere from 20 to 80 for 100 years until
that plantation tree farm will be able to store the kind
of carbon that's being stored in the older forest. So to
do that kind of clearcutting now when we're already facing
in terms of global warming seems crazy.

Thank you.

MR. SHILLINGLAW: My name is Brian Shillinglaw,
New Forests.

First, speaking personally as a citizen of
California, I want to say I'm encouraged by California's
actions under AB 32. I want to thank the Board and staff
for your public service.

Speaking on behalf of the New Forests, we support
the adoption of the proposed cap and trade regulation. I
want to make two brief comments.

First, I want to urge the Air Resources Board to
work to incorporate aggregation rule compliance forestry
protocol. Seventy-five percent of private U.S. forest
land is held in land holdings under 5,000 acres, really
where the carbon is. Smaller family forests owners often
manage forests with overgrown trees and higher carbon
stocks that are significant risk to harvest and conversion
to non-forest uses. These land owners face high effects
of cost and lack economies of scale in developing forest
carbon offset projects.

Aggregation rules can enable -- level the playing
field for smaller family forest owners, reducing cost and
achieve economies of scale, while maintaining offset qualities. Climate Action Reserve has adopted aggregational audits. And I just want to encourage the Air Resources Board to work in 2011 with that, other aggregation models, and incorporate them into the forestry protocol.

Second, I want to commend the Air Resources Board for planning to incorporate sector-based offsets from reduced emissions and deforestation and degradation cap and trade regulation. Deforestation releases as much greenhouse emissions as the global transportation sector, and significantly reducing deforestation emissions is critical to avoid dangerous destabilization.

California has the opportunity to lead the world at creating an economic incentive to tropical forests and this can be done with strong social and environmental safeguards.

I want to encourage the Board and staff to ensure that sector-based offsets are incorporated into this plan. Thank you for your time.

CHAIRPERSON NICHOLS: This is the last three witnesses on this topic and this is going to be the end as far as I'm concerned with this topic area. Okay.

MR. GERO: Thank you, Madam Chair. My name is Gary Gero. I'm the President of the Climate Action
Reserve.

I want to make brief remarks just about the forest protocol here. First, I want to say the forest protocol as developed through this multi-stakeholder process is sound. It meets the test of being real, permanent, additional, verifiable enforceable.

And I want to point out one thing in particular, which is that all forest projects under the protocol regardless of the project type are absolutely required to increase and maintain permanently the total amount of carbon stored on the land over time. That is true regardless of the harvest method used. Any tree that's harvested under the protocol is the reduction in the total carbon on the forest and is not credited. I want to make that clear.

I want to say that we do absolutely agree that the protocol should not be used to convert native forests to plantations. This is something that we don't believe can occur under the protocol, but we also agree that, as you pointed out, this is an iterative process and refinements can be made.

In adopting the protocol, our own Board directed us to develop a series of white papers to address soil carbon, lying dead wood, even-aged management, and forest
certification systems. Those papers are now nearing completion, and it was our anticipation to announce a stakeholder process in the new year to broadly engage that. And we would welcome ARB's leadership and partnership in that process.

So with that, I just want to urge the Board to adopt the forest protocol today, provide a clear signal that forestry will be included in the cap and trade. We think this is an important sector and an important role for offsets in the overall program.

CHAIRPERSON NICHOLS: Thank you, Mr. Gero.

Would you give your brief succinct answer to the question: Does the protocol incentivize clearcutting? And then explain in 30 words or less.

MR. GERO: Absolutely not. The protocol provides credit for stored carbon. So to the extent a project is required to increase the total amount of carbon stored in the project area for 100 years, permanently maintained, increases stored carbon. Every time there is a harvest, whether clearcutting or some other harvest practice, that reduces the amount of stored carbon. And that carbon has to be compensated for elsewhere in the forest project.

CHAIRPERSON NICHOLS: Thank you.

Okay. Next.

MR. NOWICKI: Thank you. I'm Brian Nowicki with
In the interest of not repeating comments that were made by presenters in front of me, I'm going to scrap the comments I was going to give you today and speak kind of directly to where we are now in the progression.

One of the most exciting promises of AB 32 was the possibility of achieving environmental benefits that go along with the reductions in greenhouse emissions, including forest clearcutting as part of the forest protocol directly contradicts a lot of efforts and a lot of that intention.

The forest clearcutting being included as part of the forest protocol -- and I don't disagree with anything Gary Gero of Climate Action Reserve said about what the intentions of the protocol set out to do. But including forest clearcutting does greatly increase the possibilities for gaming and for the development of non-additional credits under the forest protocol.

In the end, for the most part, most of our concerns, besides -- there is definitely the concern there is going to be incentives given for continuing business as usual practices, such as forest clearcutting instead of moving towards better more ecologically valuable types of forest management. But at the same time, the heart of our comments go to the additionallity of this protocol and the
concerns that are raised by including forest clearcutting. For that reason, we are asking if you are going to approve the forest protocol as part of AB 32, do so without forest clearcutting in there, lest forest clearcutting become not just the face of AB 32 but of some of the worst unintended consequences and for non-additional credits.

Thank you very much.

MR. MURPHY: Good morning, Madam Chair, Board. My name is Ed Murphy. I was a Chairperson of the Permanence Committee of the work group that spent almost two full years meeting every third Friday working on this. I think the simple message I have for you today is that much of the climate change debate in the world is from the fact that there is planes of different science. And I think what you challenged our work group with was to actually find the science and bring that science forward in a responsible and accurate and concise way. And we did that in the protocol.

Just as Gary just pointed out, there is no incentive for even-aged management. There is no incentive in any harvesting without -- you have to create additional tons. So if you clearcut one spot, you have to hold the rest of the forest not only to replace all of those tons but more, to actually create a situation where you get a
credit.

So a number of things that have been said today are completely missing the point. They are missing the forest for the clearcuts.

And so in the very simple context of what we did as the protocol, we dealt with all three of the major claims you heard today. Even-age management is dealt with in the most scientifically responsible way under the laws of the state of California. It does not cause any of the effects you've heard today. Otherwise, under CEQA, how could we get a permit to do that that's reviewed by the Department of Forestry, the Department of Fish and Game, and by the State Water Quality Control Board. So we're not causing erosion. We're not causing impacts to wildlife, and we're not harvesting in a non-sustainable way.

Secondly, the lying dead wood issue that's been raised before you today, the work group recognized one of the most expensive inventories in the world is to count down material. We also recognize that all down material comes from standing dead material. It has to die and then fall. Our protocol designed the measurement technique to measure the standing dead so that the dying lying dead was accounted for.

Thank you.
CHAIRPERSON NICHOLS: Thank you, Mr. Murphy.

Are you waiting to talk about forestry?

BOARD MEMBER LOVERIDGE: Who's the person that just spoke?

CHAIRPERSON NICHOLS: Ed Murphy. Do we have your written testimony?

MR. MURPHY: I handed it to you.

BOARD MEMBER BERG: He's number 29 on the list.

CHAIRPERSON NICHOLS: Well, thank you very much, ladies and gentlemen. I know this is perfectly obvious, there are a number of witnesses who came today, a tremendously contentious and emotional issue as well as the scientific issue, which is not to demean it in any way. It just indicates the complexity and the seriousness of what we are up to here.

We're not going to be taken any action at this moment because that will come up at the end of the day. But I did want the Board members to get the full flavor of this today while we were fresh. Let's make it ten minutes and then resume with the rest of our witnesses.

(Thereupon a recess was taken.)

CHAIRPERSON NICHOLS: We have a lot of witnesses and a lot of issues to get through and we need to stay in focus. As I indicated earlier, I think it's important that we try to finish our work today. We have another big
day tomorrow. And so I'm going to ask the Board members when they feel the desire to get up and get something to eat, there is food in the back room for the Board. And they can take a break and listen because we have the sound piped back into the back room. But we won't formally take a break. So that means for staff and others I hope you'll do the same thing as you go along. Just take a brief break and for the audience as well. We appreciate it.

The next person that I have on my list was Alex Jackson from NRDC. I'm assuming that was not forestry. And then Jill Whynot from the South Coast Air Quality Management District. Jill. Hi.

MS. WHYNOTT: Good morning, Madam Chair and members of the Board.

My name is Jill Whynot. I'm a Director of Strategic Initiatives at the South Coast AQMD, and I appreciate the opportunity to testify this morning.

Dr. Wallerstein expresses his regrets for not being able to be here personally, but he's unable to travel due to some problems with his back.

Want to let you know that South Coast staff has actively participated in this process on the Cap and Trade rule and the mandatory reporting rule and that we support the CAPCOA comments that were submitted to you recently.

I'm here today with an offer of five specific
recommendations, which were distributed to the Board this
morning, that we feel will help improve implementation and
program efficiency. Several of these are self-explanatory
so I'm going to focus my comments on numbers three and
five.

The first topic relates to the ability of air
districts to perform multiple functions to help assist
with implementing this program. The rules as currently
written really limit the ability of the air district to
participate, to basically have to choose one function such
as verification. And our Board would like us to
participate in multiple ways in order to enhance the
program.

For example, we would like to develop protocols
and verify offsets. And the Chair has recently indicated
this is something that she would be supportive of.
However, we would also like to hold compliance
instruments. And this would be for the purpose of using
them for CEQA mitigation for facilities in the South Coast
or to fund projects for our reserve. And the amount of
offsets that an air district like us would hold would
really be inconsequential and in no way could effect
market prices or the availability of compliance
instruments.

The South Coast Board has also expressed an
interest in potentially running a bulletin board which
would help get parties in the South Coast together and
make it easier for them to comply with the State's Cap and
Trade Program.

And the second thing I would also like to just
suggest the followup recommended by CAPCOA for a report to
the Board in three months regarding air district
participation.

Thank you.

MS. EBERHARD: Hi. Kristen Eberhard. I'm just
going to switch with my colleague, Alex Jackson.

First, I just want to thank staff for all of the
work that you have done getting us to this point today
where we are taking this important step towards fighting
climate change and for all the work you're going to be
doing in the coming year.

NRDC submitted multiple comments, so we're well
on record. And I just want to focus on one area of
improvement that we'd like to see in the regs, and that is
on energy efficiency. Staff and the Board have recognized
throughout this four-year process that energy efficiency
is really a cornerstone of AB 32. And the reason for
that, of course, is that gets you the cheapest reductions
that are available. It helps customers as well as
businesses within the state save money. So we want to
make sure that we are getting all the energy efficiency
that we can under this program.

And there are a couple of things in existing regs
that I think risk not getting all of the energy efficiency
that we could get. The reason for that is that AB 32
talks about cost effectiveness, which is a key part of the
bill. The Public Utility Commission also talks about cost
effectiveness, but in a different context, within the
utility context rather than the greenhouse reduction
context. And we just want to make sure that we are going
beyond what the PUC has already been doing, which is a
great accomplishment on energy efficiency over the past 30
years, but we want to do even more in the next eight
years.

So toward that end, we have two suggestions. One
is right now the guidance in the regulations says that the
money from the auction and the electricity sector should
be used for the benefit of customers. And it doesn't take
just the next step and saying to help customers reduce
their bills by investing in cost effective energy
efficiency to help businesses reduce their electricity
bills by investing in cost effective efficiency. So we
want to make sure that that is clear as the PUC is moving
forward, that they know that. And in the allocation, we
also want to make sure that we're going beyond existing
energy efficiency and getting even more. Thank you.

CHAIRPERSON NICHOLS: Have you submitted language with the changes?

MS. EBERHARD: Yes, we submitted two sentences that we suggested.

CHAIRPERSON NICHOLS: Thank you.

MS. OSTRANDER: Good morning, Madam Chair and members of the Board.

My name is Calla Ostrander. I'm the Climate Policy Coordinator for the City and County of San Francisco. On behalf of the Mayor and the City and County, I want to thank you for the opportunity to provide comments to the process.

San Francisco commends ARB for moving forward with the implementation of the Global Warming Solutions Act. To note, the city had originally urged the Board to pursue a carbon fee instead of cap and trade. But being that the program is proposed and moving forward, we recognize ARB's progress on moving us away from an economy that relies not on fossil fuels and demonstrates leadership nationally in the areas of climate policy.

Under AB 32, cities are working to realize a combined reduction of 15 percent of the state's greenhouse emissions. San Francisco's own greenhouse gas emission reduction goals exceed this commitment. But since roughly
50 percent of our emissions come from transportation and 50 percent of our emissions comes from energy used in the community but is not supplied by providers in our community, we are going to need funding assistance to transition these large infrastructure to more sustainable provisions. So it is with this in mind that I urge the Board to incorporate the following recommendations.

First, both in allocating allowances and in deciding how to use revenues from the sale of allowances, the City urges the Board to channel increased funding to cities that have demonstrated leadership on greenhouse gas reductions and could thereby further expand their efforts to mutually benefit both local and state climate action strategies. This should be done by:

  1. Recognizing the historically low emissions of the San Francisco Public Utilities Commission electric system and allocating allowances to the electric sector.

  2. We're going to need funds to increase transportation infrastructure, and;

  3. We really urge you to increase auction allowances closer in the program rather than later out so there actually are funds in the community benefit funds that your staff is proposing, rather than us waiting around for these funds for many years to come and having them later in the game. Thank you for your consideration.
CHAIRPERSON NICHOLS: Thank you very much.

David Wright from the City of Riverside.

MR. WRIGHT: Thank you very much. I'd like to thank the Board, your staff, and the staff of the EPA for bringing forward recommendations today that Riverside Public Utilities can strongly support.

We really endorse the goals of AB 32. In fact, Riverside's reduced coal power by 20 percent from the last gone from no renewables ten years ago to 20 percent of our portfolio renewables this year.

We poll our customers to see what they like. Do you support all of the goals of AB 32, environmental responsibility? And they do. And they also support rate increase for that. Slower smaller rate increases but sustained.

So we're in an area harder hit by the recession and unemployment. So as long as we can meet these goals and also have the least impact but most high results for our customers, we're really supportive of that.

We've also been a member through SCPA, the joint utilities groups. And appreciate there has been dozens of representatives there representing hundreds of participants that have come forward with a recommendation that we can pretty much all agree on.

I'd like to close with just saying the
recommendations have really took a lot of effort to get here. We really request that little or no modifications be made at this point to the recommendations that have taken essentially years to develop.

So I really appreciate the recommendations. Strongly support them for Riverside Public Utilities. And thank you for your time.

CHAIRPERSON NICHOLS: Thank you for your leadership.

Lane Hallenbeck followed by Josh Margolis and Dave Modisette.

While you're coming up, this is going to be a ten-minute warning that we are going to cut off oral testimony. That is, if you don't sign up within the next ten minutes, you can still submit comments in writing. But we're going to cut off the list of people who actually speak at this point. So this is a warning. You have ten minutes to make up your mind and put your name in if you want to speak. Thank you.

MR. HALLENBECK: Thank you for the opportunity to comment on the improvement to the proposed cap and compliance regulation.

My name is Lane Hallenbeck. And I'm responsible for the administration of accreditation program at the American National Standards Institute, a 501(c)(3)
not-for-profit organization also known as ANSI.

ANSI plays a key role as the coordinator of many public/private partnerships in fulfillment of our mission: To promote, facilitate, and safeguard the integrity of the voluntary consensus standards and conformity assessment systems in the United States. This includes assessing and accrediting greenhouse gas verification bodies for conformance to the international standard ISO 14,065.

There is no need to create another accreditation scheme. Mitigating global climate change demands consistency and harmonization of programs rather than variation in conflict amongst requirements. This vision is reflected in the fact that the majority of the programs worldwide recognize or require ISO 14,065 accredited verification through a member of the international accreditation forum, or IAF. ANSI is the founding U.S. member of ISO as well as IAF.

But it's also important to note that the requirements of a third party accreditation program need not be implemented in isolation. The ANSI process would not prohibit ARB from specifying complementary requirements such as training and certification between ISO 14,065 accredited verifiers operating in this jurisdiction.

To summarize and conclude, ANSI recommends that
ARB should require verification bodies duly accredited by
ISO 14,056 as having suitable processes for assuring the
competence of individuals performing verifications in the
state of California.

Thank you very much for your consideration.

CHAIRPERSON NICHOLS: Thank you.

MR. MARGOLIS: Good day, Chairman Nichols and Air
Resources Board. I have great admiration for the work
you've done and what you're embarking on.

By your actions, you have caused hundreds of
people, businesses, air quality project developers to take
actions to reduce emissions. They're trading emissions
credits, CRTs, at prices between 6.50 and $8.50, even $9.
I would expect to see $8 traded before the end of today.
This is something attributable to what you have done,
which has given folks the expectation there will be a
price on carbon and they need to revise their operations
in such a way as to reflect that.

I would offer you a few recommendations, which
are in the letter that I submitted to you in terms of what
you might do to further encourage folks to participate in
this market in a way that allows you to achieve AB 32
goals of reducing emissions.

The first is I would encourage you to eliminate
buyer offset liability. Markets work when buyers know
they buy a product that is transacted, that's stamped by
the Air Resources Board and they can rely upon that
without going back and undoing a transaction that occurred
many times before.

Buyers should also expect to see that they have a
guarantee of that credit being able to be transacted in
the future. I would suggest you carry forward offset
capacity. If a facility has not used its capacity one
year, then they should be able to use that in the
subsequent years and bank it.

I would suggest that you allocate allowances in a
way that doesn't cost industries anything. They should be
able to rely upon the stream of credits and plan around
it. If you impose an auction requirement upon them, it
will be taxable to contribute to leakage as businesses
consider moving out of state to avoid these costs.

These are some of the recommendations I encourage
you to consider. I thank you for your consideration.

CHAIRPERSON NICHOLS: Thank you very much.

David Modisette.

MR. MODISETTE: Thank you, Madam Chair, members
of the Board.

I'm Dave Modisette. I'm the Executive Director
of the California Municipal Utilities Association, CMUA.
CMUA includes more than 40 publicly-owned electric
utilities in California which provide one electricity to one-fourth of all Californians. CMUA is very pleased today to voice our general support for the proposed regulation. The issues encompassed by the proposed regulation began in a form that was extremely divisive and contentious to California utilities.

As you know, California utilities are very diverse as is that generation. And to tell you the truth, we do not think our diverse utilities were going to be able to reach the level of conceptual agreement that we have today. The credit for this agreement goes to Chair Nichols, Cal/EPA staff, and CARB staff for their extremely hard work and leadership in facilitating a conceptual compromise on allowance allocation that it appears all California utilities can live with. Conceptual compromise is based upon three important policy principles which we support.

Number one, it reflects the expected cost burden to distribution utilities.

Number two, it incorporates the expected benefits of energy efficiency investments.

Number three, it recognizes early action.

The agreement also recognizes that there are very large emission reductions that are coming from direct regulations in the electricity sector, including the 33
percent renewable energy standard, implementation of all
cost effective energy efficiency, greenhouse gas limits on
resource procurement, and California Solar Initiative and
others all, of which CMUA supports and is committed to
achieve. The electricity sector will be able to meet
statewide AB 32 goals through the correct regulation
measures alone.

Of course, one of the most important aspects of
this agreement is the base line allocation of allowances
for the electricity sector. The base line allocation was
analytically driven by CARB staff and forms the foundation
of our agreement with the staff recommendation. We urge
you to adopt that today. Thank you very much.

CHAIRPERSON NICHOLS: Bill Carnahan, please come
forward.

MR. CARNAHAN: Thank you, Madam Chair.

I'm Bill Carnahan, the Executive Director of the
Southern California Public Power Authority, SCPPA, we call
ourselves. We're composed of twelve publicly-owned
utilities in Southern California. And some of my members
are here today, LADWP, Riverside, Glendale, and Burbank to
support the Board's action today.

Many times, when we deal with a regulatory
process, we're on the receiving end of the regulations.
We get feel like we get pounded, and we think about the
old Simon and Garfunkle tune and we'd rather be a hammer
than a nail. And I can tell you, in this proceeding, we
did not have that feeling. And you should be commended
for that. I think the leadership that Chair Nichols has
provided in getting the parties together allowed us to get
to where we are today.

The formation of the Joint Utilities Group where
the members of our sector were able to work together in
conjunction with the CARB staff to consider numerous
options resulting in the recommendations you have before
you today are very done. And we enthusiastically support
those.

We think your guiding principles have been
maintained, and we support specifically the administrative
allocation of the allowance to the electric sector, the
benefit of consumers, in particular support of the
proposal of approximately 97.7 MMT.

We support the policy guidance that the
resolution gives the staff and how to allocate the
allowances among the utilities.

We support giving the staff authority to deal
with the remaining implementation details. And
Californians at this point I think can be just as proud of
the continuing leadership in the greenhouse reduction
measures. We will continue to support and implement the
complementary measures in AB 32, energy efficiency and renewables so they will go a long way to ensuring our compliance. We will implement whatever procedures you adopt. However, we must ensure we maintain good custodians of rate player dollars and keep rate increases to a minimum. Thank you.

CHAIRPERSON NICHOLS: Thank you. I want to commend you and your members for sticking with the process. I know at the beginning it seemed as though we never would be able to come up with something that was equitable. So we appreciate it.

Brian Bateman from the Bay Area Air Quality Management District.

MR. BATEMAN: Good morning, Madam Chair, members of the Board.

I'm Brian Bateman from the Bay Area Air Quality Management District. And certainly, the Bay Area Air District is in overall support of the cap and trade rule, which, of course, will be a very important part of the state's overall climate protection program.

My comments this morning are going to focus on conflict of interest provisions for verification activities. And I'm speaking here both with respect to emissions verification under the mandatory reporting rule and offsets verification under cap and trade rule.
We didn't really see in staff's October proposal why the air districts were lumped together with other for-profit companies that provide verification services in terms of conflict of interest provisions. Of course, air districts and other regulatory agencies in California are subject to conflict of interest safeguards, things including ethics training and financial disclosures. And we are very glad to see that the staff as part of their 15-day changes is including mandatory -- specific provisions for the air district in terms of conflict of interest. And we do ask that that be clarified also in terms of offset verification. And we have some specific language in our comment letter that we think would lead to that end.

And finally, another recommendation here. We think that it might be useful to have a joint CARB and air district working group -- implementation working group for cap and trade so we can discuss with CARB staff steps of the program as it moves forward and discuss and resolve issues. We've used this for other programs, and it's been quite successful. So we think it's a good idea for cap and trade.

Thank you very much.

MR. BLOOM: Thank you, Madam Chairman.

My name is John Bloom. I'm speaking on today for
the Coalition for Sustainable Cement Manufacturing

Environment. On behalf of our coalition, I do want to express our appreciation for the cooperative, open, and productive dialogue we had with Chairman Nichols, CARB staff, Cal/EPA, the Governor's staff over the past few years and thank them for the taking the time and investing the resources to understand our industry and the unique challenges we face.

Cement is the binding agent in concrete which is the second most highly consumed substance in the world after water. No economy can grow and develop without using more concrete and cement, which are necessary for infrastructure in our building to meet the needs of the growing population.

Our industry is not only an essential building block of the economy, but also plays a vital role in building a more sustainable low carbon economy through a durable end product that generates substantial emissions savings through alternatives.

About a year ago, the Massachusetts Institute of Technology established a concrete sustainability program. Just last week, they released the preliminary information showing the carbon emission benefits of concrete. And over the next year, they're going to complete full life cycle analysis of emissions as well as costs for concrete.
While we embrace the long-term goals of climate change which will inevitably increase demand for our product, the major issue we face under a cap and trade program is our extremely high exposure to economic emission leakage, our extraordinarily high emission intensity exposure to the industry to compliance costs. And since cement is a globally fungible competitive commodity, we did not pass through the cost without losing market share to other alternatives.

Our major issue in the proposed regulation is really the current thinking of staff on imposing the ten percent discount to the benchmark.

CHAIRPERSON NICHOLS: I'm going to have to cut you off, Mr. Bloom. That was the bell. But we have your written comments. Thank you very much.

BOARD MEMBER LOVERIDGE: Could you just spend 30 seconds, explain what the ten percent is, why that's important.

CHAIRPERSON NICHOLS: You have a question.

BOARD MEMBER LOVERIDGE: Thirty seconds why the ten percent is important.

MR. BLOOM: Well, first of all, a ten percent benchmark discount across all sectors doesn't take into account the leakage risk or the ability of each sector to accomplish that more stringent benchmark.
You know, we do know all sectors vary in terms of leakage risk as well as their capability of meeting the benchmark. So certainly we would not want to penalize some sectors that have invested heavily to improve their energy efficiency versus other sectors that haven't. So we sort of look at the ten percent as arbitrary and inequitable and really works against the objectives of minimizing leakage.

CHAIRPERSON NICHOLS: Thank you.

Mr. Backlund and then Dennis Allen and Craig Anderson.

MR. BACKLUND: Good afternoon. I'm Dale Backlund. I'm the Regulatory Affairs Leader for the Dow Chemical Company. I'm here today to convey Dow's support for a well-designed economy-wide Cap and Trade Program for greenhouse emissions for California.

For the record, Dow provided no financial or other support for Prop. 23 or Prop. 26.

Dow is an energy-intensive company. About half of our operating costs are energy costs. Dow has eight facilities operating in California. I'm here today to talk about the Dow Pittsburg facility, which employs 500 Californians. We spend $53 million in local supplies and provide $15 million in state income taxes.

Dow has been working with the ARB staff, and we
intend to continue working to resolve our issues with the
proposed regulations. We submitted written comments, and
I'd like to highlight some points for further refinement.

First one is in resolution 10-42 that was
presented today, the wording addresses my concerns on the
clarifying the energy intensive trading so I thank you for
that.

Second point would amend the rule to include new
reporters and participants who trigger the 25,000 metric
ton threshold after 2008 and before 2011. There was a gap
in the regulation. For Pittsburg, California, we are
going to be -- our first time reporting will be in 2010.
So we're not in that prior scenario or after 2012.

Next point would be amend the rule to address the
limit of the 110 percent on allowance allocations for
energy intensive trade-exposed facilities. Current rule
language penalizes purchasing users. Approximately half
the allowances that Dow would otherwise receive are
removed by this provision, leading to uncontained costs.

This limit punishes Dow --

CHAIRPERSON NICHOLS: We do have your comments in
writing.

MR. BACKLUND: Yes, you do.

CHAIRPERSON NICHOLS: Thank you.

CHAIRPERSON NICHOLS: Dennis Allen, Craig
MR. ANDERSON: Good afternoon. Thank you very much for allowing some time for me.

My name is Craig Anderson with Solar Turbines. We're an 85-year-old California manufacturing company with two large facilities down in the San Diego area. And we employ 3500 engineers and machinists, and we export about 70 percent of our product equivalent to two billion dollars outside of the US.

Unlike the name, we are not solar powered. We're working on that. But we make gas turbines. We do view our product as being an excellent bridging technology. It is used on more than 150 landfills across the country to essentially generate free electricity using landfill gas.

The ARB certainly has a proven record in getting after air quality. And if anybody can pull this off, it will be the Air Resources Board.

We support cap and trade, but we don't support this proposed regulation. And that centers around the lack of information and benchmarking. To say that facilities do not have a cap is a bit of a regulator's perspective. The amount of allocations that we receive initially is viewed by the regulated community as being a cap for our operations. We either have to operate under that or enter into a market that has not yet been
established.

That uncertainty for our source category in which we are the only turbine manufacturer in California leads to the fact there are virtually no details in how they will benchmark our facility. This is further complicated by the fact that nearly 20 percent of our emissions, which is from testing of our units before they are shipped to customers, 20 percent of our emissions come from research and development. Our R&D is collocated with our manufacturing. This will present some major challenges for us to comply with something through the year 2020.

Thank you in advance for your consideration.

CHAIRPERSON NICHOLS: Thank you.

Question.

BOARD MEMBER ROBERTS: It sounds like a disproportionate amount of your emissions are coming from the test program.

MR. ANDERSON: Virtually all of our greenhouse emissions comes from the actual testing of our units for performance and safety purposes.

BOARD MEMBER ROBERTS: And that's unique in California in this type of an industry?

MR. ANDERSON: We're the only business in California that does this.

BOARD MEMBER ROBERTS: I guess my question is for
staff. How do we benchmark them? And what do we do when they've got a significant amount of their emissions coming from research and develop a product that's otherwise used to save us energy?

PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: We have a benchmarking approach that allows a thermal energy or fuel choice benchmarking. And so I believe that this company would fall into that particular approach.

BOARD MEMBER ROBERTS: A fuel choice benchmarking?

PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: In other words, the benchmark would be set on a particular fuel, in this case, natural gas. So using natural gas, then they would be essentially at the benchmark.

BOARD MEMBER ROBERTS: Is that unclear to you?

MR. ANDERSON: No, it's not. It's wonderful to hear that. But we haven't seen that specific benchmarking protocol for us. Even then we would get 90 percent of that benchmark; right? Because we would be the average as well as the only.

PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: The benchmark in this case is actually specified in the regulation. So the benchmark is set at the emissions for natural gas.

I think we've had some conversation with you and
we clearly need to have more conversations and work with
your industry to make sure that you're comfortable with
the approach that we provide in the regulation.

MR. ANDERSON: I'd appreciate that.

BOARD MEMBER ROBERTS: Okay. I want to see him
comfortable too, because I don't want to see his testing
move to Mexico or somewhere. So I guess I want to have a
higher degree of comfort that we get something researched
here that is aimed at saving us energy we're going to end
up with an incentive to keep him here rather than a
disincentive.

BOARD MEMBER BALMES: Okay. Thank you. Next
speaker will be Megan Ceronsky with Betsy Reifsnider to
follow.

MS. CERONSKY: Members of the Board, thank you
for allowing me the opportunity to talk to you today about
the proposed cap and trade regulation.

I'm here today on the behalf of the Coalition for
Emission Reduction Projects, or CERP, which is a coalition
of companies that advocate for the use of offsets in the
context of greenhouse mitigation efforts in the
United States. Our membership includes companies that
expect to be regulated under such regulations, including
here in California as well as companies that develop and
invest in offset projects.
CERP strongly supports ARB inclusion of an offsets program in the proposed regulation. Cap and trade programs only cap the largest sources of emissions, but there are many smaller emissions sources that can also make emission reduction, some of them cost effectively, by crediting emission reductions or sequestration achieved by uncapped sources. An offsets program allows these smaller sources to efficiently contribute to achieving California's emission reduction goals.

When governed by rigorous environmental standards and safeguards as are proposed in the regulation, you see before you today, an offsets program will generate emission reductions that are just as beneficial to the atmosphere as those achieved by cap sectors. The only difference is that they cost less.

An offsets program is critical to cost containment for two primary reasons. One of the reasons is that many of the most cost effective opportunities right now are outside of capped sectors of the economy. The other is that many of the emission reduction technologies that we need to transform the capped sectors of the economy have not yet been developed and deployed. For those reasons, offsets provide emission reductions that are available now and allow us time for the capped sectors of the economy to develop the emission reduction
technologies that we need to make major emission
reductions in those sectors.

For all of these reasons, CERP strongly supports
the inclusion of the offsets program and urges ARB to
consider increasing the number of offsets that capped
entities can use to meet their compliance obligation. The
offset usage limit right now is extremely low and will
severely constrain the cost containment that offsets can
supply. As a result, the offsets usage limit will
increase the cost of the Cap and Trade Program borne by
California homes and business.

Thank you very much.

BOARD MEMBER BALMES: Thank you.

Betsy Reifsnider followed by Mark Parsons.

MS. REIFSNIDER: Thank you very much.

My name is Betsy Reifsnider, and I'm here today
on behalf of both Catholic Charities and the Stockton
Diocese and California Interfaith Power and Light.

You have received written comments from both
organizations, so I'd just like to make a couple of
additional comments.

First of all, with the defeat of Proposition 23,
Californians have given the Air Board something that most
elected officials and agencies will ever achieve, and that
is a ringing mandate. Californians want you and AB 32 to
succeed. So we would ask the Air Board to operate the Cap and Trade Program in a way that is fair to everyone.

Every major faith tradition holds sacred the principle of protecting the earth and caring for the poor and vulnerable. Every major religious leader from the Dalai Lama, to Benedict the 16th has urged action on climate change. And they consider it not just an economic issue, but a moral one as well.

And I'll just echo slightly the previous speaker. Although offsets may be good from a global perspective, they don't always make sense from a local community's perspective. As the Department of Public Health said earlier, we, too, would agree that offsets should remain local. For instance, we can look at a place like Modesto, one of the ten most air polluted cities in America according to the American Lung Association. What if Modesto power plant which violated air quality rules more than any other plant in the northern San Joaquin Valley for ten years and kept refusing to pay its fines, what if they had been given offsets to plant trees in Ohio. Well, the people living around that plant, 50 percent Latino, 35 percent living beneath the poverty line would still be sick.

Thank you very much.

BOARD MEMBER BALMES: Thank you.
Mark Parsons, with Craig Jones to follow.

MR. PARSONS: Good afternoon, members of the Board.

Mark Parsons on behalf of the Metropolitan Water District of Southern California. As the nation's largest wholesale provider of drinking water, Metropolitan imports water from the Colorado River and Northern California and distributes it to its 26 member agencies. This water serves nearly 19 million people in southern California.

Metropolitan has engaged in the rulemaking process and continues to have serious concerns about the potential consequences of the proposed Cap and Trade Program on the water sector. Specifically, we are concerned about cost impacts from the imported electricity needed to power Metropolitan's pumps along the Colorado River Aqueduct. Along with the State Water Project, Metropolitan plays a unique and critical role in California's water energy nexus. Unlike a marketer, it does not buy electricity to market or resell it. However, under the regulations, Metropolitan would be defined as a marketer and could be required to purchase millions of dollars in allowances.

Since Metropolitan does not serve retail electric customers, it would not receive free allowances to mitigate these costs. Yet, the cost would be passed along
to its member agencies and ultimately to their water
customers.

We believe that this issue could be resolved by a
simple definitional change to the term marketer. We
recommend limiting the definition of marketer to only
those entities that purchase electricity for resale. If
the Board determines Metropolitan is to be regulated under
the Cap and Trade Program, we urge you to re-evaluate the
allocation plan for free allowances.

Metropolitan would be pleased to work with ARB
staff and other stakeholders to come up with alternative
compliance strategies that are compatible with our unique
situation that address the concerns for water sector and
that are consistent with the goals of AB 32. Thank you.

BOARD MEMBER ROBERTS: Could staff comment on
that?

ASSISTANT EXECUTIVE OFFICER KENNEDY: This is
Kevin Kennedy.

The way that is been written, it is designed to
cover all electricity imported into California. And the
way that's been covered is the first deliverer of
electricity, which would include marketers, among others,
is responsible for the emissions associated with imported
electricity. So we do believe that it's important that
the electricity they're importing is covered.
As they suggested, there may be ways of addressing their concerns about the cost in terms of looking at the allocations system. But carving out -- the changing the definition of marketer would exclude them so they're no longer considered a deliverer of electricity. It would simply exclude a portion of electricity consumer in California from the program.

BOARD MEMBER ROBERTS: I don't know just me, but it sounds like -- I'm not hearing things clearly. Probably because I have a cold. But I don't know if the mikes are working well but everybody seems to be in low gear. And I'm only hearing part of what you're saying. But are there others that are in this position or are they a unique position where they're bringing electricity in, but they're a direct user of it. I'm not talking the power companies.

ASSISTANT EXECUTIVE OFFICER KENNEDY: I do believe there are a few others that are similarly in this situation where they're importing electricity essentially for their use within their own system. And I'm sort of looking to see whether there is other particular examples that staff knows. I do think they're not quite unique, but it's a relatively small set of folks. And I do believe they would all fall within the question of looking at the issue
from the question of allocation and whether there is a way of addressing it in that context.

BOARD MEMBER BALMES: So I understand you. You don't want to make a definitional change; but you're willing to look at other approaches to the problem?

ASSISTANT EXECUTIVE OFFICER KENNEDY: Yeah. It's important to cover the electricity one way or the other. But the question about cost and whether sort of in this system we set up, we sort of missed an important category of customers where we need to address the cost is something that we were prepared to talk to them about and talk to the others in similar situations.

BOARD MEMBER ROBERTS: You're thinking about maybe a solution, not through a change of definition.

ASSISTANT EXECUTIVE OFFICER KENNEDY: The change definition would exclude electricity that we think is important. It's not a direction we would want to go.

MR. PARSON: May I make a brief comment?

I believe in terms of utilities that purchase electricity at wholesale, probably Metropolitan and the Department of Water Resources are probably the only entities that would really fall within our categories, because we don't have retail end use electric customers like the other utilities that import power. I think those would the two primary sectors. And I think that the
Department of Water Resources is making the same argument with respect to the allocations. I think you'll hear from the State Water contractors next on that same issue.

BOARD MEMBER ROBERTS: Part of your concern was you wouldn't qualify?

MR. PARSON: Correct. Because we don't serve retail electric customers.

BOARD MEMBER ROBERTS: Maybe there is a way to change that so --

ASSISTANT EXECUTIVE OFFICER KENNEDY: Yeah. And what we relatively recently sort of recognize this as an issue and sort of we haven't had a chance to sit down and talk to them in detail and work through whether the question of potentially the water customers are -- should be considered in the same sort of way that we're considering the retail electricity customers and making allowances available to the electric utilities. Perhaps there is an approach dealing with water deliverers that would make sense in that context. There is a discussion we need to have with him going forward.

BOARD MEMBER BALMES: I think Dr. Telles has a question.

BOARD MEMBER TELLES: Real quick question to Metropolitan and your sister agencies.

If it stands the way it is, what is the increase
per household in your area for water? And also do you
have -- your agency have any means of protecting
low-income households from any increase here?

MR. PARSONS: Well, it's somewhat complicated in
that Metropolitan is the only member agency of the State
Water Contractors that has its own independent electricity
purchases to operate the Colorado River aqueduct. Most of
them, the State Water Contractors, get their water from
the State Water Project and then they pass it down along
to their customers.

For Metropolitan, we have 26 member agencies.

It's really kind of difficult to quantify the increase.

I think our primary concern here is that when the
determination was made of how many emissions were going to
be associated with the electric sector, both DWR and MWD
met were included in that pot. So our emissions are there
to be allocated. We are just not getting an allocation.

So in working with staff, we're certainly willing
to look at the cost impacts. But there were so many
member agencies and rate making process there is
complicated. It's difficult to estimate at this point.

BOARD MEMBER ROBERTS: My concerns are, first of
all, water is going out probably faster rate in southern
California and the impacts are across the board. And the
impacts we keep hearing this is neutral on the economy.
This is not neutral on the economy. It's not just about people at the low end who can't afford it. It's those people making decisions on business and the future whether they're going to expand to California. And I think we've got some blanks spots here.

MR. PARSONS: Thank you. We have submitted written comments as well.

BOARD MEMBER BALMES: Ms. D'Adamo.

BOARD MEMBER D'ADAMO: I have a question.

And maybe this might supply also to the State Water Contractors.

What about other contractors, like Central Valley project water users or any of the other water districts? Or does this just apply to these two agencies?

MR. PARSON: No. All of those State Water Contractors will see impacts as a result of purchasing water at wholesale from the Department of Water Resources, which itself purchases imported electricity to power the State Water Project. So Metropolitan will be hit as part of that group. But independently, because we, unlike the other member agencies, bring in water into California along the Colorado River, we also have electricity needs to import that. So we're kind of in both groups.

But the agency that you refer to will be effected through increased costs to the State Water Project.
Does that answer your question?

BOARD MEMBER BALMES: Maybe we should hear from the State Water Contractors. Mr. Jones is next.

MR. JONES: Good afternoon. I'm Craig Jones representing State Water Contractors.

The State Water Contractors is a nonprofit organization comprised of 27 public water agencies holding contracts for delivery of water from the State Water Project.

The State Water Project is owned and operated by the Department of Water Resources. The primary purpose of the State Water Project is to store and deliver water to water project contractors who pay 100 percent of the cost. DW passes through all State Water Project power costs to the State Water Contractors agency and ultimately to the end use water customers.

The State Water Contractors have met with ARB staff and submitted written comments on the proposed cap and trade regulation. Among the other issues, the commented identify that, as drafted, the regulation would require DWR to purchase allowances for the energy imports to operate the SWP. Unlike the energy distribution companies, DWR will not be allocated allowances to mitigate those costs. Our most compelling argument for allocating allowances to DWR is directing ARB staff in
equitable draft regulation.

The SWC understands from discussions with ARB greenhouse inventory staff that emissions from DWR's important electricity were included in starting allowance budget. The allowances which DWR is entitled to will be distributed to EDUs and their customers, unless the proposed regulation are changed. And DWR is included in the list of covered entities. Without changes to proposed regulations, water rate payers will receive relief from increased rates associated with ADA compliance if DWR is excluded from the regulations.

In conclusion, please consider our letter which asked for you to direct staff to remedy the allowance allocation and equity or exclude DWR entirely from the cap and trade regulation.

BOARD MEMBER BALMES: Mr. Kennedy, do you have any further comments that you might want to make?

ASSISTANT EXECUTIVE OFFICER KENNEDY: No. It's basically the same discussion we just had.

BOARD MEMBER BALMES: Thank you.

MR. RICHARDS: Good afternoon, Board members.

Rob Richards of Kern Oil and Refining Company in Bakersfield, California.

Like to thank staff first for all the help they gave stakeholders throughout this whole process.
Kern is a small independent family-owned refiner with no upstream crude oil or downstream retail operations.

I have just a few items here. I'd like to add one item to our written comments. That would be we would like to see renewable diesel added to the source categories for emissions without a compliance obligation.

I'll summarize some of our written comments here. We'd like to see full recognition of the more efficient less complex refiners by utilizing simple output method. No averaging of that efficiency. We feel that's the most fair method.

We'd like the Board to recommend staff look at a pass-through mechanism for allowance costs of fuels. We feel there is no current pass-through mechanism.

We'd like you to re-assess leakage in the refined sector and look at leakage among sub-sectors in the refined sector.

We'd also like to allow only stakeholders to trade in the allowance market and also that offset limitations should be increased and allowed to be carried over from one year to the next.

Kern is a member of the Western Independent Refiners Association, and we support their comments later today.
One last thing I'd like to say is as a small refiner in California, we're very familiar with leakage. There were twelve small refiners in California in the 80s. And now Kern is the only small refiner producing gasoline and diesel.

Thank you.

BOARD MEMBER BALMES: Jeff Cohen.

MR. COHEN: Good afternoon. Jeff Cohen, U.S. Climate. Thanks for the opportunity to provide input today. I'm with EOS Climate, a San Francisco-based company.

My comments are going to focus on one particular proposed offset protocol on the ODS construction. EOS Climate has pioneered construction of ozone-depleting substances as a verifiable emission reduction in greenhouse gas markets. We originated the ISO methodology submitted to CAR and completed the first projects in the U.S. to destroy CFCs collected from older refrigeration air conditioning equipment in the United States.

CFCs, just a quick background, are not only obviously destroying ozone -- earth's stratospheric ozone layer, but really powerful greenhouse gases up to 11,000 times more potent than CO2. They are rapidly being released from older equipment and building infrastructure around the world. They've been phased out under the
Montreal protocol but remain in widespread use.

We congratulate ARB staff for its leadership in assembling a comprehensive set of proposals for California to meet the AB 32 targets while minimizing costs, providing flexibility, and maximizing the environmental and economic benefits for California.

We also applaud ARB as the first government institution in the world to take effective action to address the climate threat proposed by remaining ozone defeating substances. This has been a struggle for the Montreal protocol and parties around the world as they become more cognizant of the threat posed by remaining ozone depleting substance banks.

ARB's proposal to include OES construction as a compliance offset will not only mobilize projects and prevent significant GHG emissions in the U.S., but will showcase for the international community a market solution to manage these banks and accelerate the transition to advanced efficient climate-friendly technologies.

We have provided technical comments and look forward to continued input to ARB staff to maximize the program.

Thank you.

BOARD MEMBER BALMES: Thanks for your comments.

Elizabeth Hadley to be followed by John Larrea.
MS. HADLEY: My name is Elizabeth Hadley. I here on behalf of the Redding Electric Utility. REU is a publicly owned electric utility that serves a population of 90,000 people within the city of Redding. In general, REU is supportive of the direction the proposed cap and trade regulation has taken. We have submitted written comments requesting clarifying changes to the regulation. We have discussed these items with your staff and feel that many of our concerns have been addressed in the 15-day proposed changes.

REU is a member of the joint utility group and is supportive of the electric utility allowance allocation method that was presented here today. We believe this method is a fair and balanced approach that appropriately recognizes the cost burden that electric distribution utilities pass on to the residents of California.

Even though REU's resource portfolio is 63 percent carbon free, a few years ago, we anticipated that this Cap and Trade Program could increase REU's electric rates by as much as 21 percent. So I'm very pleased to be standing here today supporting an allowance allocation methodology that will not create an immediate rate impact to REU customers.

Finally, REU would like to thank ARB staff for being so open and willing to talk to stakeholders at any
given time in an effort to develop a program that can work for California. Thanks so much.

BOARD MEMBER BALMES: Thank you.

Mr. Larrea.

MR. LARREA: My name is John Larrea. I'm with the California League of Food Processors. And we represent over 47 food processors located in California in the Central San Joaquin Valleys along the coast and in southern California.

Today is Liudvikas van Bethovenas' 231st birthday. And in recognition of that, I'd like to say the League kind of characterizes the current cap and trade regulation as an unfinished symphony, especially with regards to us. Our industry is quite unique, and there are a number of factors that are present in the current regulation that don't apply to us. Some of the unique factors that are within our industry are seasonality, where we have issues with raw material variability and quality. We also have short operating seasons, and we have little ability to store the raw materials. We must process them within approximately four hours after they are picked.

But staff has tried to do a one-size-fits-all, and we understand that. However, they've made certain assumptions that don't apply to our industry. And as a
result of those assumption, we feel it's kind of skewed
the analysis associated with both our emissions
intensities and our designation as a high leakage risk.
To that end, we developed four points. You should have
our handout. If you don't, I'll be glad to give you one
which cover those areas. I've brought two of my members
with me to cover those area. The most significant ones
are leakage and in the benchmark.

As a final point to leave you with, please
remember that ag and food processing aren't linked. You
cannot separate us because the production would fall
mightily. And anything that happens to us will also
effect them. So we are going to continue to work with
staff on these issues and hopefully make progress. Thank
you.

BOARD MEMBER BALMES: Thank you.
Since I got your name right, I'd have to admonish
you. The unfinished symphony was written by Schubert, not
Bethovenas.

MR. MORTENSEN: You talk about food processing
and farmers, you're not going to sell 13 million tons of
tomatoes at the roadside stand.
I'm Jim Mortensen with Del Monte Foods. We've
been in the state for 110 years.

Good afternoon. I'd like to elaborate on the
second point of his overview, which you have up there. That's benchmarking. We've met with staff and feel we have agreed on energy-based benchmarking for the food industry. To that end, I'd like to bring up the boiler efficiency calculations that were used for the allocation equation in J4.

In order for food processors to determine the annual steam protection, it's necessary to use ASM equations for boiler efficiency. Your ANSI guy was up here earlier. I wish I had him next to me. He could really give me a lesson.

In order to calculate steam totals, the only numbers available to food processors are fuel use and boiler efficiency. We don't annualize steam production. We don't produce the volume necessary to operate our processes. We don't sell steam to any third parties. We're only interested in being as efficient as possible. We use universally accepted methods for efficiency calculations. So we don't have an annual steam volume unless we can calculate it using our efficiency. So it's the catch 22 that we were talking about the other day. We worked with staff on this and will continue to do so.

Having been regulated for criteria pollutants under the osmosis of the San Joaquin Valley Air Pollution Control District, we've improved our efficiencies of our
boilers and using many measurements all calculated with
the ASME equations. Staff uses a number of 85 percent for
fuel efficiency for their benchmarks for efficient boiler.
I assume that came from the ASME equation. That's -- I
called BMW. I asked them if I bought a new boiler with a
couple of tricks on it, what kind of efficiency could I
expect and they said 83 percent, maybe 82.

The reason I bring that up is you're going to
push this efficiency and these boilers that we use to an
extent that when you get an 88 percent -- thank you.

CHAIRPERSON NICHOLS: Finish your sentence.

MR. MORTENSEN: When you get above about 90
percent and you reach firing rates, it doesn't take long
for something to go haywire and a boiler will explode.
Those are called combustion events in political speech or
detonation in English. And in Nascar, it's done blewed
up.

But we need to continue to work with staff, and I
think they will. And I appreciate the work that we've put
in and the time. It's been intense, to stay the least.
That's not what boy scouts live in either.

CHAIRPERSON NICHOLS: You get extra time if you
make us laugh.

MR. MORTENSEN: I'm in town all week.

CHAIRPERSON NICHOLS: Marian Balster and Frank
MS. BALSTER: Thank you for the opportunity to speak today. My name is Marian Balster, Director of Environmental Management for Olam West Coast. Olam dehydrates onions and garlic and processes tomatoes. They are commodity ingredients sold to other manufacturers.

I'm speaking to you in support of the California League of Food Processors and request that you direct staff to work with us to address leakage risk as specified in the CLFP written comments.

In the development of the emission intensity matrix, staff has used a high level of segregation, thus combining unlike industries into one category. We request staff to increase the differentiation among our industry which will result in clearly showing a high leakage rate. Specifically, the United Nation's Commodity Trades Statistics Database uses a five digit differentiation as opposed to ARB's three. The statistics read that U.S. imports 50 percent more dehydrated onion since 2007. China's garlic imports alone has risen from 50 million tons to 130 million. The international imports together account for 68 percent of the market share. The U.S. and California market shares eroding due to international cost advantage.
California, specifically onion and garlic dehydration industry has closed almost 40 percent of its capacity, eliminating 900 jobs over the past five years in the area, especially in the San Joaquin Valley. Continued erosion of our competitive position is a major factor when we consider operating and moving out of state and to foreign source productions.

Thank you.

CHAIRPERSON NICHOLS: Okay. Mr. Harris and then Ms. Kowal.

MR. HARRIS: Thank you very much.

My name is Frank Harris with Southern California Edison. And appreciate the opportunity to speak to the Board today.

Southern California Edison believes the nature of climate change problems would best be addressed at a national or international level. We've worked with the Board on a possible way, and staff as well, to implement AB 32 in the way that will work for California and function as an effective model for national action.

SCE commends the ARB on its effort to develop rules to implement AB 32. We note the leadership demonstrated by Governor Schwarzenegger and Chair Nichols has enabled the ARB staff and various stakeholders in the joint utility group to develop a reasoned approach to
allocating allowances in the cap and trade rule that will
allow the state to achieve it's emission target at the
lowest cost to California.

While SCE supports the use of a cap and trade
program to efficiently reduce emissions, we remain
concerned that, as proposed, the market design and the
operating rule will not work as expected. The proposed
rules are extremely complex and today have not been
adequately tested. Of course, California learned the hard
way from the electricity crisis that the complexity of an
untested creates opportunity for market manipulation. SCE
suggests the Board should take time to get this market
right. And in particular, we note that the language
published this morning is a move in that direction. And
we hope the Board will instruct the staff to condition the
start of the cap and trade market on some crucial
readiness criteria which include not at a minimum
developing some market simulation and testing processes
and implementing them into the market monitor prior to the
beginning of the program.

Additionally, we've dropped some joint letter
with the IOUs with some members of the NCPA regarding the
treatment of emissions from out-of-state renewable
contracts. And as I'm running out of time, I just would
like to reference that letter, and I presume some of my
counterparties are going to speak to that as well.

CHAIRPERSON NICHOLS: And that relates to the mandatory reporting rule?

MR. HARRIS: Specifically to the mandatory reporting rule and how the emissions from out-of-state renewable procurement is considered under that rule.

Thank you.

CHAIRPERSON NICHOLS: Thank you very much.

Thanks for sticking with us all this time.

MS. KOWAL: Thank you, Chairman Nichols and members of the Board.

I'm Leilani Johnson Kowal with the Los Angeles Department of Water and Power, and I will keep my remarks short. We did submit a finding of technical comments.

LADWP strongly supports ARB and the implementation of AB 32 to reach the goal of returning the state back to 1990 levels of greenhouse emissions. We thank you, Chairman Nichols, for your continued leadership in this very important policy and regulatory development and for tackling very complex issues that have been put before you.

We thank the ARB staff for creating a very open and constructive process that has allowed virtually all stakeholders who have an interest in this to have their voices heard. It feels like we've run a four-year
marathon, and we still have one year to go before we kick it off. And even then, we still have nine more years to implement.

LADWP is your partner in AB 32, and we remain committed to making direct investments to dramatically reduce our carbon emissions. We are acting now. We are not waiting until 2012. Our early actions to date have resulted in a 25 percent drop in our carbon intensity from our 1990 levels. We will continue to transform our generation portfolio by repowering our natural gas plants, investing in more renewable energy resources, expanding our energy efficiency and conservation efforts, and also upgrading our transmission to accommodate more renewables coming into the state.

The cap and trade regulation, we believe the way that it is proposed by staff will support these efforts. And we look forward to working with ARB staff and to implement the AB 32 program cost effectively and to make it a successful program we all want it to be. Thank you.

CHAIRPERSON NICHOLS: Thank you.

Cindy Parsons, Joy Warren, Casey Creamer.

MS. PARSONS: Good afternoon, members of the Board. My name is Cindy Parsons. I'm with the Los Angeles Department of Water and Power. And I actually want to comment on the mandatory reporting regulation.
I'm the lead staff responsible for our reporting and verification. We have met with staff. We did submit written comments. And I just wanted to highlight a few of the issues that we would like to see addressed as part of the 15-day changes process.

Specifically, there are two sections, in particular, enforcement and verification, that we would like to make sure that the issues that we identified are addressed.

There needs to be a balance between rigor and confidence in the data with the feasibility and practicality of actually complying with the requirements.

With regards to enforcement, errors that are corrected during the verification process should not be suggest to penalties, and there should be a materiality threshold so that minor errors are not subject to penalties.

Overlapping enforcement provisions should be eliminated so as to avoid double or triple penalties for the same deficiency.

Upstream verification of biofuel suppliers needs to be simplified and streamlined so as to avoid duplicative verification efforts. And there are so many restrictions on the verification of biofuels that it may actually discourage the use of biogas to help reduce
fossil greenhouse emissions.

So bottom line, we'd like to request that ARB look at the enforcement and verification requirements in light of the overall reporting burden and make appropriate changes to ensure that compliance is achievable within the allotted time that we have. Thank you.

CHAIRPERSON NICHOLS: Thank you.

MS. WARREN: I'm Joy Warren. I'm here to speak on behalf of the Modesto Irrigation District. MID in a publicly-owned public utility located in the central valley. And our over 11,000 customers are among the hardest hit by high unemployment in the current economy.

And my focus in its continued participation in the AB 32 implementation processes has been and will continue to be the impacts on this implementation on California's electric consumers.

MID is active participators, as I said, in an effort to ensure that the interests of our rate payers are balanced with the goals set forth by the Legislature in adopting AB 32.

We thank staff for its continuous efforts to understand these concerns and to take them into consideration in formulating the proposed regulation.

MID continues to have reservations regarding the impact implementing AB 32 will have on the state's
electric rate payer, but we generally believe on the whole the proposed regulation designs a program that does balance the many competing perspectives.

This support for the direction taken into the proposed regulations is based on certain fundamental principles that are reflected in the proposal and are necessary to protect California consumers. CMUA in its comments earlier this morning highlighted them, and I won't repeat them here. But I do want to say that MID has submitted detailed written comments and would make several recommendations.

We have participated with Redding Electric Utilities as well as participating on on the joint utilities group activities and the offset working group. We're also a member of CMUA.

MID is has actively supported the efforts of the joint utilities group and the Air Resources Board together with many staff members and members from the Cal/EPA to design the allowance allocation for the utilities sector and mention our support for that as well. We look forward to continuing the workshops and efforts.

Thank you.

CHAIRPERSON NICHOLS: Thank you. Casey Creamer followed by Phil Newell and Patty Krebs.

MR. CREAMER: Good morning. Casey Creamer with
California Cotton Gainers and Growers Associations, Western Agriculture Processors Associations, and also speaking on behalf of the Neisi Farmers League today. Hopefully now my two minutes are not up.

First and foremost, we want to support the changes in the resolution with regards to the mandatory reporting to align that with EPA, their reporting and also the policy decision they've made to support that with regard to ag reporting.

Secondly, additional work needs to be made on ag facilities, the combining of those facilities with regard to reporting. The example is that you can have a power plant that's between 2500 metric tons and 10,000 that would not have to report for this program, but you could have a cotton gin, the same emissions, and that would be part of the mandatory reporting and potentially cap and trade. So we ask that we work with staff over the next few months to work on the nuances and come up with something that is fair.

Thirdly, we like to ask the Board to leave open the item on the dropping of the threshold down to 10,000 metric tons. We were involved in the workshop back in March. We made comments. Then there was silence for seven months and the first draft rule was presented. We think there could be potentially other issues with regards
to that. We'd like to ask the Board to leave that open so we can come back so we can look at it, find out if changes need to be made, what kind of sources would be brought in. And at that time, with more information, more stakeholder input, come back to your Board.

And finally, we're concerned with the increased costs of the program. We are going to be the ones that are going to pay the high cost of the energy, fertilizer, higher water cost delivery. We are the end users, and are going to be the ones heavily burdened. So we ask that cost implications be recognized and also for a panel to be set up to monitor these kinds of costs and ag have a seat at the table because we're the ones paying the bill. So hopefully we can be a part of the panel.

Thank you very much.

CHAIRPERSON NICHOLS: Phil Newell, Patty Krebs.

MS. KREBS: Chair Nichols, members of the Board, I'm Patty Krebs with the Industrial Environmental Association. We represent manufacturing, technology, research and development companies, very diverse industry sectors in southern California. Many of our IA member companies have strong corporate commitments to reduce carbon, but I think that the general reaction when this proposed regulation came out was that it was pretty overwhelming. There was a lot to take in in a very short
amount of time for them to understand the impacts on their business.

Some of the major issue areas that stood out.

First, in the research and development, the proposed regulation does not adequately address the unique aspects of R&D operations, particularly those that are closely tied to manufacturing and production facilities. It's also very difficult to predict R&D activities several years in advance.

For the early action credits, we have a technology company that have LEED buildings, high energy efficiency equipment. They have built cogeneration. And now they are unsure whether they will get full credit under this regulation for what they've done and how it will effect their expansion plans in the future.

For benchmarking, as of today, the companies don't have their benchmarks. That's a big concern. They'd like to be able to come back if you have that within the 15 days and be able to comment again. The price floor of $10 a unit has been set too high.

And in summary, we think that ARB should consider delaying implementation for the smaller emitters less than 100,000 tons per year until 2015 to allow the regional markets to develop or the global markets and to become firmly established and viable.
We would just ask you to go slowly and take this incrementally. Thank you very much.

CHAIRPERSON NICHOLS: Frank Caponi, Susan Frank.

MR. CAPONI: Good morning, Madam Chair.

My name is Frank Caponi with L.A. County Sanitation District.

Just up front, I want to say there was a number of public officials that would like to be here today to speak on this issue, but they could not make it, so I speak for many.

I'm going to get right to the point. There are three municipal waste to energy facilities in the state of California. Two we partner with in the city of Commerce and Long Beach. And the third is in the county of Stanislaus. They all have post recycled waste as their fuel source.

CARB has taken the unprecedented action of including these facilities in the Cap and Trade Program. This is counter to the rest of the world that considers these facilities as renewable energy sources. Very simply, this action will bankrupt these facilities and financially impact already strapped local governments, because we do not have the ability to pass this cost along. So we would have to fold. We would have to absorb the full cost of these allowances.
Once again, we cannot pass a cost along because faced with increases in prices, haulers would take the waste to a cheaper landfill.

Also, we are not being offered free allowances in this program. So not only could this shut these facilities done, but here's the real issues. If this waste goes to a landfill, there is a greater amount of greenhouse gases. We are not the only one saying this. If you look at a CARB document that they produced, they have ranked the greenhouse gas benefits of renewable sources. MSW incineration is ranked number one, almost double that of solar and wing.

Having said that, please I'm beg you, do not allow this to happen. We have been working with the staff. We have not seen an equitable solution right now. But the only practical solution that we see right now is completely excluding these sources from the regulation.

And just in conclusion, I wanted to read an excerpt from an existing state law. And the state law addresses these facilities. And what it says is "construction of resource recovery projects can help alleviate the environmental and economic problems associated with MSW disposal, while at the same time producing additional supply of energy and material and that such projects, therefore, should be encouraged as a
matter of state policy. Bankrupting of these facilities we don't think is consistent with the state law."

Thank you.

CHAIRPERSON NICHOLS: We are well aware of this issue. I've heard from many of your elected officials and others on this issue, and it's one of the things we're going to be working on in the 15-day period.

BOARD MEMBER LOVERIDGE: Can I make a quick comment?

We have perhaps three waste to energy plants in California that I saw at the U.S. Conference of Mayors said there were the 81. If you're in Europe, Asia, waste to energy is just a common pattern. It seems to me if you want to be leading the environmental area, we need to be receptive and encourage waste to energy facilities rather than discouraging.

CHAIRPERSON NICHOLS: I don't disagree with you, though new waste to energy facilities will be subject and are subject to a type of regulation that didn't exist at the time these plants were built.

And one of the problems that they face is that they are high emitters in comparison with other kinds of electricity plants. You wouldn't be allowed to build them as power plants. You're building as waste disposal plants. The problem is they don't fit within any of our
existing categories.

And I think we can talk about this later, but I think we need to recognize that. We need to deal with them. We don't want to put them out of business. We don't want to send them somewhere else.

BOARD MEMBER LOVERIDGE: Just in Stockholm, they want to be carbon neutral by 2015. They're doing it through waste to energy. They're powering their electrical supply. We can go back to that.

MR. CAPONI: Don't forget we are talking about greenhouse gases. So on the other fronts, they may be high emitters. But in terms of greenhouse gases, these are benefits to the environment.

CHAIRPERSON NICHOLS: Yes, I understand. We have to deal with all the greenhouse gases as well, including the methane. So we need to do the proper calculation. We just hadn't figured out what category to put them in quite yet.

Okay. Mr. Fine.

MR. FINE: Madam Chair and members of the Board, thank you for considering my testimony.

The proposed rule and supported documentation, non-trivial supporting documentation represents the results of an extensive well-informed stakeholder process that I and my colleagues are thankful and proud to have
been a part of. We thank you for your hospitality and for considering our comments over the processes that have taken place and as we go forward.

As proposed, the rule is one that EDF will be proud to support. Though complex and in need of a few adjustments, it is a rule that has all of the building blocks of a well-functioning program.

So EDF's comments are on record, and I know we're short on time today, but I want to highlight a couple topics.

The program as proposed has been -- the anticipation of it as proposed we think will be a lighthouse for clean tech entrepreneurs who have been navigating these stormy recessionary seas. And it also can very prosperously engage our farmers, our urban and land managers, our foresters, our rural communities. And that's both from the offsets program and also given a little bit more thought to setting aside allowances, for example, for renewable energy investments and for a topic that is near and dear to my heart, which is crediting third parties that achieve reductions in cap sectors.

The proposed program is structured to provide very important ancillary benefits, particularly protecting low become rate payers on purchases of electricity.

With that said, there are certain aspects of the
allowance allocations scheme that we feel aren't justified
in the staff documentation, so we are pleased to see that
staff will be revisiting the recategorization of sectors
which is the table 81 which is the table categorizing
trade exposed energy intensive industry.

    My last point is on the topic of adaptive
management. As CARB develops a strategy for adaptively
managing this program, there are three things I want to
highlight.

    One, the onus should be on entities receiving the
value of allowances to demonstrate and to explain a
priority how they did demonstrate these are not resulting
in windfall profits and are, in fact, are being used to
improve their competitive position or maintain.

    And then the other issue is one of biomass and
biofuels which you've are heard.

    And the third is simply that hopefully CARB will
be very clear on the information they will be monitoring
and receiving from regulated entities to detect and
respond to any windfall profits associated with windfall
allocations.

    CHAIRPERSON NICHOLS: I'm going to give you a
couple of seconds to explain what your position on biomass
and biofuels is.

    MR. FINE: We share concerns you've already heard
today about not putting biomass with -- the combustion of biomass within the calculation of compliance obligation, that it could potentially create a perverse incentive to use more biomass that isn't net beneficial for our atmosphere.

What we suggest is include combustion emissions from biomass and the compliance obligation, but develop and allow for providers of fuel that does have a net carbon benefit to demonstrate as such. And to watch that little hole in the cap to make sure it doesn't grow very large as part of the adaptive strategy.

CHAIRPERSON NICHOLS: I thought it might have been linked back to the previous conversation about waste to energy plants

MR. FINE: And if I could ask, my colleague, Tim O'Connor and I signed up at exactly the same time so he could offer the comments on topic of offsets, but there was a bit of a snafu in the queuing. He's right here ready to go and you could cross him off later if it would add --

CHAIRPERSON NICHOLS: I have not seen him name.

MR. FINE: He's at 119. Thank you very much.

CHAIRPERSON NICHOLS: Okay. Hi, Tim.

MR. O'CONNOR: Thank you. And in the interest of time, I'll just say I would recommend that nobody try to
write their comments after they get a cast on their hand, because it looks considerably like my two-year-old's art project at this point.

I'm not going to speak from the notes, but generally the point I wanted to make was on the offsets that are within the regulation. EDF has participated in three of the four proceedings at the Climate Action Reserve with the exception of the Urban Forestry Protocol. We submitted comments to them. We supported their adoption at the CAR. We provided comments in the work group process here at ARB. And we would recommend that all of those protocols that are before the Board be adopted as currently written and within the program.

Secondarily, it's very warming to know that the February 2011 time line for consideration of new protocols is out there in the staff report. It's in the resolution. And we look forward to that process. And want to note that offsets have multiple benefits. Within the program, they provide an important cost containment feature. Outside of the program, they provide an opportunity for investment in the agriculture community, in the rural community. Those types of projects that are in those communities have important co-benefits that can both benefit the air quality, the climate, as well as the soil and biosphere in the area in which they're developed.
The process that is we engage in February of 2011, we really do recommend that we hold some spots open for projects in the agricultural community. EDF is working on a number of different protocols, whether it's a wetland protocols or a nitric acid reduction protocol or a fertilizer reduction protocol and also a rice methane reduction protocol, all of these have tremendous opportunities for California, things that we need to be focusing on because they're going to have benefits here as climate as well as in the biosphere.

And the final point is we heard a fair number of comments about REDD. We'd like to encourage the Board to be comfortable with the REDD process. The Governor has hung his hat on as being very important. EDF would like to say we recognize its importance, both here in the cost containment feature, but globally as a way to reduce emissions and engage the rural communities in the nations across the world.

CHAIRPERSON NICHOLS: Thank you, Tim.

We are a significant way to an agreement with state of Chiapas, Mexico, and Acre, Brazil to work through a demonstration of how REDD could work over the next couple of the years and we intend to continue working on that project.

Ms. Frank.
MS. FRANK: Thank you, Chair Nichols and Board members.

I'm Susan Frank speaking on behalf of the California Business Alliance for Green Economy. We have almost a thousand small mainstream businesses, chambers of commerce, and business associations around the state who support the creation of a robust clean energy economy in California and do support your implementation of AB 32.

I wanted to highlight a letter that was submitted to you through your public comment online, and I'll bring some copies over as well. This letter was signed by over 125 CEOs, association leaders, and entrepreneurs from geographically diverse regions of the state who support what you're doing here today. And they believe it will stimulate job creation and yet also keep costs low.

The potential impact on business, particularly small business of this program, has been misrepresented, I would argue, in the media and elsewhere. And you'll hear from small business leaders who will make the same case. Not all of those business could be here today, and I'm thinking you might be happy they stayed home given the volumes of people speaking to you. But they are busy providing jobs, hiring people, and doing their part for the growing clean energy economy.

On behalf of the businesses that couldn't be
here, I want to thank you for moving forward. I'm leaving
additional copies of the letter.

CHAIRPERSON NICHOLS: Thank you. We've watched
the growth of your organization and it's very impressive
how many companies have been willing to step forward and
join your organization.

Mr. Rosenheim.

MR. ROSENHEIM: Hi. My name is Dave Rosenheim.

I'm Chairman of a company called Jambuse, which I think is
a fish out of water in this audience. We're in the
internet music business.

I'd like to thank the Board and the staff first
of all for all the hard work they've done.

I want to share what might be a bit of a
different perspective on the regulation and I think what
it means to job growth and the economy in California.

So as Chairman of Jambuse, which is a
San Francisco-based company founded twelve years ago, I'd
like to first say I'm strongly in support of the proposed
emissions trading program.

Speaking as a twelve-year executive in the
digital media industry, I have personally benefited from
the Vibrant ecosystem of venture capital and technologists
that Silicon Valley is famous more. I think the adoption
of CARB standards help to ensure that California remains a
center for innovation, job growth, and wealth creation in
the new clean energy economy.

Indeed, since the passage of AB 32, venture
capital has skyrocketed, with eleven billion in cumulative
investment.

But I think there is a dark side potentially to
this. I was at a conference at Oxford University last
month where the topic was the decay of Silicon Valley in
creating in its focus or lack of focus on clean technology
and losing its grasp on leadership and technology,
especially in light of investments we made in other
countries, such as China.

I'd like to encourage again the passage of the
proposed regulation, because I think that it really will
help to underpin the kind of growth and leadership that
California has been famous for in the past.

Thank you.

CHAIRPERSON NICHOLS: Thank you. And music is a
leading industry in California, too.

MR. ROSENHEIM: And I can just say that the music
industry is largely very supportive of not just cap and
trade but sustainability programs in general.

CHAIRPERSON NICHOLS: Thank you.

Mr. Bernhardt followed by Danielle Mills.

MR. BERNHARDT: Good afternoon. Thank you for
the opportunity to address you today on the proposed regulations.

My name is Tony Bernhardt, and I represent Environmental Entrepreneurs, E2 for short. We have supported AB 32 since its introduction, and we strongly support its effective implementation. We applaud the Air Resources Board for its work drafting the cap and trade regulation.

We would like to suggest the following improvements on regulation.

On the liquid transportation fuels, the proposed regulations currently exempt emissions from all biodiesel and fuel ethanol and do not address other types of biofuels. CARB's own analysis points out ethanol made from corn and biodiesel made from soy beans can increase greenhouse emissions. On the other hand, low emission fuels from polluting ethanol, diesel, and jet fuels are being developed in California. We strongly recommend that CARB hold fuel providers accountable for their greenhouse emissions.

On electricity from biomass, we'll simply agree with the comments made by EDF.

On industrial emissions, the benchmark for industry emissions should be set at industry best practices, not at industry average practices. Most
efficient facility should get their allowances for free,
while the less efficient ones should have to pay to
purchase their allowances. This will encourage all
facilities to implement industry best practices.

On electric utilities use of allowance value, the
Air Resources Board should provide better guidance. In
particular, we believe the value of allowances should be
used for cost effective energy efficiency programs that
help California reduce their energy bills.

Thank you very much for considering our
recommendations.

CHAIRPERSON NICHOLS: Thank you.

Danielle Mills, Robert Lawrence, Kate Beardsley.

MS. MILLS: Good afternoon, Chairman Nichols and
members of the Board.

I'm Danielle Osborne Mills with the Center for
Energy Efficiency and Renewable Technologies. CEERT
appreciates the opportunity to comment on a significant
component of AB 32 today, but we have a number of concerns
that we want to express before we can fully support a
California Cap and Trade Program.

First, this is an extremely complex program with
a number of design elements that aren't fully flushed out,
and we want to ensure that CARB proceeds with caution and
uses its good judgment to adjust program elements as
necessary.

One element which we believe requires greater detail is the use of allowance value directed to electric distribution utilities. While we appreciate the language proposed for 15-day modification today, we need every assurance that every utility will invest the full value of allowances it receives for free on AB 32 related purposes, including energy efficiency, renewable energy, and rebates to low-income customers.

CARB should also provide specific and uniform reporting requirements and guarantee oversight for all utilities receiving these free allowances. I'd like to echo the concerns previously made by my colleague at Environmental Defense Fund on biomass and biofuels.

But to end on a more positive note, I do want to express my appreciation on behalf of the CEERT, the Global Warming Advocates Coalition and a number of clean energy companies and advocacy organizations for the inclusion of placeholder language for a set-aside of allowances on behalf of voluntary purchases of renewable energy.

This provision, coupled with other policies, will provide crucial support to the continued growth of California's renewable energy industry and will bring a number of public health and environmental co-benefits as well as much needed jobs to the state of California.
Thank you.

CHAIRPERSON NICHOLS: Thank you.

Robert Lawrence, Kate Beardsley, Bruce McLaughlin.

MR. LAWRENCE: Madam Chairman and members of the Board, I'm a partner who does environmental law with a local law firm that's based in California.

And I'm really appearing here today as a private citizen, although we do represent members of the energy industry throughout California.

I've been studying the ARB proposed rule. And I've been a participant in many market-based trading programs over the years. And I just have a couple of observations which I think are worth mentioning. I have filed a written comments on my own behalf, and these are essentially supplementary.

The first issue I think needs to have a harder look taken at is the allocation of allowances to utilities and the rebate of auctioned proceeds from other buyers of allowances back to utility rate based customers. The reason I think this is a significant issue is that utilities will be in a position where they can essentially bid up the price of allowances and rate base the proceeds or rate base the cost and then will in the end be rebating the proceeds of the auction back to their customers. That
process of auction and rebate to the rate payers does not make a lot of sense to me, but it's more difficult it seems to me because other participants who don't get allowances, industries and importers of electricity and independent power generators, will be bidding for those allowances as well. And the proceeds of those auctions will be going back to the rate payers. So you have cross industry subsidies which I think have not been properly considered in the staff's review of the economic impacts here.

So those are just a couple of thoughts that occur to me as being problems here. I think what this is going to end up creating is cross sectorial competition for allowances, which is a game that the utilities will be in a better position to play than anybody else. Nothing against them. But it seems to me that regulated parties who are obligated to submit allowances to continue their operations should be allocated allowances from the rate.

Thank you.

CHAIRMAN NICHOLS: Thank you. We will review the rest of your comments.

Kate Beardsley.

MS. BEARDSLEY: Good afternoon. My name is Kate Beardsley. I'm here speaking on behalf of PG&E. PG&E is a gas and electric utility serving one in 20 Americans,
and we are committed to leadership on climate change. I can't agree more with the analogy to a marathon that was used before, although it feels more like an Iron Man or something like that. So we really appreciate all the work that staff has done and the endurance of the Board to listen to all these comments.

To that end, you know, we think we've come a long way, but there's still work to be done. I want to address three key issues of the regulation.

The first is program monitoring. We think that program monitoring is incredibly important as acknowledged in the staff report. So we are encouraged by the provisions that were included in the resolution that provide for program monitoring.

In particular, we think it's important to monitor the quantity of allowances in the reserve. We appreciate that the resolution directs staff to provide a report and recommendations to the Board when one of the tiers is depleted. However, we think the ARB needs a more specific plan in place to take corrective action in a timely manner to protect the important cost containment feature of this reserve.

Secondly, electric sector allowance allocation, we support the proposal to allocate allowances to utilities for the benefit of our customers. We are
generally supportive of the approach using the cost burden
approach that's in Attachment E.

We are concerned, however, about the language in
the regulation that is only applicable to IOUs and
restricts the way in which we can return auction revenue
to our customers. This could lead to large discrepancies
in how GHG costs are returned to IOU customers versus
POUs. So, therefore, we recommend that the ARB offer the
IOUs the ability to work with the PUC on how to best
return this allowance value for our customer's benefit.

Lastly, the treatment of out-of-state renewables
in the mandatory reporting reg, we are concerned about
that. We submitted a letter. You have it.

So thank you very much.

CHAIRPERSON NICHOLS: Thank you.

Bruce McLaughlin, Erin Craig, Randy Friedman.

MR. MC LAUGHLIN: Good afternoon. Bruce
McLaughlin, I represent the Offset Working Group, which is
a compilation of five publicly-owned electric utilities,
SMUD in Redding, Roseville, Modesto Irrigation District
and Turlock Irrigation District. We've been involved in
the process all along, talked with staff a number of
times, filed written comments.

And in the interest of time, I have only one
recommendation to present in our testimony, and that sort
of comes from the first presentation we heard on public health benefits of offset projects located in California. This is my recommendation: That you should direct staff to consider the elimination of the quantitative usage limitation for California-based offset projects, most specifically the projects using forestry, urban forestry, urban life cycle methane capture protocols. This would promote the AB 32 goals of achieving the GHG emission reduction cost effectiveness and providing environmental benefits to California.

And that's it. Thank you very much.

CHAIRPERSON NICHOLS: Thank you.

Erin Craig, Randal Friedman, John Spangler.

MR. CRAIG: Hi. Happy holidays to you all. I'm Erin Craig, Chief Executive Officer of TerraPass. TerraPass is a San Francisco-based company whose mission is to combat climate change. Over the past five years, we've served over 350,000 thousand customers primarily by originating voluntary offset projects throughout the United States.

We are extremely knowledgeable about the ins and outs of carbon offset projects. Today, we have more projects listed on the Climate Action Reserve than anyone else. We have also had more projects issue credits from the Climate Action Reserve than anyone else.
We are very much in support of what you're doing today and offer these comments to make the regulation as good as it needs to be to combat climate change, which of course voluntary actions are insufficient to do.

First, the regulation neglects to require that projects coming from third party programs be additional. This is simply a mistake. And we hope it can be corrected in the 15-day comments. The most immediate effect of this error is that the large volume of non-additional projects will be welcomed into the program as part of the early action provisions. This can be easily corrected.

We know that there is a lot of pressure to put more offset supply into the program, especially in the early years. We agree that a fully supplied program is a good thing. However, you can do this without compromising the cap by allowing non-additional offsets into the program.

This can be our accomplished with two small additions to the regulation. The first is to apply an additionallity screen, which is already used by most voluntary offset programs today to early action projects. And the second is to allow additional protocols, which I know you're planning to do. In particular, we support the landfill methane protocol. That is one of the most effective offset protocols available.
Mr. Friedman and then John Spangler and C.C. Song.

MR. FRIEDMAN: Good afternoon, Madam Chair and Board members.

Randal Friedman on behalf of the U.S. Department of Defense. We provide these comments in addition to those submitted in writing.

We believe the proposed cap and trade rule as applied to the military bases may conflict with federal law, impact DOD's ability to conduct its worldwide mission, and is not needed, given our past and current reductions through Congressional and Presidential mandates.

A significant means to comply with the mandatory greenhouse gas emissions is to participate in the trading portion of the program and to obtain compliance instruments at auction in the anticipated market. But initial analysis indicates that federal fiscal law constraints may prohibit federal agencies from obtaining these instruments. We laid out our legal argument in writing and won't go there.

DOD concerns unique to this proposal reflects the discussions around AB 1405 this year which would have earmarked a substantial portion of the cap and trade
revenues to fund a wide range of social-based programs.

While vetoed by the Governor, the discussion at your legislative report this year made clear that the Board and the staff's intent to proceed down this road and this was re-affirmed today in the staff presentation that a substantial portion of these revenues would be earmarked for this.

Compliance instruments earmarked for these programs may prohibit federal agencies from participating, as this would raise constitutional issues on misuse of taxpayer money. And without this participation, we would foresee a great deal of problems.

We also have concerns with the recently modified fuel requirements. We've talked to your staff about that. We have that -- we believe that transfer of fuels within. And California for export to our missions is vital to our mission, and we're concerned that the uncertainties of this might interfere with those activities.

Given the unique nature of our mission, the potential disruption, the fiscal law, we urge you to consider these issues and we suggest an exclusion of military installation. In fact, it's just one involved at this point, which my counterpart at the Marines will talk about in more depth. Thank you.

CHAIRPERSON NICHOLS: Thank you.
MR. SPANGLER: Good afternoon, Madam Chair, Board members. My name is John Spangler. I'm here today representing Major General Anthony Jackson, the Commanding Officer at Marine Corps Installations West. MWI West is seven installations in the southwest, six of which are in California.

The Department of Defense and MCI West are already working and committed to reducing greenhouse gas emissions. On October 5th, 2009, President Obama signed President Executive Order 13514. In implementing this EO, the Department of Defense commits to a 34 percent reduction of Scope 1 and 2 and a 14.5 percent reduction of Scope 3 greenhouse emissions by fiscal year 2020.

In short, we're already working in the context of an aggressive federal greenhouse gas emissions reduction program.

As my colleague mentioned, we have a unique role. We're different. We defend the nation in times of crisis and we also respond to international emergencies. Our greenhouse gas production is not within our control in the same way as a private entity. We must be able to respond to and freely ramp up our operational tempo in response to governmental/Presidential directives.

The Cap and Trade Program will initially apply to one facility in the Marine Corps at 29 Palms. 29 Palms
plays an essential role in the training of marines. Almost all marines that have gone to Iraq and/or will go to Afghanistan have been trained there. It is home to a cogen facility generating about 57 percent of the base's electricity.

If the draft program were implemented, the facility might have to choose to reduce its electricity generation in order to avoid compliance obligation. And that puts us in the path of the legal problem my colleague mentioned about not being able to purchase allocations.

Based on these concerns as well as those stated by the DOD representative, we hope that you recognize the unique role of the federal military and support our request for an exemption from the program.

Thank you.

CHAIRPERSON NICHOLS: Thank you, sir. We definitely have this on the list of issues to be worked on.

C.C. Song, followed by Robert Callahan and Dorothy Rothrock.

MS. SONG: Thank you, Chairman Nichols and members of the Board, for the opportunity to address you today.

My name is C.C. Song, and I'm from the Greenlining Institute. We advocate for California's
underserved and low income communities.

I will focus my comment on one specific issue that is of greatest concern to California's low income communities.

We are surprised by the large amount of free allocations that ARB proposes to give away during the first year, as much as nine percent. This contradicts the recommendations made by the Economic Allocation Advisory Committee. EEAC has consistently maintained that free allocation not exceed 20 percent. And thus CARB's 90 percent allocation is extremely high and overestimates the leakage threatened by certain sectors.

And if CARB does not reduce the amount of free allocation, the regulations could result in billions of dollars of windfall profits for polluters with no direct benefit to communities or small businesses. Pollution will not be reduced and may even worsen among communities that are located near some of the largest greenhouse gas emitters. This is inconsistent with AB 32, which asked CARB to examine localized impact on communities.

Furthermore, consumers will not be shielded from energy price increases under the current proposal and provides little, if any, help to small business. This has understandably stoked the fears of the general public.

ARB must do more to revise its proposed rules to
help consumers lower their energy bill and provide incentives for small business owners to invest in energy efficiency and renewable energy technology.

In order for California to drive the green economy, the Greenlining Institute urges you to revise the amount of allowances that you are giving away for free. Instead of giving away to polluters, we urge you to adhere to the foundation of EEAC and in restraining the amount of free allowances to the polluters.

I hope that you will revise the amount of allocation give-aways and present California's communities and businesses with a low end solution. Thank you.

CHAIRPERSON NICHOLS: Thank you.

Robert Callahan, Dorothy Rothrock, Colleen Britton.

MR. CALLAHAN: Good afternoon. Robert Callahan with the California Chamber of Commerce.

We've also submitted written comments for the Board's review as well. I'm make a few quick and general comments.

Cal Chamber has long maintained a successful Cap and Trade Program cannot be a California-only unilateral program and will require a seamless linkage of federal and international programs. At this point, the only possibility appears to be the WCI, which can only happen
if those participants agree to the program's implementation and will be ready for a 2012 start date.

As such, the extra cost imposed by this program here in California will have a series of implications for California businesses. We won't be part of a broader program. Thus, any pain that could potentially come down will put us at a competitive disadvantage to other companies throughout the country. Thus, the importance of CARB getting this right cannot be emphasized enough.

In terms of offsets, we believe a broad qualitative use of offsets is an important cost containment mechanism to the Cap and Trade Program geographic and quantity restrictions could constrain offset supplies and result in higher compliance costs.

While we believe the expansion of offsets from four to eight percent is a positive change, we believe to reduce costs there must be a more robust supply of offsets available.

We encourage CARB to consider the inclusion of other offset protocols outside the four protocols currently under consideration.

We note the Governor Schwarzenegger's March letter regarding the broad supply of high quality offsets. I think it's a very important cost containment mechanism.

Finally, the allowance reserve, we agree it is
necessary and especially as it's intended in the cost containment mechanism. However, we think the reserve price is too high. We think determining that reserve price prior to many of these important design decisions being made sort of prejudges what that price could be. It could be lower. So we urge a wait and see on that one before determining that price.

Finally in the interest of time, we'll associate our comments with Dorothy Rothrock.

CHAIRPERSON NICHOLS: Good plan.

MS. ROTHROCK: Good afternoon, Chair and members.

My name is Dorothy Rothrock with the California Manufacturers and Technology Association and also the AB 32 Implementation Group, which is a much broader organization.

Also want to support the comments made earlier by some of the manufacturers who have come to speak individually about their particular concerns, the food processors including.

The two points I want to make quickly is that we're very disappointed that the benchmarks for all the industries have not been set yet. It's important for companies -- crucial for companies to understand what their compliance responsibilities are going to be far in advance of when they're actually going to incur those
costs. So while the allocation is free in the first
period, the benchmark is only going to provide a limited
amount of allowances, as we heard, based on the efficiency
standard. So there is definitely going to be some cost
incurred right away for these companies. They need to
plan ahead for these extra costs they'll incur.

In your resolution, you suggest there will be a
work plan that the staff come back to you and give you by
July 31st a status update on the finalization of the
allowance allocation system. But we recommend that you
need to have all the benchmarks done by the end of June.

We also think there should be a status update in
April about how things are going toward that end;
six months, knowing what the benchmarks are before the
program starts.

The second point quickly is that we're concerned
about the auction in the second and third compliance
periods. We don't need an auction under this program to
get the emission reductions that are called for in the
Scoping Plan. We think it's an extra burden that
shouldn't be imposed on the industries that are attempting
to comply with this program. And by announcing now that
is the plan, you're sending a big signal to the
manufacturers and other folks covered by the program that
costs are going to go up in the future and that's going to
dampen their enthusiasm to invest and grow in California.

Thank you.

CHAIRPERSON NICHOLS: Colleen Britton, followed by Steve Schiller and Edwin Mud.

MR. SCHILLER: Thank you, Chairman Nichols and members of the Board.

My name is Steve Schiller here today speaking as the Chair of the California Energy Efficiency Industry Council. We're a trade group of companies providing energy efficiency products and services to California. Our goal and mission is support energy efficiency programs and technologies, create sustainable jobs, and long-term economic growth for our state.

We did submit comments. Actually submitted them twice. Accidentally submitted staff's own report, thinking maybe they want to read it again. But I did later submit the correct comments.

With respect to staff -- actually a comment I want to echo from other people that I want to compliment them. In all my dealings, they've been curious, balanced, and always professional. I think the Board and the public of California is very fortunate to have the staff. Very grateful for their work.

We do support the regulation. We're operating in the best of times and the most challenging of times. And
we believe that California has opportunities to build the
energy infrastructure in the future, and this regulation
represents one of those opportunities.

But beyond that, the energy infrastructure, we
also speak from a business point of view. We think this
regulation supports the continuing building of a
sustainable business economy, clean business economy
within the state. There have been reports on the job.
Our organization has actually done more of an anecdotal
approach where we put together examples of our individual
companies that have grown substantially. We did a survey.
We found last year in the heart of the recession our
membership grew the employee count by 20 percent.
Expecting more this coming year and the same next year.
This is a direct result of policies like this.

We do have a couple concerns and comments we want
to mention very quickly. One perhaps echoing the comments
from CEERT. It's very, very important for the oversight
to be established by either the PUC or the Air Board to
make sure the funds generated result in the regulation are
spent on appropriate greenhouse gas reducing measures,
such as efficiency. Given the free allowance allocation,
we think it's critical that is investment in mitigation,
not in windfalls to any participants.

We must realize it's very critical that this is
one fees of the policy, and we must continue any other policies the State has for the other 80 percent reductions.

And lastly, very quickly, echoing NDRC comments on cost effectiveness. I didn't see their comments, but I think that's a critical issue as we compare the goals against cost effectiveness.

Thank you very much.

CHAIRPERSON NICHOLS: Okay. Thank you.

We next had Ed Mud. Are you here, Mr. Mud?

If not, Craig Moyer is next, followed by Doug Payne and Scott Hauge.

MR. MOYER: Good afternoon. I'm Craig Moyer here today as Executive Director and General Counsel to the Western Independent Refiners Association. We're a trade association of small and independent refiners. Participated in many Board meetings over the years. And CARB has consistently acknowledged the WIRA members pro competitive impact in the market for refined fuels. WIRA small and independent refiners are not members of WSPA. And I'll begin with three points.

First, cap and trade should be designed to encourage the manufacture of products to reward processes that use the least energy per unit of output. In refining, the more complex the refinery, the greater the
greenhouse gas emissions needed to make a gallon of transportation fuel. WIRA member refineries are simple operations that have historically made it more difficult for them to meet your specifications. Here, however, the carbon emission WIRA members generate to make transportation fuels are less than the greenhouse gas emissions the big oil companies generated to make a gallon of transportation fuel.

The allocations system should not ignore and disadvantage the efficiencies of the small and less complex WIRA members, and we'll continue to work with your staff to ensure the proper outcome. And your stuff has been extraordinary, as many have mentioned. Our written comments will support that.

So let me just give maybe ten seconds to three additional points.

WIRA members do all their business in California and so are more susceptible to leakage. We urge you to ask your staff to allow assessment of leakage, not only among the industries, but among segments of an industry. The presumption of through-put of cost, especially as the transportation fuels, is wrong. If cost could always be passed through, we would never lose money or sell products at a loss. And, yes, indeed we do that quite frequently.

And so I again ask you to allow us to work with
your staff to continue to implement the cap and trade at least as to transportation fuels. Thank you.

CHAIRPERSON NICHOLS: Okay. Doug Payne

UNIDENTIFIED SPEAKER: Could we push him to the end? He's going to be here later in the day. He's not here now.

CHAIRPERSON NICHOLS: Scott Hauge, followed by John Arensmeyer and Todd Delaney.

MR. HAUGE: My name is Scott Hauge, the President of Small Business California Advocacy Group, a grassroots for small businesses in the state. Small Business California urges the California Air Resources Board to incorporate in the regulations adopting a Cap and Trade Program explicitly for recognition of the key role California small businesses will play in achieving California's climate action goals.

Small Business California was an early supporter of AB 32 legislation prior to its passage. We stated our support based on our strong preference towards addressing climate change through planning versus emission reduction requirements while balancing incentives to encourage energy savings and investment. California small businesses will benefit by developing and delivering emission reduction technology for all markets, including export.
Small Business California has been an active participant in AB 32 policy development through our participation in the panel and testifying before CARB.

Related to the October 2010 draft cap and trade regulations, Small Business California offers the following recommendations:

CARB should include in any cap and trade regulation it adopts language that explicitly recommends that allowance auction revenue deposited into the air pollution control fund be used to support access to capital mechanisms that will allow businesses to invest in energy efficiency and alternative transportation.

During ETAAC process, Small Business California worked with on-bill financing as a major access to capital through energy savings. While we're pleased to see these programs are now in place in most California utility service areas, there is a need for bridge financing for contractors to be able to afford to wait for payment from these utilities programs, which currently can stretch out 90 to 120 days.

We believe the most cost effective way to facilitate this is to provide loan loss reserve funding and lower finance bridging mechanisms and other financing tools. We look forward to working with you.

CHAIRPERSON NICHOLS: Thanks.
All right. John Arensmeyer, and then Tod Delaney and Norman Plotkin.

MR. ARENSMEYER: Madam Chair, members of the Board, I'm John Arensmeyer, the CEO of Small Business Majority. We are a small business research communications and advocacy organization founded and run by small business owners.

Small businesses across our states stand to benefit greatly from the incentives of carbon emissions trading system establishes. For that reason, the Air Resources Board should adopt its proposed market system without delay.

In 2006, 7.2 million Californians were employed by nearly 720,000 small businesses. Of these firms, 88 percent had fewer than 20 employees. AB 32 provides opportunities for many of these businesses to gain a financial edge in the burgeoning clean energy sector. We know this from an in-depth economic analysis of AB 32 we released in October of this year. Our report entitled "Economic Opportunities for Small Businesses under AB 32" concluded that the new law will lead to significant economic growth from increased investment and innovation, a boon to California's small businesses and the economy overall.

According to our report, these opportunities fall
into four major categories:

The first is increased investment in energy efficiency. Climate change legislation will fuel demand for an increased investment in energy efficiency goods and services, thus generating new prospects for small businesses that provide them.

The second is increased spending on non-energy purchases. AB 32 will reduce spending on energy expenses and increase demand in many sectors for goods and services, which will in turn allow small businesses to have increased revenues and profits.

Third, incentives for companies to go green. AB 32 will create savings and boost profit margins for new and existing Main Street small businesses that successfully are expanding their business models to go green and employee brand differentiation strategies to grow their businesses.

And, finally, new innovation. AB 32 will drive innovation of small businesses to continue looking for opportunities to make and supply the energy efficiency technologies needed to comply with the law's emission standards.

Thank you very much.

CHAIRPERSON NICHOLS: Okay. Thank you.

Mr. Delaney.
MR. DELANEY: Chair Nichols and members of the Board, thank you very much for this opportunity to speak today. My name is Tod Delaney and I appear before you on behalf of my company, First Environment, which has offices here in Sacramento.

First Environment is a member of the Association of Accredited Verification Bodies that is comprised of firms certified to verify GHG emissions by the American National Standards Institute, also known as ANSI. Members of this association have as few as five employees to a nationally ranked firm. First Environment is a company with 55 employees, of which 13 operate as verifiers.

I have concerns regarding the proposed accreditation requirements for verifiers outlined in section 95132 of the proposed regulations, and implore the Board not to adopt these requirements as currently written. Simply put, they are too weak.

If adopted, the requirements will undermine the very foundation of California's reputation as a worldwide leader in the field of climate mitigation, especially on projects involving carbon offsets.

Our firm has been in existence since 1977, has been working on GHG emissions since '96. It is our experience that leads us to suggest to you that it takes more than simply taking a course and passing a test to
become a competent professional and reliable verifier. In addition to education, training, and hands-on experience, it takes a deep understanding of the fundamentals of auditing and verification. A competent verification team must be comprised of individuals that possess a balance of quantitative and qualitative skills. These auditors must rigorously apply the processes that includes strategic review of GHG management systems, complex planning, and rigorous data quantifications.

To be clear, California has every right to promulgate its own set of standards and regulations, especially for entities that fall under the mandatory program. But it is to no one's interest to eviscerate the most fundamental instruments used to verify GHG emission credits.

So thank you very much. We did put together detailed things that were provided on the 14th.

Thank you.

CHAIRPERSON NICHOLS: Good.
Yes.

BOARD MEMBER LOVERIDGE: Sir?

CHAIRPERSON NICHOLS: Excuse me, sir. Before you leave, we have a question.

BOARD MEMBER LOVERIDGE: Can I just ask, sir --

MR. DELANEY: Can't hear you.
BOARD MEMBER LOVERIDGE: Twenty seconds on why --
you said this is way too weak. Frame again why you say
the proposed standards are too weak.

MR. DELANEY: In detail is in the comments that
we provided on the 14th. But what it is, we as a verifier
are accredited under the ANSI -- the American National
Standards system and the ISO 1406d(4), require 15 specific
points that we have to meet. Your requirements only
address six of those; and of those six, only require
on-site visit for two of those. For us, any time we go
for a new sector, for a new area, for a new scope, we have
to have an on-site witnessed audit and we have to have the
processes in place for that and also for the competency of
our verifiers.

And, quite frankly, when we go through your
program -- we're one of the largest verifiers for CAR and
also for the current ARB program. But when my employees
go through the ARB program, they're not allowed to be a
verifier for at least a year because they have not
completed what we need to do in order to meet the ANSI
requirements. And the ANSI requirements are very similar
to what is taking place in the EU --

BOARD MEMBER LOVERIDGE: I understand. Thank
you.

MR. DELANEY: Okay. Thank you.
Are you here?
Ruben Jauregui.
And you are part of a group of 11, is that correct, according to the list here.
MR. JAUREGUI: Yes. I believe so.
CHAIRPERSON NICHOLS: Could we have your entire group come forward then and present together? I think that will be more efficient, if that's okay.
MR. JAUREGUI: Yes.
CHAIRPERSON NICHOLS: Okay. Thank you.
MR. JAUREGUI: Some of them are here.
CHAIRPERSON: Yeah, this is numbers 85 through 95 on our list here. So it includes a number of different organizations.
Thank you.
MR. JAUREGUI: My name is Ruben Jauregui and I'm here representing the Latino Institute for Corporate Inclusion. Our mission is to secure the inclusion of Latinos in the corporate world.
We're very concerned that the cap and trade program you are considering will make it much more difficult for small business and entrepreneurs who are striving to build and maintain businesses here in California to be successful.
Regardless of staff's assertion that cap and trade's higher energy costs will be a wash, all indications are that the costs will rise much higher and faster than will any potential future energy efficiency savings.

We've been following the AB 32 process for several years now and have observed the common thread that staff consistently says it's not going to cost anything. Yet experts like the California Legislative Analysts have concluded that there will be costs, especially in the near term, and that those costs are going to have negative impacts.

For example, the LAO found that some businesses may not be able to afford AB 32's transition costs and therefore will not be around to enjoy energy savings that might occur later.

In another report earlier this year, the LAO determined that California-only policies will have an adverse effect on our state's economy, resulting in lower business profits; higher prices; and reduced production, income, and jobs.

Cap and trade is one of the largest policy elements of AB 32. So it stands to reason these findings would apply. There is a reason most other states and the federal government have put cap and trade on hold.
There's is reason all but one other state in the Western Climate Initiative have declined to move forward with the cap and trade.

CHAIRPERSON NICHOLS: Thank you, sir.

I believe your next is David Lizarraga.

MR. LIZARRAGA: Good afternoon. My name is David Lizarraga, and I'm the President of TELACU Millennium. And I'm also the immediate past Chairman of the United States Hispanic Chamber of Commerce.

First, I'd like to commend you and your staff on your efforts with respect to implementing AB 32. This is a monumental task, and your actions will have far-reaching impact throughout the California economy. This is wide-stream care must be taken to ensure that any cap and trade program you adopt does not have a price tag that will make California a dire economic -- put California in a dire economic situation and ultimately doom the policy to failure.

As you know, the federal government has decided to postpone action on a national cap and trade policy because the cost to businesses and consumers would be too high. This seems to be a significant disconnect between this conclusion and that of your staff, who project that there will be essentially very little cost.

With all due respect, we question this conclusion
1 since the staff's economic analysis projects double digit
2 increases in the cost of the most commonly used energy
3 sources and fuels as a result of cap and trade fees. This
4 doesn't even take into account the investments the
5 providers of that energy will have to make in order to
6 comply with a cap, a cost they will have to pass along to
7 their customers.
8 It struck me that the economic analysis assumes
9 that small businesses are likely to respond to the higher
10 energy prices by investing in energy efficient
11 technologies to achieve those energy savings. This seems
12 to be an unrealistic assumption considering that most
13 small businesses and households are already doing
14 everything possible to save on energy costs and don't have
15 the resources to invest in new vehicles or other purchases
16 that might save them a few dollars a month over a long
17 period of time.
18 As I said earlier, I wear two hats: The U.S.
19 Hispanic Chamber and the business nonprofit of TELACU. In
20 both situations I represent a segment of the community
21 that suffers from disproportionately high unemployment and
22 faces unique economic challenges. With the state budget
23 deficit growing by the hour, there is more pressure for
24 higher taxes, while at the same time there are fewer and
25 fewer resources available in the social safety net, which
is increasingly strained. This is not the time to impose drastically higher energy costs based on an over-optimistic assumption that it will all work out over time. Just keep this in mind as you grapple with the details of this program.

Thank you very much for your consideration.

CHAIRPERSON NICHOLS: Thank you, Mr. Lizarraga.

Mr. Canete and then Mr. Barrera.

MR. CANETE: Thank you, Chairman Nichols, CARB members. Julian Canete, Executive Director of the California Hispanic Chamber of Commerce.

The State Hispanic Chamber supports the goals of AB 32. But as you know, we have long been concerned about its cost. In reviewing the proposed cap and trade regulations, those concerns persist.

In particular, CARB has always maintained that in order to be effective the cap and trade program must be part of a regional multi-state effort. Yet the regulation before you does not propose linking to any specific programs outside California at this time. If widespread equitable linkage cannot be accomplished, serious consideration should be given to postponing a cap and trade regulation.

The LAO earlier this year observed that California's economy will be adversely affected by
adopting climate change policies that are not adopted elsewhere, largely because of higher energy prices which will occur here. The LAO warned of rising costs for goods and service due to leakage of economic activity to locations outside of California where regulatory costs are lower.

Your staff's economic analysis suggests that small businesses are not likely to face competitive issues with out-of-state businesses since out-of-state businesses cannot provide local services like those provided by hair salons and bakeries. This is incredibly shortsighted and reveals a lack of understanding of basic economics. While it is true that out-of-state taco shops, for example, are unlikely to compete with neighborhood taco shops, those local taco shops will suffer from increased energy costs that will be difficult to pass along to their customers. And they will lose customers whose own businesses have been competitively damaged by California-only cap and trade program. That means not only the owners of those small businesses, which make up the majority of our membership, will suffer. It also means that they are likely to have to lay off workers, who in turn will lost the wages and benefits upon which their families depend.

While the proposed regulation and supporting documentation are voluminous, it appears there is yet much
work to be done to identify the true costs of the program
and its impact on small and minority-owned businesses,
consumers, and the state's economy.
The California Hispanic Chambers of Commerce
urges you to address these issues before finalizing a cap
and trade policy.

Thank you.

CHAIRPERSON NICHOLS: Okay. Thank you.

Mr. Barrera.

MR. BARRERA: Thank you for the opportunity.

My name is Andrew Barrera. I'm with the Los Angeles Metropolitan Hispanic Chamber of Commerce.

In the Los Angeles area, we already are feeling the effects of AB 32. In contrary to the conclusion of the staff report, it looks like the global warming regulations like cap and trade are going to be very costly to small businesses and California families alike.

As a regulated entity, our utility, under cap and trade, the Los Angeles Department of Water and Power is facing enormous cuts for emission allowances. Now, it sounded like earlier today that you may have come to some type of an agreement with them. We've not privy to that. However, as of yesterday, based on consumption of coal as a source of energy, we were able to realize that the economic analysis ranged in increases from 54 to 269
percent. Between this and the renewable portfolio
standard, to say that L.A. ratepayers will be hard hit is
under -- is a significant understatement.
The premise of the allowance fee is that it will allow
inducements to cause major emitters to switch to lower
Carbon usage and more efficient energy sources.

Your staff report also observed that rising
energy prices drives purchases of more expensive but more
efficient devices. Staff's assumption assumes that this
is okay and that there are public initiatives programs
available for small businesses will drive small businesses
to go for these types of investments.

However, we would like to say that small
businesses right now are operating in such a narrow margin
that they basically don't have the access to capital or
the resources that many other industries do have. And so
we encourage that a further study be done on the impact of
small businesses.

Thank you.

CHAIRPERSON NICHOLS: Mr. Ramirez.

MR. RAMIREZ: Good afternoon, members of the
Board. My name is Juan Ramirez, and I'm a small business
owner for a company for a real estate company in Los
Angeles. I'm also a member of the California Association
of Realtors.
Of all of the sectors impacted by this recession, construction and real estate have suffered the most. Home prices are declining still. So I'm having a hard time kind of understanding how rising energy is not going to affect the economy and other individuals who are having a hard time. Most people are living paycheck to paycheck and in some instances they're living off of unemployment benefits. These folks can't afford higher utility bills. And they can't afford to make investments in new cars, refrigerators, or solar roofs, even though that there's rebates associated to this. From what I see, the staff answer to just about every concern about the cost is saving energy efficiency. It seems to me that California's economy is going to get better but not yet. This is something else that I'm having a hard time understanding, the timing of this proposition. As Governor-elect has suggested, the budget situation is even worse than we've thought, that we're going to have to make some serious sacrifices. Thank you very much.

CHAIRPERSON NICHOLS: Thank you.

Willie Galvan.

Is he here?
Helen Galvan.

MR. GALVAN: Good afternoon, Madam Chair and Board. My name is Willie Galvan. I'm here for the sake of the matter of the American GI Forum of California, a veterans family organization.

Our organization is dedicated of meeting the needs of incoming and improving -- the incoming veterans and improving the lives of those who are returning heroes and all Californians.

In this desperate economic times our top priority must be to protect jobs and veterans facing additional burdens after being released from the services. Our California -- being imposed in California. And while we applaud the goals of your cap and trade proposal, we're concerned that this policy may indeed put jobs and family projects budget at risk.

All indications are that this cap and trade program will drive energy costs up for businesses for families. When businesses have to pay higher energy costs, they have less money available for payroll; and that means a reduction in jobs and in the critically important benefits like health care that go with them.

This is very, very serious for all Californians but especially for our veterans, who already suffer from disproportionately high unemployment. They face special
challenges in civilian market. Their military skills do not always translate directly to civilian jobs. And while the government, the VA, does all it can, there are not enough resources to give our veterans the support and training they need to transition to civilian life.

In California, those resources will become even more strained as local governments and nonprofits alike suffer from cap and trade higher energy costs and the reduced tax revenues that will result as the economic activity is reduced.

The staff's assumption that cap and trade would not cost anything is not supported by credible facts. Therefore, proceeding further, more work is necessary to ensure we avoid unintended consequences that can make it even harder for our veterans and families and other Californians. Please consider this when deliberating your next step in this case.

Thank you very much.

CHAIRPERSON NICHOLS: Okay. Is Helen Galvan here?

MS. GALVAN: Good afternoon. My name is Helen Galvan. I'm Chairperson of the American GI Forum, Women of California. Our organization is dedicated to meeting the needs and improving the lives of Latino and other veterans.
The American GI Forum continues to be a source of hope and an avenue for involvement for our returning military heroes and people trying to improve conditions in their local community.

We're very concerned that the higher energy costs predicted as a result of cap and trade will create severe hardships for California families and for veterans in particular. Higher energy costs translate to lost jobs, a scenario that we can't afford to risk.

The challenges facing our veterans are even greater than those that face our civilians. The U.S. Bureau of Labor Statistics reports that about 21 percent of Gulf War veterans serving after August 2001 reported having a service-connected disability and 21.6 percent of 18- to 24-year-old male veterans for that period were unemployed as of 2009. With so few jobs to go around, it's getting harder and harder for veterans like these to find work. We must not make it even harder than it already is.

I understand the concept of higher energy costs potentially being offset by energy savings. But we're talking about people who can't afford to pay their utility bills as it is and who can't afford to buy new energy efficient cars and refrigerators.

The staff's conclusion that the cap and trade
program will not negatively impact jobs and the economy is frankly not realistic. We hope you will take this into account before pulling the switch on a plan that has the potential to hurt those least able to afford it.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Juan Ramirez.

MR. RAMIREZ: Thank you, Madam Chairwoman. It's Armando Ramirez. And I'm a native Californian, small business advocate, consumer advocate.

And I've heard a lot of different sections of industry speak today. And one thing that ties us all together is that we are all consumers. And if we just take into account that we shop at, let's say, five businesses apiece, if each one of those businesses costs do go up, they have no choice in order to continue to operate but to pass those costs on to you and myself. Multiply that times however many businesses we frequent, and you can see that it becomes quite an issue for families that are living paycheck to paycheck, single family incomes with children that are trying to save for college, that are trying to live a traditional wholesome and productive lifestyle.

I thank you for your time. And I do ask that you consider these ramifications as you go forward.
Thank you.

CHAIRPERSON NICHOLS: Juan Carlos de la Cruz.

MR. De La CRUZ: Good afternoon, Madam Chair, Board. My name is Juan de la Cruz. I own a small business. It's a car sales lot in L.A. And I'm also a member of the Latino Business Association.

I came here from southern California today because I'm extremely worried that the action you're about to take on cap and trade will have direct and detrimental impact on my business. The stated purpose of this cap and trade program is to impose costs that induce people to invest in newer, more energy efficient devices.

When cap and trade forces the cost of fuels and vehicles to go up, the value of most vehicles will go down. That means that cars and trucks in California, currently own and drive will be worth a lot less. My inventory will be worth less as well.

Now, maybe the people on the west side of L.A. or Silicon Valley can afford to pay higher prices to own and drive the cars and trucks they prefer or to pay for new vehicles you want them to buy. But in my neighborhood and many others like it people can't afford new cars. They can't afford higher gas prices. Many of them can't even afford to take the bus nowadays.

With the economy as bad as it is, people are
already holding on to their old cars longer. Under cap and trade, they are likely to keep them even longer, which means no reduction in emissions and a lot less business for most car lots. We will all suffer.

So it's somewhat naive to say that it's okay for energy prices to go up because people will make smart investments in new cars and other things and save on energy in the long run. We're in a major recession and unemployment is sky high, especially in California. The people who can't afford those decisions far outnumber the people who can.

What I'd like to know is, what are you going to do when these assumed investments in energy efficient cars and other things don't happen and when you're not meeting your carbon reduction goals? Are you going to make the energy we use and need every day even more expensive? Frankly, this plan seems more like punishment than inducement.

Thank you.

CHAIRPERSON NICHOLS: Edwin Lombard.

MR. LOMBARD: Thank you, Madam Chair and Board members. My name's Edwin Lombard. I'm with Edwin Lombard Management. I'm a consultant and advocate for small and minority-owned businesses.

There's no doubt that a lot of work has gone into
the crafting of the cap and trade regulation, and you and
your staff are to be commended for your efforts. But
among the stakeholders in my community, there is concern
that there is much yet to be done.

Most of the detailed analysis relates to the 500
or so entities such as utilities companies, fuel
producers, manufacturers, and transportation providers
that will be directly subject to the cap, and how
allowances will be allocated and what they will cost. But
very little has been done in the way of analyzing the real
world impact to the end-users and those entities' products
and services.

This is of critical interest to small and
minority-owned businesses and communities of color since
they spend a higher percentage of their budgets on energy
and can least afford even small increases in the cost of
utilities and fuels. They will be hard hit when the cost
of food, transportation, clothing and other necessities
goes up as can and trade costs are passed along to them as
the end-users.

While there is a discussion to provide assistance
to small businesses and families who can't afford the
utility rate increases, it's unclear how that would work
and who would be eligible, how much help would be
available, et cetera. And there is a strong possibility
that ratepayer assistance won't begin to cover the other
costs of everyday living and doing business outside of
electricity and gas bills.

Our small businesses are worried that in order to
pay the bills under cap and trade, they'll have to lay off
workers. Families are worried about losing paychecks and
health care benefits at the same time the cost of living
will be going up under cap and trade. Small businesses
and families alike are worried about the cost of higher
education, as some state universities subject to the cap
were forced to raise tuition even higher and to cover
those costs.

We strongly urge you to consider these things as
you deliberate today.

Thank you.

CHAIRPERSON NICHOLS: Steve.

MR. GANDOLA: Good afternoon. My name is Steve
Gandola. I'm the President and CEO of the Sacramento
Hispanic Chamber of Commerce, and proud to be a part of
this region that embraces green initiatives and partner
with the mayor in trying to make this the emerald valley.

In spite of that, we're very concerned about the
cap and trade and its impact on small business. And the
assumption that it will have little impact on small
business is just not the case.
As energy costs increase, our small businesses are going to get hit in two areas: One is the direct cost to them for those energy increases in their businesses. And secondly is the cost of goods and services that they have to purchase in order to do business.

And these small businesses -- I can't emphasize enough, they are operating on such small margins, barely in the black right now. And any increases in cost can quickly send them into the red. And so it's really critical that we consider this.

A lot of attention has been given to the costs of cap and trade. But the offsetting savings are vague and don't seem to be commensurate with the increased costs.

And then, secondly, troubled with the go-it-alone approach of California in this and without consideration to the surrounding states. And I was impressed with Dr. Hanemann's remarks this morning that there has been inadequate attention to the leakage with regards to the surrounding states. And would strongly encourage you to give more attention to those impacts on our economic development.

Thank you.

CHAIRPERSON NICHOLS: Okay. That concludes the witnesses that are part of this particular group. I just want to say a word or two to you directly.
First of all, I apologize for the absence today of our small business ombudsman, who was not able to be with us because she's with her mother, who's undergoing surgery in Los Angeles. She would normally have been here and have been available to have some discussion with you before or during the meeting. But she will be outreaching to this organization in the days and weeks ahead.

We are very aware of the fact that there's a lot of implementation work to be done and a lot of concerns. I do want to just address a couple of the issues though.

One is that I think it's been repeatedly demonstrated, and the last witness really reminded me of this, that when the electric utilities are put in the position where they are required to save electricity by dealing with their customers, what they do is they go out and offer services to actually help their customers save on energy and save on their bills. That is the purpose of this program. It's the biggest element of this program.

And I was with Mayor Johnson not too long ago at one of his small business makeovers in a low income -- primarily it was an Asian neighborhood where the local business improvement district had gone door to door working with each and every one of the small businesses that were in that area -- and they were not all coffee shops or hairdressers -- to identify what kinds of
improvements could be made in their buildings -- and their
buildings and their equipment including water and energy,
which are the primary sources of expenditures for many of
these businesses. And the local utility, which was in
this case SMUD, was there with him and with us to sign up
every willing business owner to put equipment in their
buildings, to actually work with them to not only install
but to finance the installation of new energy saving
equipment, which would then be paid off over time in lower
utility bills. And that is the way that this program is
meant to be implemented.

Now, I can't promise you that for each and every
business that's represented by the groups that are here
that what's happening today. This is what we envision
happening in the future. This is what we have to make
happen in the future. But that is the only way that we're
going to achieve the results that we're aiming for with AB
32. Otherwise, there's no point doing this program. And
you know, believe me, we're not interested in just doing
it so we can say on a piece of paper that we, you know,
reduced greenhouse emissions.

The purpose of this is to do something that makes
California more competitive, more economically efficient,
and also energy efficient.

So we need to continue the conversation. We
I intend to continue the conversation. I appreciate your coming and expressing your concerns. And it just indicates that we've got a lot of work to do to implement this program successfully. So I want to thank you for that.

I do want to take about a seven-minute break right now. I think we need a stretch break.

Exactly seven? Well, I see 2:22 or so. Anyway, to come back at 2:30 after people have had a chance to take a brief comfort break. And we'll resume at 2:30.

Thank you.

(Thereupon a recess was taken.)

CHAIRPERSON NICHOLS: All right. Ladies and gentlemen, thank you for bearing with us here. I believe we've actually crossed the halfway mark on our list.

We're doing great.

Okay. Ms. Williams.

MS. WILLIAMS: Good afternoon, Chairman Nichols and members of the Board. I'm representing the International Warehousing and Logistics Association, a nonprofit trade association representing value-added warehousing and the logistics industry.

IWLA is opposed to placing diesel fuel under a declining cap. I'm going to go to the end to tell you what we'd like instead, and then go back and tell you why
we're opposed, because I might run out of time.

IWLA requests CARB abandon placing transportation emission under a declining cap. But if you must move ahead against our counsel, we ask for the following safeguards to be put in place so that CARB doesn't inadvertently cause significant damage to California's economy.

We'd like to see -- wait until 2018 to place diesel fuel under the cap and reopen the discussion prior to 2015, because we're concerned at that period of the second compliance period there will be diesel price shock. We'd like to see annual reporting of diesel prices in California and other port facilities, including Washington, Texas, British Columbia, and Panama. Those are our competitors. And we'd like to see expanding offsets from 8 percent to 25 percent so that warehouses can engage in distributed energy.

Now I'm going to tell you why we're opposed. We believe going on the current path and placing diesel fuel under a designing cap in California would do the following:

Number one, create volatile carbon prices that are recognized only in the California supply chain and require three PLs to redesign their shipping lanes and warehouse locations.
Repeat the fuel crisis of 1993 and '96 defined by price shock in the beginning of the second compliance period.

Decrease actual volumes of low carbon fuel sold and burned in the state while increasing the sales of diesel fuel from other states and due to the redesign of the shipping lanes.

Become a marketing campaign for the 2014 Panama Canal opening, creating speculative movement of freight out of California before the 2015 introduction.

Make diesel transportation users the highest cost sector for compliance in the scoping plan and drive up the allowance price for utilities and refineries, leading to increased fuel prices and electricity prices for warehouses at ports in California.

Thank you very much.

CHAIRPERSON NICHOLS: Very good Very well done.

So we've got the buzzer back. Okay.

I kind of like that little bell.

BOARD MEMBER LOVERIDGE: Mary, could I --

CHAIRPERSON NICHOLS: Yes.

BOARD MEMBER LOVERIDGE: Stephanie --

CHAIRPERSON NICHOLS: Mayor Loveridge - excuse me - yes. Stephanie.

BOARD MEMBER LOVERIDGE: This is beginning to get
some visibility. But just maybe in 30 seconds.

Panama Canal's been there for so long, what
difference does -- what's it mean, the opening of -- or
Panama Canal opening?

MS. WILLIAMS: If it's 30 seconds, I'm going to
have to read.

A $5.25 billion project is underway that markets
the sales of the option to high priced California
operations. When completed in 2014, the canal's capacity
will be doubled, and the largest container ships in
service today, which only visit L.A. / Long Beach will be
able to transit the canal.

As you know, Mayor, most of your constituents are
competing with this. So it's a big worry for especially
your area in Riverside.

BOARD MEMBER LOVERIDGE: I guess the two parts
are the economic driver -- the largest economic driver in
southern California. And the Panama Canal is -- the
changes in there are really quite significant in terms of
potential choices of --

MS. WILLIAMS: It's one of the biggest threats
that the warehouse and logistics industry has seen. And
it has the capacity to change the shipping lanes towards
the canal to the East Coast.

And the other -- second biggest problem is
Rupert, which is -- it's a port that you can ship into and rail out, and it's one day faster. So you get there one day faster and you can truck it.

So it's all about days and retail. And so we have to keep this competition. We are trade exposed. There's nothing more trade exposed than international trade. So unfortunately putting diesel under the cap is a problem.

BOARD MEMBER LOVERIDGE: Thank you.

CHAIRPERSON NICHOLS: Okay. Mr. Skvarla.

MR. SKVARLA: Hi. My name is Mik Skvarla. I'm here with the California Council on Environmental and Economic Balance. Just for time, I'll get directly to our ten key recommendations for the Board today.

We think that the cap slope should be revised for backloading. It's going to take some time to get the offsets and various other emission reductions, on-site or off-site, on-line. And we think there's a need for additional time by backloading the cap slope.

Two, we believe there is a need to understrain certain mechanisms in the market to lower costs of compliance, such as the holding limits and offset limits. To that, we have specific recommendations in our letter.

Three, we believe there's a need to establish a program to monitor the economic health of California.
Four, the trade exposure test that takes into account the global and national cost of commodities that are produced in California, which, you know, the price of carbon will not be absorbed and have to be taken directly by the businesses.

Also, we believe that there is a need to establish a process to backfill the allowance reserve. We also would like to see a work plan with deadlines for the ARB to complete certain items needed for compliance. We feel that's very important. And it also provides a signal to businesses so that they can properly plan.

We also believe that there's a need to adopt additional offset protocols as quickly as possible. And then along the reporting, we think that there's a need to revise the enforcement provisions to align with the federal reporting requirements. Along that line we also think that you guys should work with EPA to create equivalent -- make sure the California programs align with the federal GHG programs as they proceed so that we're not complying just -- two separate entities for the same production.

Along those lines, we also appreciate linkage as quickly as possible. We think the robust market is definitely needed. In that line, we've recommended -- we
have a resolution piece on page 2 of our letter that we'd appreciate if you guys would consider as part of the Board resolution.

Thank you.

CHAIRPERSON NICHOLS: Thank you. I do have a copy of that.

Okay. Robert Parkhurst and then Alex Aliferis and Julie Malinowski-Ball.

MR. PARKHURST: Good afternoon, Chairman Nichols and members of the Board. Thank you for the opportunity to speak to you today. And also thank you to all the staff, who've worked so hard to bring us to this historic point.

My name is Robert Parkhurst and I am the Climate Protection Analysis Manager of PG&E. One of the things I oversee is the offset procurement of PG&E's Climate Smart program, the first utility to develop a carbon offset program in the nation. And to date this program has contracted for more than 1.1 million metric tons of carbon offsets. PG&E believes that offsets will help California advance the goals of AB 32 while containing the overall cost to the California economy.

But I come to you today because I'm concerned about the supply of offsets based on my experience with the Climate Smart program. In the first compliance period
my estimates are that we will have less than half the
necessary volume that will be allowed. And there are four
different ways that we can work to address that supply.

First is to have approval of the four reserve
protocols: Coal mine methane, Nitric acid production,
organic waste diversion, and organic waste composting. I
think the Board should also consider the Article 5 Ozone
Depleting Substance Protocol. I recommend you take a look
at the comments from have Eos Climate. They're very good
on this matter.

Second, I recommend that the ARB approve existing
protocols from other bodies, such as the American Carbon
Reserve's fertilizer management protocol, as well as other
protocols mentioned today by organizations such as the
Environmental Defense Fund.

Third, recommend that the Board develop
infrastructure necessary for offsets from REDD, Reducing
Emissions From Deforestation and Forest Degradation.
We're encouraged by the MOU that California has with
Chiapus and Acre, Brazil, and encourage the ARB to develop
the working group recommendations outlined in the MOU.
They allow ARB to allow REDD offsets within the first
compliance period.

And, fourth, to consider offsets from the capture
of methane from landfills. This is one-time use of
offsets between the period of 2005 and 2011 will allow a necessary volume. And these organizations are doing this in advance or in absence of regulation.

Thank you very much for your time today.

CHAIRPERSON NICHOLS: Thank you.

Alex Aliferis.

Julie Malinowski-Ball.

MS. MALINOWSKI-BALL: Thank you, Madam Chair and members. I'm Julie Malinowski-Ball. I represent the California Biomass Energy Alliance. This is 33 solid fuel biomass power producers located across the strait across 19 counties. And I'm sure there's a biomass power plant in one of your air districts. We are part of the renewable power industry that uses wood waste and waste and residues to generate renewable electricity.

We actually wish to compliment your treatment of biomass under section 95852 of the proposed cap and trade regulation. This section provides a well reasoned and scientifically defensible listing of biomass fuel sources that have been shown to have lower emission levels of GHGs when used for energy production than when disposed of using conventional means such as landfill disposal and open burning.

Today biomass power production in California provides approximately twice the GHG benefits of other
renewable resources, which all renewable resources actually share that benefit. But it also reduces emission from avoiding the more detrimental fates of the fuel, which is landfill and in open burning. For those of you that live in the Central Valley, you know that when you remove an orchard there are very few options for that farmer to take that. And they can either light that match or they can send it to a biomass plant.

So today's California biomass industry actually is quite large. It generates 600 megawatts of base-load renewable power. It doesn't wait for the wind to blow or the sun to shine. This is 18 percent of our renewable electricity and 2 percent of the electricity generation overall.

But most importantly actually is this is jobs. There are over 2000 jobs generated from this industry in California. These are green jobs. These are exactly the jobs we're talking about that AB 32's mission is trying to propose. And we urge the ARB Board to implement a cap and trade regulation without modification to the sections pertaining to biomass production and protect this most important green jobs industry.

Thank you.

CHAIRPERSON NICHOLS: A question?

Excuse me. Just a moment.
BOARD MEMBER D'ADAMO: I suppose you've heard of some of the concerns that have been raised regarding biomass projects using forest products as opposed to maybe forest waste. Could you comment on that.

MS. MALINOWSKI-BALL: Sure. In fact there's no facility in California that uses anything other than wood waste and residues from forest projects. So if a project goes in and does a fire reduction, fuel reduction activities, there is a lot of non-merchantable timber left over from that project, tree tops and limbs. You have to do something with that. The practice is you either leave it in the forest, which is not a good thing, it just creates more fuel in the forest, you chip it up and you pile it and you burn it; or the other option is you get it collected and sent to a biomass facility to generate renewable electricity.

So I don't know where that's going on anywhere else in the United States. But actually California's probably the best example of how biomass power is done right.

CHAIRPERSON NICHOLS: Okay. Thank you.

Austin Ford, followed by Susie Berlin and Bob Stockton.

MR. FORD: How you all doing? Everybody still awake? I don't know how you endure.
My name's Austin Ford. I'm a private citizen up in Amador County. I do not speak for the Mother Load Tea Party up in Amador County which I founded, but I don't speak for it. And I'm relatively new to this process, and probably just since the Proposition 23 discussion have I become a little bit more interested in the debate.

I had no intention of speaking today, Madam Chairman. But your opening remarks stirred me when you said this is -- the reason we're doing this is about California leadership. On the national and international front, California leadership is a source of humor. It's really not taken that seriously anymore. We're very unique economically and the way we're handling ourselves.

Secondly, you mentioned insurance against future recessions. If a state can create a market for a product and a service that a private individual would never create and be successful in that and lift the overall quality of life and improvement for its citizens, I'd love to see it. It's never been done. I challenge you to work out some of these details that we've been talking about and do it.

I'm really asking why are we doing this. And honestly -- four years ago, I think when AB 32 came on the scene, there was a lot of emotion, a lot of interest, you know, and science kicking around that justified it. Today about 30,000 scientists say it doesn't make sense. And in
fact, if you look at the carbon issue itself, carbon
dioxide -- I'm going to quote from a paper. "Carbon
dioxide averages 6 percent of the greenhouse effect." If
you multiply that by 3.4 percent of that emitted to the
atmosphere annually that humans can claim responsibility
for, then a whopping 0.2856 percent of global warming is
human related. So I'm not sure I know why we're doing
this.

Internationally Kyoto failed, Copenhagen failed. Most recently Cancun resulted in how you redistribute
capital, not in about CO2 emissions. And I think that's
where the argument has come from. The U.S. Senate would
not deal with it. Our Legislature is killing the EPA
committee for next year.

So why now at a time of high unemployment --
extremely high unemployment, a not too rapidly recovering
economy, would we risk killing jobs and -- there was a
group that spoke very articulately about that -- if indeed
we're not trying to redistribute the wealth from those of
us that have it, whether it's through attention to their
medical needs or attention to their energy needs through
the state. That makes no sense to me.

CHAIRPERSON NICHOLS: Sir, your time is up.

MR. FORD: Thank you very much.

Susie Berlin, and then Bob Stockton and Pete
MS. BERLIN: Good afternoon, Chairman Nichols, members of the Board. My name is Susie Berlin and I represent the Northern California Powers Agency. NCPA is a joint powers agency comprised of publicly-owned utilities. NCPA appreciates the efforts of the staff in putting together the proposed regulations. And we are pleased to see that many of the concerns that were raised in our written comments are addressed within the scope of issues to be covered in the 15-day revisions and related workshops.

I'd like to touch on three points:

One, the total allowance allocation of the electric sector. We're supportive of the 97.7 million metric tons as a allocation to the electricity sector. It's that number set forth in Appendix 1 of the resolution.

We're also pleased that the resolution addresses the need to further review allocation issues that may arise from electrification of the transportation sector.

On the appropriate allocation of allowances to the electrical distribution utilities, NCPA believes that the distribution utilities are the best situated to deliver allowance values directly to retail customers throughout the state.
NCPA is also an active participant in the joint utilities group and in the discussions with Cal/EPA over the past weeks on an allocation proposal. And NCPA's supportive of the key principles on which the preliminary consensus recommendation is based, covering the distribution utilities cost burden, recognition of early investments in renewable energy and cumulative energy efficiency.

We support this consensus recommendation principles as long as there are still 97.7 million metric ton minimum allocation to the utilities, that the allowances are freely allocated to the utilities, and that the value is given to the utilities to be used for the benefit of their rate payers for AB 32 related programs. We have several concerns with regard to auction design, and we look forward to the July 11 report that staff will be giving and the workshops that will be done between now and July to work through the auction design mechanics and get those problems worked out.

Thank you very much.

CHAIRPERSON NICHOLS: Thank you. Glad you'll be with us for all these activities next year. Bob Stockton, are you here?

Mr. Stockton.

No.
Pete Gang.

MR. GANG: Good afternoon, Chairperson Nichols, Board, staff. My name is Pete Gang. I'm an architect. I'm here with a group of people from Climate Protection Campaign from Sonoma County. I am an architect and a green building educator and a citizen.

I want to applaud and acknowledge the scope and gravity of this monumental undertaking that we are gathered here to talk about. The California economy is an enormously complex mechanism, a whole ecosystem, if you will, that defies understanding. And with this cap and trade legislation, we are in the process of rewriting the rules in a way by which that mechanism operates.

So it's -- I just want to acknowledge that it's a large undertaking.

And as I'm sitting here, I'm reminded of something that the author Bill McKidden said in a magazine article, that the effort to address global climate change will require an effort commensurate with that required to put a man on the moon. But he said this time we have to put everybody on the moon. And to me, one of the things -- one of the implications is that I think we need to pay a little bit more attention to all of the citizens or the residents of California, because I see that there is vast lack of understanding of these issues.
Finally, in my closing time, I wanted to say that one of the mechanisms that I think would help in disseminating understanding would be a dividend check that would be paid to all residents of California to help redistribute monies that were taken in in the process. Thank you.

CHAIRPERSON NICHOLS: So you're thinking that we would -- I'm sorry. This is a proposal that would basically take the auction revenues when we got to a full auction and then would put it back in the form of a dividend to every --

MR. GANG: As much as possible to the residents.

CHAIRPERSON NICHOLS: No, that has been a proposal that has been raised.

MR. GANG: And I've heard it get talked about. Just in a few words, I just wanted to underscore that. Thank you.

CHAIRPERSON NICHOLS: Thank you. Thanks for coming. Like the check. You can leave it here if you want.

Yes, it's very well done. Obviously somebody with some architectural drawing skill put that one together.

Norman Pederson, and then Jacqueline Kepke and Julia Bussey.
MR. PEDERSON: Good afternoon. I'm Norman Pederson for Southern California Public Power Authority.

My comments are on two topics in the mandatory reporting regulation.

First topic, biogas. The reporting regulation should be revised to facilitate biomass as a zero-emission resource. Three subpoints on that.

The verification process can and should be streamlined without impinging on integrity.

Next, the undue limitation -- what we see as an undue limitation to biogas purchased under contracts executed either prior to 2010 or for expanded biogas production to be reexamined. And we propose some language and written comment.

Last on biogas, the reporting rules should recognize that one emission reduction can be obtained by preventing methane emissions from, say, a landfill into the atmosphere but a second emission reduction can be obtained by burning that methane in lieu of a fossil fuel. Recognizing both emission reductions is not double counting, and we believe the regulation's re-reformed to reflect that.

Second, duplicative penalty provisions.

Currently, penalties would be imposed under both the cap and trade regulation and the reporting regulation for
effectively the same infraction. Both regulations impose
penalties on a per day per ton basis. Per day penalties
are appropriate under the reporting regulation but without
a per ton multiplier. Per ton penalties are appropriate
under the cap and trade regulation but without a per day
multiplier. You directed your staff to reexamine the sort
of per day per ton multiplier we have here when we were
discussing the RES regulation, and we urge you to do the
same with the cap and trade and reporting regulations.
And thank you very much.

CHAIRPERSON NICHOLS: Thank you.

Jacqueline Kepke.

MS. KEPKE: Good afternoon. My name is Jackie
Kepke and I represent the California Wastewater Climate
Change Group. We represent the municipal waste water
facilities across the state that are managed by cities
and special districts.

I want to start by thanking staff for the
credible work that's gone into this, and an unprecedented
accessibility in working with us up until today and
continuing going forward.

We strongly support the changes to the language
regarding emissions without a compliance obligation that
are presented in Attachment B to today's resolution.
These changes clarify staff's intent to exclude biogas
emissions from cap and trade. And we support that as a way to beneficially use a digester gas that's produced around the state.

In addition to these changes, we urge the Board to direct staff to work with the wastewater community to consider an exemption from the cap for wastewater facilities. Similar to the Marines plea, we think we're different. And though our mission is different, we think enabling you all to flush every day is a pretty critical activity as well. So our agencies can't control what comes into our facilitates or the effluent requirements we need to meet, and those drive our emissions. So we request that you consider working with us going forward to consider an exemption.

Just finally on mandatory reporting, we urge ARB to follow through with the theme of consistency with EPA's regulation as well as with cap and trade and exclude biomass and biogas-related emissions from the mandatory reporting program.

Thank you.


MS. BUSSEY: Thank you. My name's Julia Bussey and I represent Chevron Corporation. And I'd like to just note that KC Bishop is listed to follow me and that I'll
speak for both of us today.

And some of you may know, he --

CHAIRPERSON NICHOLS: You mean you got rid of him, is that what you're saying?

MS. BUSSEY: No, no. No, not whatsoever.

However, I want to note that actually he should be following Cynthia Corey, who's scheduled to speak later.

But he will not do that. I'll speak for both of us.

So I want to first say that at Chevron we had worked really closely with the staff and we have found you to be an excellent -- it has been an excellent experience. We believe that a really great job has been done here on developing most of the cap and trade program. And it's been more than a marathon, I think we can all say.

We're also really pleased especially that you're adopting benchmarking approaches that recognize early action and energy efficiency. And it's also clear from the resolution that you plan to address the remaining concerns that we have outlined in our letter, both on cap and trade and mandatory reporting.

So we just wanted to thank you again for that and for the accessibility that we have found with the staff and the Board on this whole matter.

Thank you.

CHAIRPERSON NICHOLS: Thank you very much.
Louis Blumberg, then Rafael Aguilera and Evelyn Rangel-Medina.

MR. BLUMBERG: Thank you, Madam Chair and members of the Board. I'm Louis Blumberg. I'm Director of the California Climate Change Team for the Nature Conservancy. And I'd like to thank you. And I'd like to commend the staff for their outstanding work on developing this rule. And it was a pleasure to work with them at all levels. They're so open and transparent. And I would say when you look at the rule, we can see something that we had an input in. We didn't get everything we wanted, but there is recognition there. And I think that would be true for many people in this room. They see some of their priorities in the rule.

So thank you again.

I want to disagree with one of the earlier speakers. I just came back from the UN Conference on Climate Change in Cancun. And people from many countries at every level of government were asking me, "What is going on in California? What's next? What do you expect on forest, on cap and trade?" This is people from the state, federal level, cities as well.

So what you do here is important today and we want to express our support for the rule. This is a very important action. We hope you take it. It will
proactively address climate change and at the same time,
as others have mentioned, catalyze California's leadership
in the transition to the green economy.

There's two quick issues. We did submit two
letters actually. I want to just touch on two issues.
First is the distribution of the revenue from the
allowances. We have a letter from 18 groups here that
refers to the criteria laid out by the EAAC Committee. We
would like to see revenue dedicated for nature-based or
ecosystem-based adaptation as well as revenue generated to
local government for transportation and land-use
decisions. Through these actions, through ecosystem-based
adaptation, they can protect our natural resources from
the impacts of climate change, promote human well being
and public health. They often are quicker and cheaper to
effect.

And in closing, we also support a strong role for
REDD and urge you to move forward on REDD.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Rafael.

MR. AGUILERA: Good afternoon, CARB Board
members. Rafael Aguilera with the Climate Protection
Campaign today. And I've been involved in the
implementation of AB 32 since the beginning and, you know,
it's a big day today.

Now, we've been promoting dividends throughout the process, including the Economic Allocations Advisory Committee process, where you guys convened some of the world's greatest economists on this issue. And we're very pleased at their recommendation to move quickly towards a full auction and place 75 percent of those revenues towards making consumers whole through dividends or tax cuts.

And, you know, it brings me to my point, which is today we don't see that very well reflected in the rules nor any holistic approach to addressing the regressive nature of a carbon price that, you know, will be placed on California.

I think it's a missed opportunity to gain wide support for climate policy.

You know, there was a model at the federal level that had bipartisan support when even the Waxman-Markey version did not. And I think, you know, California serving as an example to implement a progressive economic-sensitive climate policy would have been great.

Today we don't have that.

We should have learned the lessons of the EU.

And I don't see any justification for why we have billions of dollars in basically handouts to already wealthy
corporate polluters. So I'd like some justification as to why the level of -- you know, addressing that concern.

I also want to just commend the inclusion of a recommendation for a community benefits fund or something like that, which was vetoed by the Governor in AB 1405. We hope to work with you on that. We need a lot more work on that particular piece.

If you're going to pursue some new conversations about this, we hope that you'd provide a stronger recommendation to the PUC on how to provide lump sum per capita dividend checks as the primary way to return revenue back to consumers rather than just through billing.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Evelyn Rangel-Medina.

Yes, there you are.

MS. RANGEL-MEDINA: Good afternoon, Board. And I am number 112. So you've listened to about a hundred people give testimony. And I thank you for your service.

My name is Evelyn Rangel-Medina. I am the Policy Director for the Green Collar Jobs Campaign at the Ella Baker Center for Human Rights.

And I wanted to take a moment and reference the first environmentalist to win a Nobel Peace Price in 2004,
Wangari Maathai. She writes, "Today we are faced with a challenge that calls for a shift in our thinking so that humanity stops threatening its life supporting systems."

And I think what's evident is that California in taking this bold step of sucking the carbon out of the economy is shifting our thinking.

However, we are deeply concerned with how the proposal for this cap and trade program has been weakened over time. At the Ella Baker Center we've been working on many fronts to ensure the effective and equitable implementation of AB 32 through the Legislature, CARB, and also through the election, as we were instrumental in stopping the Prop 23 from passing. But we are concerned with the doubling of offsets, with the giving away of credits, and with the fact that we won't get sustained investments back into growing a green economy that provides pathways out of poverty and that helps our oncoming small businesses.

So we want to continue working in the effective implementation of AB 32. We're again concerned with the direction of this cap and trade program and will continue to be onboard.

CHAIRPERSON NICHOLS: Thank you. Thanks for being here.

Justin Oldfield.
MR. OLDFIELD: Good afternoon, Madam Chairman, members of the Board. Justin Oldfield with the California Cattlemen's Association. I wanted to just make a couple of quick comments. We've submitted written comments. But I did want to take the time and thank staff for responding to comments made by the livestock industry.

In quick response to that, I know it was never in your intention to regulate feed -- emissions from farmers and ranchers, and we certainly support the proposed 15-day changes, not only to ensure that emissions from livestock and manure are not in the mandatory reporting or in the program as well as the portable engines, the diesel pump engines.

CHAIRPERSON NICHOLS: Thank you.

I've just been notified that we have a special guest. So if you'll bear with us a moment, we're going to have him arrive.

GOVERNOR SCHWARZENEGGER: Sit down, please. Sit down and relax.

I just wanted to come by here and to say thank you to all of you for the great job that you're doing, and I'm very proud of you. Air Resources Board is I think the best in the country and probably the best in the world, and all because of the members and the dedicated and great work that all of you are doing, tirelessly working on
behalf of the State of California.

You know, it's really interesting, because I campaigned in 2003 about the -- you know, that I wanted to show California that we can protect both the economy and the environment. And of course it's a challenge to do that. There's no two ways about that. But where there's a will, there's a way. Because in those days they thought that you can only do one or the other, protect the environment or protect the economy.

And we then finally, you know, passed some really good legislation and bills and did some great things here in California environmentally - you know, a million solar roof and the hydrogen highway that we started building, low carbon fuel standards.

But one of the things that I'm most proud of is AB 32. And of course AB 32 is controversial. And to some people they don't like it. Which I also understand because, hey, I'm married, so I know what that is like when people, you know, have different opinions. I have four kids. They all have their own opinions too.

So, you know, that's okay. People can have their different opinions. And this is why it's important to have discussions about it, and that's why I'm an adamant believer that our Air Resources Board has to listen to the people's concern.
But one thing we know for sure is that AB 32 was challenged, you know, by outside oil companies and by industries, coal mines and different companies that challenged it, put millions of dollars behind it in the last election. And it was -- and Proposition 23, which was meant to take out AB 32, was defeated overwhelmingly - not by 5 percent, not by 10 percent, but by 22 percent. So that just shows you --

(Applause.)

GOVERNOR SCHWARZENEGGER: So it just shows you that a huge majority of Californians are big believers in AB 32. And they're big believers, not just because of the global climate change - because, let's be honest, not everyone believes in that. There are some people that believe in it and some people don't. But this is not just about global climate change. That's one of the reasons why I believe in it a hundred percent. But it's also about our health.

It is about 19,000 people that die every year because of pollution-related illnesses. Hundreds of thousands of people are hospitalized every year because of the pollution. Every sixth child in the Central Valley goes to school with an inhaler. We can do much better than that.

Then about foreign oil. I despise the fact that
we send one billion dollars a year to foreign places for
our oil and to places that hate us. We sent this money to
people that hate us and that are organizing terrorists and
trying to blow up our country. Those are the kind of
people we send this money to.

So why are we relying on foreign oil, when
President Eisenhower already 60 years ago said that if we
go beyond 20 percent of relying on foreign oil, 20 percent
of our oil coming from foreign countries, we have a
national security problem. Well, now we are relying 60
percent on foreign oil -- 60 percent plus.

So those are the issues.

And of course today, as you know, we have a
worldwide recession. So there's an economic point to this
whole thing. And, that is, that in this economic
recession, in this downturn, the biggest recession since
the Great Depression, the real jobs that we are creating
right now are green jobs. I mean since 2006 or so green
jobs have been created ten times faster than in any other
sector. So it's also an economic plus. We have been
approving one solar plant after the other. What is it
now, 5,700 megawatts this year alone that we have
approved. That's billions of dollars that are being
poured into California just in green technology. And
that's why there's more venture capital coming to the
United States. More than half of the entire United States comes to California. Fifty-seven percent of venture capital comes to California. So there's great, great benefits from all of that.

And of course we have to be sensitive because it is an economic downturn. And this Air Resources Board knows that they have to be sensitive. But we have to reach our goal by 2020, our reductions of 25 percent. And we've got to go and have our 33 percent of renewables by 2020. There's no two ways about that. So this is what makes us the leader.

So, yes, California is known that we have a budget crisis, California is known that it always spends more money than we take in, and we're known for a lot of those things. But we're also known for being great leaders in biotechnology and nano-technology, green technology and all those kind of things, in our university system and so many other things.

And I'm so proud of this team here, because it's one thing that the legislators get together and say AB 32 and here's the bill and they give you this document that's a thousand pages long and all this stuff, and then the Governor goes out and talks about it and I sign it, and the bill signing ceremonies and all of those things that we had. But then someone has to follow through and make
it become a reality. And the people you see in front of you here are the people that make this become a reality. I know the day -- even though we are ten years away from 2020, but I know the day that we will have a reduction of 25 percent of greenhouse gases by the year 2020; only because I have such an excellent team here. So thank you very much, all of you, for the great work that you're doing. And thank you for sitting here and thank you for participating in this process. That's what I love about this country, that everyone gets together, everyone is here. We know that you have some concerns about it. Express it. Let's talk about it and all this.

But in the meantime, thank you all. Thanks very much.

CHAIRPERSON NICHOLS: Thank you.

(Applause)

CHAIRPERSON NICHOLS: Well, that's a first, as far as I know. Really, we couldn't have asked for a stronger champion than Governor Schwarzenegger has been. It's been an honor and a privilege -- I think I speak for every one of our Board members -- to serve in this roll and at this time.

So thank you all.

Mr. Oldfield.
MR. OLDFIELD: I don't know how I can follow that.

CHAIRPERSON NICHOLS: What do you want to say?

MR. OLDFIELD: You know, we were sitting back there, and I said, "That's going to happen to me. You watch." So --

(Laughter.)

MR. OLDFIELD: Anyways, I just wanted to say we appreciate your staff --

(Laughter.)

CHAIRPERSON NICHOLS: Is this a great country or what.

MR. OLDFIELD: It is, it is.

We appreciate your staff responding to those concerns. We certainly encourage you to ensure that those 15-day changes are included.

We've listed some other concerns, most notably the 10,000. We still think that's a little too much of a reduction, and we still would rather have you guys go to a 20 if you're looking for entities that are right on the threshold there in terms of the reporting requirement.

But that being said, again, you know, we want to stay engaged in this process and hope that we can maintain a presence. Even though we're not directly capped, we certainly have our processors that are capped, and they're
an integral part of our industry. We can't make our products have any value to the consumer if we don't have our processors. And so we'd like to stay at the table as well.

So thank you very much.

CHAIRPERSON NICHOLS: Thank you.

Ed Pike, followed by Jasmine Ansar.

MR. PIKE: Hi. My name is Ed Pike, and I'm the California program lead for the International Council on Clean Transportation. And thank you for the opportunity to comment today. I'd like to highlight a few of our written comments on the inclusion of transportation fuels into the cap and trade system.

First, we endorse CARB's approach of setting aggressive standards for vehicles and fuels, vehicle miles traveled reductions, supplemented by incentives and price signals like the cap and trade to reinforce those important standards.

Second of all, we recommend replacing the proposed exemption for all transportation to ethanol and biodiesel. And the cap and trade system can reinforce, for instance, the low carbon fuel standard with the right price signals for low carbon biofuels. And we think that fortunately there's time to develop a system by the time that the physical carbon content of transportation fuels
goes into the cap in 2015 with a system that can build on
the accounting and the low carbon fuel standard and
provide some flexibility to fuel providers to again
reinforce the low carbon biofuels under the LCSF.

We also want to express support for CARB's
proposal to auction all of the greenhouse gas allowances
for the physical carbon content of transportation fuels
when they go into the cap in 2015. We would endorse more
auctioning for the fuels production and refining in 2012,
which we think would help move away from business as usual
and would provide resources to help shift to cleaner and
more efficient transportation systems.

And, lastly, for any free allowances that are
given, we think those benchmarks should be based on the
continuous, most efficient producer and not provide any
additional credits for production processes that have
higher greenhouse gas impacts.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Jasmine Ansar, followed by Ann Chan and Eric
Chung.

MS. ANSAR: My name is Jasmine Ansar and I'm
speaking on behalf of the Union of Concerned Scientists
and also representing the Global Warming Action Coalition.

Let me first congratulate the Board and the staff
for putting in place this landmark program that will start
the world's most comprehensive cap on global warming
pollution.

I want to isolate my remarks and talk about our
support of the use of auctioning as a method of
allocation -- allocating allowances. We recognize the
need to address leakage risk for trade-exposed industries
and strongly support transitional assistance in the form
of some percentage of allocations being distributed for
free.

The goal of course is to assist and to provide
compensation to bring California production facilities to
cost parity with competing facilitates in non-capped
areas. As EAAC points out our economic dream team and
other research facts, this can be accomplished with a
relatively small percentage of the total allowance value.
One hundred percent seems excessive and risks
overcompensation.

We urge and are comforted by the fact that staff
is attempting to build in an adaptive management process
to evaluate and reassess the impact of free allocation and
strongly support the proposals submitted in the economist
letter which we did submit to the Board.

Finally, let me just mention, product
benchmarking, we urge the Board to base this on best
practices rather are than business-as-usual average performance for the whole compliance period. Benchmarks should be dynamic, reflecting the latest technology, knowledge and practice, and these should be technology-forcing in recognition of our future emission reduction goals and where we need to get to.

Thank you very much.

CHAIRPERSON NICHOLS: Thank you.

I called but then didn't recognize Kelley Nalevia.

Is Kelley Nalevia here?

Okay. Then we'll go forward. Thanks.

MS. CHAN: Hello. My name is Ann Chan. I'm the Director of the California Program of the Center for Clean Air Policy, which is a DC-based think tank working on climate change policy analysis and dialogue convening.

Madam Chair, members of the Board and ARB staff, thank you so much for your hard work and leadership on this historic regulation, which will help spur clean technology development, healthy and resilient communities, and a robust economy in California.

I'd like to speak on two different points today. One is on sectoral crediting and the other is on the use of allowance value.

We're very pleased to see the basic architecture
for inclusion of sectoral crediting in the rule today, and
look forward to further elaboration of that program -- or
those provisions as soon as practicable.

A point carbon analysis that was released about a
week ago indicates that there will be a shortage of offset
supply in California. And in the first compliance period
that will be about 25 percent. Sectoral crediting and
particularly REDD would go a long way to helping with that
supply issue as well as being a driver for continued
forward action on the global stage, particularly in
preventing tropical deforestation but certainly not
limited to that.

And of course, designing a rigorous and socially
responsible program that's tailored to the specific
circumstances of individual developing countries will be
important, and we look forward to working with you on
that.

Turning to the second point I'd like to address
today, C CAP joins other organizations here in urging that
specific language be included in the rule's reference the
work of the Economic Allocation Advisory Committee and
specific recommended uses for allowance value, including
investments in infrastructure to support smart growth as
well as adaptation work to ensure health urban communities
and protection of our natural resources.
Thank you.

CHAIRPERSON NICHOLS: Thank you.

Eric Chung, followed by Sharon Banks and Mark Byron.

MR. CHUNG: Good afternoon, Chair Nichols and members of the Board. My name is Eric Chung. I am the Director of Environmental Policy and Strategy for PacifiCore. We are a vertically integrated multi-jurisdictional utility in six states, including California.

And we're -- we actually only have 47,000 customers in California. But they're all northern California, and 35 percent of them are eligible for our low income assistance program. So we work really, really hard for our California customers even though, you know, we don't have so many of them.

So that's why we're here. And we're appreciative of being able to participate in the joint utility group efforts and appreciate your consideration of our written comments.

I'd like to provide two comments on the cap and trade program. First is, PacifiCorp agrees with the provisions in the cap and trade program which allow publicly-owned utilities that are vertically integrated to directly use their allowances for meeting compliance
obligations. PacifiCorp has the same need, as we own much of the generation that serves our retail load. So we'd like -- we put in our written comments to include the multi-jurisdictional utilities in that provision.

We also might suggest that ARB revise that distinction to be not about investor owned versus publicly owned but one of vertical integration. And PacifiCorp's more than happy to work with you on that revision.

The other point I'd like to raise, I'd like to encourage ARB to stay the course with an emission-based cost-burden approach of allocating allowances to the sector. PacifiCorp's long supported a national program that was more policy and technology driven than market driven. So we've expressed prior concerns with cap and trade as it's been proposed previously. We think this approach -- the cause for an approach sends the right message that a program of this kind should in fact be targeted toward real reduction of emissions, which is an objective we share.

So I think you've got a reasonable compromise proposed by your staff. We urge you to stay the course.

And, you know, in closing, just thank you for all the efforts, the hard work, the sleepless nights, and we look forward to finishing up with you on this important marathon.
Thank you very much.

CHAIRPERSON NICHOLS: Thank you.

Sharon Banks.

Are you here?

Mark Byron.

MR. BYRON: Hello. My name is Mark Byron. I'm the Director of Asset Management for GWF Power Systems. Thank you for letting me speak today.

GWF is a company headquartered in Pittsburg, California. We directly and indirectly employ approximately 145 people, including managers, engineers, operators, technicians. The company owns and operates nine power plants, approximately 500 megawatts total, some which are fueled by the waste fuel petroleum coke and others by natural gas.

Our petroleum coke fleet consists of five 25 megawatt power plants located in Contra Costa and one 25 megawatt power plant in Hanford. And we are developing projects in the green energy sector as well.

Our petroleum coke plants operate under a 30-year power purchase agreement with PG&E as the counterparty, and they fall into the staff acknowledged narrow range of pre-AB 32 long-term contracts that do not allow for the recovery of the proposed cap and regulations compliance cost. This is primarily due to the fact that the
compliance costs for petroleum coke power are significantly higher than most other types of qualifying facilitates, primarily because petroleum coke contains 95 percent carbon and 5 percent hydrogen. These costs were not anticipated when the contracts were entered into in the mid-1980s. Therefore, the contracts include no provision from which RQS could recover disproportionate costs associated to reduce greenhouse gas.

To provide a balance limitation of our proposed cap and trade regulations and avoid increasing global greenhouse gas in criteria air pollutants, ARB should allocate allowances in a manner that recognizes disproportionate enterprise-threatening burden that GWF faces relative to most power producers. GWF's burden is the direct result of our efforts to comply with federal and state policies and the associated contractual obligations that we entered into.

To accomplish this goal by amending the proposed cap and trade regulations such that GWF receives allowances for its greenhouse gas emissions associated with its pre-AB 32 power purchase agreements declining through the 2012-2020 period at the same rate provided for the cement manufacturing industry.

We appreciate you listening to the comments.

Thank you.
CHAIRPERSON NICHOLS: Thank you.

Kristin Eberhard already testified. So we go to Erin Rogers.

No? Sorry.

MR. JACKSON: Christine took my spot. So hopefully I can get her back and take her spot.

CHAIRPERSON NICHOLS: All right.

MR. JACKSON: My name is Alex Jackson and I'm with the Natural Resources Defense Council.

And I'd just like to begin by expressing our general support for the program. We really do think this is a very solid framework that will enable California to make good on its pledge to return back to 1990 emissions levels by 2020; at the same time, following through on the great economic promise in our clean tech sector that the Governor so eloquently pointed out.

I'm just here to talk about three quick points that I see in the resolution on the proposed 15-day changes. And I know it's preliminary, but I just wanted to address some of those issues at this time.

The first addresses the allocation in the transportation fuel sector starting in 2015. And the resolution suggests that staff may be reconsidering the idea to auction a hundred percent of allowances in that sector. And I'd just like to caution against that. I
think, as Professor Hanemann noted, you know, auctioning should be our first priority allocation method absent some other evidence that leakage and trade exposure is a risk. And as CARB has pointed out so many times, and all the evidence I think available suggests, we don't think that's going to be a concern in that sector. And I'd like to see that there is strong evidence that it will be a concern before we move away from a hundred percent auctioning in that sector.

The second relates to combating leakage for the cement industry. And the resolution again suggests that we might be looking towards using some form of border adjustments to guard against leakage in that sector. And we're certainly supportive of making sure we have a level playing field to treat importers and in-state entities alike. I think the concern -- just to make sure that we don't use both border adjustments and pre-allowances to combat leakage in that sector. You can't really have it both ways.

And then, finally, I think we'd like to see CARB apply its adaptive management approach, which it has so committed itself to towards overseeing the allocations in other sectors such as the industrial sector, as well in the electricity sector and for the distribution of the allowances to utilities. We understand that's a new
proposal and we'll evaluate it further. But we hope to
have some more process to ensure that that allocation
works smoothly.

Thank you.

CHAIRPERSON NICHOLS: Thank you. We degree.
Okay. Erin Rogers, then Tim Tutt and Barry

Vesser.

MS. ROGERS: Good afternoon. I'm Erin Rogers
from the Union of Concerned Scientists. I just wanted to
congratulate all of you, the staff and the Board and
everybody here in the room, that's been on this long more
than four-year journey to get to this day. I really think
it's an historic day.

I was able to go to Cancun for the Global Climate
Summit a few weeks ago. And it really struck me how many
people from countries all over the world are looking at
this program, are looking at California, and deriving hope
from it in an otherwise very bleak landscape out there.
And, you know, what we establish here will send out ripple
effects throughout the U.S. and throughout the world. And
that's why it's so important that we get it right and
that's why we've all been working so hard on it.

We think that the proposal that's been put
forward has a lot of really strong points. And in
particular I just want to thank you for putting in the
Community Benefits Fund into the 15-day changes, something that a lot of us have been advocating for, and we appreciate that.

I couldn't leave the podium without saying something about offsets. We still remain concerned about the level of offsets in the program. And now that things have changed a little bit from the scoping plan, there's actually a bigger bucket of offsets that could be allowed to be used. And we're just worried that there will be a lot of political pressure in the coming months and year on you guys to accept new protocols that may not be as stringent quality-wise so that we can fill that bucket. And I just want to make sure that, you know, you guys are able to put in place a very robust public process for vetting those protocols and making sure that they're strict in the future, and to make sure that CARB maintains a very strong role vis-a-vis the third-party registries in terms of approving and having the ability to deny in overseeing the offsets program.

Thank you.

CHAIRPERSON NICHOLS: Okay. Thanks.

Tim Tutt and then Barry Vesser.

MR. TUTT: Good afternoon, Madam Chair and members of the Board. My name is Timothy Tutt representing the Sacramento Municipal Utility District.
Thanks for the opportunity to speak here today. We appreciate your attention to this central component of AB 32 and the hard work of the ARB staff on the proposed regulations.

SMUD supports the adoption of the proposed cap and trade regulation. With progress at the national level on GHG reductions essentially stalled, we think California leadership is even more important than it has been in the past.

We'd like to make three quick points today as you take this historic action and request you direct staff to continue working with stakeholders on these issues. And we've provided written comments on these and a variety of additional technical and policy issues.

First, we believe that the regulation should be altered to treat wrecks and out-of-state renewable resources as having zero GHG emissions commensurate with the underlying renewable resources that they represent, in order to harmonize with the renewable energy standard, eliminate potential duplication and tracking systems, and provide support for the voluntary market. We think that the current treatment of wrecks in the reporting regulations could lead to hundreds of millions of dollars in additional costs and threaten the ability of the RES to deliver GHG reductions as expected. We do not believe
this issue has been fully vetted with stakeholders and
urge future consideration as requested in the joint
utility letter that you've received this imposing. We'd
like to see this issue added to the list of issues staff
plans to workshop in 2011 or otherwise explicitly address
some direction to staff for further resolution.

Second, we look forward to further work with your
staff on the allocation of allowances among utilities, as
laid out in Appendix 1. In that discussion, we believe
that we should shoot for a structure that is replicable
beyond 2020 and nationally, and one that includes a strong
visible early action component to reduce risks to
California in a national situation.

We also believe there should be further
consideration of a transition to a sales-based approach,
similar to the out-based approach that's being used in the
industrial sector.

And third and finally, we appreciate the proposed
changes in Appendix B regarding compliance obligations for
the combustion of biogas but would note there are
biogas-biomass issues in the reporting regulations as
mentioned by Norman Pederson earlier this afternoon, ask
that staff be directed to work with stakeholders to
resolve these.

Thanks for your attention today.

MR. VESSER: Good afternoon. Barry Vesser, Climate Protection Campaign. And we would like to commend the Board and staff for the tremendous amount of work represented in the proposed regulations.

We have submitted formal comments, but I do have a couple of points that we would like to underline.

Under the proposed regulation, utilities will receive allowance value for free. The regulation further requires that this allowance value be used to reduce the cost of AB 32 policies on their ratepayers and for ratepayer benefit. We would like to see this language strengthened and clarified.

The Economic Allocation Advisory Committee did a great job explaining the flaws in the PUC/CUC recommendation to allocate to utilities. The EAAC recognized that providing a rebate through utilities, that is showing up on the line item of your utility bill, shields consumers from the price signal and discourages changed behavior. Separating the return of the money from the utility bill is critical for sending a price signal to all residential customers. Therefore, we support the proposed regulation's inclusion of consumer refunds as a use of allowance value. We believe that the most direct
approach to this is a lump-sum transfer, which could be
implemented through a dividend or rebate check. The
customer will still receive the carbon price signal on
their utility bill but would receive a rebate check to
help buffer them from the aggressive impact of increased
electricity prices.

And then just a quick comment on dividends. We
do not see dividends, and we don't believe the EAAC did
either, as just another use of allowance value, but rather
as a structural foundation for a fair and effective
policy.

AB 32 requires that regulations that your Board
approves, I quote, "ensure low income communities are not
disproportionately impacted." Without a dividend or
rebate, low and middle income citizens will be
disproportionately impacted. So we encourage you to
recommend strongly to the Governor and the Legislature the
inclusions of dividends.

Thank you so much for your time and you hard
work.

CHAIRPERSON NICHOLS: Thank you.

Joan Linney.

Joan Linney?

Woody Hastings.

Kasandra Gough.
MS. GOUGH: Good afternoon, Madam Chairman and members. I appreciate hour seven that you're still sitting here and that everyone else is still sitting here and allowing all of us our time.

My natural personality is to be a rebel and not to follow and do as all the others are doing. But today everybody is saying, "We support, we support you, we support you." And on behalf of Calpine, we support you as well.

CHAIRPERSON NICHOLS: Thank you.

MS. GOUGH: I have to say that.

And the other thing I have to say is I thought that Holly and Virgil and Sam had become my best friends. But evidently they've been meeting, as you all have, with everybody else in the room. And we're going to have a continuing friendship for the next year.

And before I get to the substance of my comments, I just want to say I think that government employees don't often get complimented enough. And in this case they've done a superb job and they've been very responsive and they've always done it with a smile on their face. So I appreciate that.

Calpine is a national leader in advocating for a low carb and renewable energy resources. We're the state's largest independent power producer. We're also
the state's largest provider of renewable energy from the
geysers from Lake and Sonoma County. We support the
implementation of the cap and trade program and we hope
that CARB will lead the nation in demonstrating that we
can reduce significant harmful emissions as well as
create -- or maintain a healthy economy.

We have submitted extensive comments. We find
that most of those issues are addressed in the resolution.
And we look forward to working with you on the 15-day
process.

I'd just like to conclude by saying that
certainty is important to regulated entities. So good,
bad, or indifferent, we need certainty. We're making
decisions now for 2012. And so I appreciate the pace by
which CARB staff has moved through this process. And I
also appreciate the commitment to really have the final
bows and whistles on the package in July. That will be
very helpful.

Thank you.

CHAIRPERSON NICHOLS: Thank you. Take a day off,
you know, Saturday.

Gregg Morris, Tim Martinez, Adam Quinn.

MR. MORRIS: Chairman, members of the Board, I'm
very pleased to be here today. I'm very upbeat on the
prospect of California passing this cap and trade
I would like to speak to you just briefly today about the issue of biomass. I know that there have been several petitioners coming here and arguing for actually less participation of biomass in this program than we are going to have. And biomass has been one of our major renewable energy sources in the state. It's been a real success story here. We've been leaders. California really are leaders. And it's under a lot of fire right now nationally. And I think -- I'd love to see California maintain its leadership role in this. And I'd like to share four facts with you today about biomass, and encourage you not to change the biomass provisions that you have proposed in your cap and trade.

Fact number one, the treatment of biomass that you have in the law today is fully consistent with the treatment that the EPA is developing in the tailoring rule. In fact, the tailoring rule progression to date has moved closer to California's treatment of biomass, and we're hoping it will continue to do that.

Number two, the rule does not assume carbon neutrality for all biomass. That has been asserted. It's not true. It only asserts biomass -- carbon neutrality for biomass types for which actual carbon neutrality has been demonstrated in scientific studies. And the use of
the fuels that are listed in section 95852.2, each one of
those fuel types in that section does lead to demonstrable
reductions in greenhouse gases when those fuels are used
for energy production rather than disposed of in
conventional means.

Whoops!

CHAIRPERSON NICHOLS: Sorry. It goes by fast.

MR. MORRIS: Let me just close by saying there
really is no incentive in the rules as stated for any kind
of forest deforestation. In fact, the rules only allow
the kind of forest residues that would actually promote
healthy forests in California.

Thank you.

CHAIRPERSON NICHOLS: Thank you for that.

Okay. Tim Martinez, Adam Quinn, Pam Pinkston.

MR. MARTINEZ: Thank you, Madam Chair. I'll be
brief since most of the comment were already made by
members from the Latino business community.

Tim Martinez representing the San Joaquin County
Hispanic Chamber of Commerce. And I'm also the Central
Region Chair for the California Hispanic Chambers of
Commerce, which encompasses Redding all the way down to
Bakersfield. So the entire San Joaquin Valley.

On behalf of both organizations, I would ask that
you consider minority and hispanic small businesses and
the impacts of the cap and trade to our communities. We have many trucking companies that will be directly impacted at a time when they as well as all of our small minority businesses are struggling to keep their doors open.

I want to remind you that as small business grows, so grows our great state. Please keep us in mind when considering the cap and trade program.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Adam Quinn, Pam Pinkston, Michael Barr.

Mr. Quinn: Chairwoman Nichols, Board members.

My name's Adam Quinn. I'm here on behalf of the CREDO Action, which is part of Working Assets.

Today I'm going to submit over 10,000 comments to the Board from our members asking for strong implementation of AB 32 and stricter cap and trade enforcement.

In November, Californians gave you a mandate by overwhelmingly rejecting Proposition 23, so much so that there was more "no" votes on Prop 23 than any other item on the ballot. Many of the proposals in the draft that was put together happened before that mandate was given to you. So I hope that you seize upon this and really take the strictest enforcement of AB 32 you can do.
Specifically, the currently proposed pollution allowances in the first couple years where they're given away is a multi-billion dollar transfer of wealth to dirty industry; and it's something that needs to be addressed going forward before I think CREDO Action and our members will think that AB 32 and the Climate Solutions Act is being implemented to its fullest.

In the absence of national climate legislation, California has stood up and said, "We're ready to lead," and we need to start here. Going forward, CREDO Action will have our members engage this Board and push this Board to have California being a leader on climate solution.

Thanks.

CHAIRPERSON NICHOLS: Okay. Pam Pinkston, are you here?

Yes.

And then Mike Barr and Steve Tassaro.

MS. PINKSTON: My name is Pam. I'm here representing the averaged concerned citizen who's negatively impacted by your AB 32 regulations in virtually every aspect in my life - food, clothing, utility bills, gasoline, automobiles, et cetera, et cetera.

According to Bloomberg Business Week November 24th of this year, nationally cap and trade is in collapse
in other states and in Washington. Every state but New
Mexico that had pledged to be a part of the Western States
Climate Initiative has pulled out, and the northeastern
cap and trade plan has collapsed.

Can you spell Climate Gate? Will you continue to
dery the revelations of flawed and often fraudulent
so-called scientific facts about global warming as well as
the additional evidence that has been put forth by
reputable scientists in contradiction to your assertion
that CO2 is a toxic gas and that human beings' activities
are contributing to global warming.

Your cap and trade energy tax proposal scheme
will increase gas prices, cost jobs, shut down family
farms, and make food more expensive. This is a choice you
have made to put your ideology agenda and need for power
and control above the needs of the people of the State of
California. And yet you dare to claim that these
Draconian regulations show how much you care about us and
want to protect California citizens against a gas that 1)
makes plants grow faster and stronger and 2) is something
we emit every time we exhale. What are you going to do
next to protect us, institute a per exhalation tax on
human breathing?

And you yourselves let the cat out of the bag
about your true intentions as a political body when you
recently announced your intention to adopt a regulation
that forbids and punishes citizens for making untrue
statements. And guess who decides what is and is not
ture? You. And what happens if you deem my opinion
incorrect? I get penalized. You removed the proposed
regulation from your website and postponed its
consideration, but not before the people watching you saw
the truth in where your intentions really lay.

CHAIRPERSON NICHOLS: Thank you. Your time is
up.

MS. PINKSTON: And it has nothing whatsoever to
do with our welfare --

CHAIRPERSON NICHOLS: Ma'am, your time is up.

MS. PINKSTON: -- but is a naked -- you let other
people speak past their time, Madam Chair.

CHAIRPERSON NICHOLS: Finish your sentence,
please.

MS. PINKSTON: I only have a couple more
sentences.

And it has nothing whatsoever to do with our
welfare but is a naked grab for total power and control
over the people and businesses of the State of California
and a Ponzi scheme to make a lot of money on carbon credit
trading.

I assert that the only real threat to our
environment here in California and throughout our great
nation is the continual emissions of hot COT and BS out of
the mouths of bureaucrats such as yourself.

CHAIRPERSON NICHOLS: Got it.

MS. PINKSTON: Thank you.

CHAIRPERSON NICHOLS: Thank you. Bye.

Okay. Now, Mr. Barr, see if you can top that.

MR. BARR: Can I go at a different time next
time?

Well, I'm here today for the High Desert Power
Plant near Victorville. The plant supplies about 830
megawatts to the California markets. It already emits at
22 percent less greenhouse gases than the 2007 California
Energy Commission performance standard. It should
actually be competitive under the cap and trade program
including the auction component of it. But like other
power generators in the early parts -- in the early years
of your proposed program, we've got a problem. And the
problem is that we can't pass the costs through because
we're locked into a fixed price contract that was entered
into before AB 32 took effect.

But after 2012 when that contract expires, we
should be competitive and it should work.

So as the UC professor suggested earlier today, some
generators do need a transition provision for the early
years of the program. The staff recognized that need in
the initial staff report and has met with generators who
have a similar problem. We greatly thank Kevin and his
staff for that. It's been very productive. They have
gathered a great deal of information about it. But it's
just not possible to fix it right now.
So we support the resolution that delegates this
issue to the Executive Officer for the 15-day process.
And assuming that can work out, like I said, we're
cautiously optimistic that this will work.
Thank you.
CHAIRPERSON NICHOLS: Cautious optimism is good.
MR. BARR: Yeah, I think we're about the same
place you are.
CHAIRPERSON NICHOLS: We'll take that.
All right. Steven Tassaro and then Ed Myers.
MR. TASSARO: Hello. I am Steve Tassaro. I'm an
environmental studies major at Sonoma State University.
And I support the auctioning of carbon permits to
the utilities sector. Although as a consequence, it will
make prices of goods and utilities go up. Therefore, I
believe that the government should give 75 percent of the
money gained from these utility permits, as recommended by
the EAAC, as a dividend to low and middle income residents
in the form of a lump sum of money to offset the increase
in costs, relieving some of the financial burdens of
citizens, such as veterans you heard testify earlier, who
need it the most. Please make this a strong
recommendation in the regulations to the Governor and
Legislature.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Some of us old folks up here are marveling at
your ability to read your statement off of your iPhone.

Sorry. It's an age thing.

Okay. Ed Myers.

Is Ed Myers here?

All right. John Canfield, and then Sue Lynn and
Anthony Garvin.

MR. CANFIELD: Hi. This is John Canfield. And I
am an employee of eBay - I'm part of their green team -
and also a member of the Climate Protection Campaign. But
the views I'm expressing are as an individual citizen.

First of all, I want to compliment the Board and
staff for all the work they've done. California is really
in a leadership position here, and I think that all the
hard work is paying off.

I want to especially compliment the inclusion of
transportation fuels in the covered area and getting us up
to 85 percent GHG coverage, which is great.
There are many people from affected industries here today providing comments. There are not as many of the tens of millions of individual citizens who have spent the day here. And on their behalf, I would like to express support and urge you to push hard for substantial dividends distributed monthly to individuals. And this is really an innovative approach. It's not been done in other geographies to my knowledge. There is work that will need to happen to do this. There's kind of an IT challenge. But we have some great information technology companies that can help you out with that.

I think that it is incumbent on California to show that type of innovation, because people need to see themselves getting compensated for higher energy costs. And a dividend is the best way for them to see that. I think that having that imbedded in the electric bill, like the previous speaker mentioned, does not let people understand the compensation and does not compensate them fully for all the increased costs that they will be experiencing.

In order to have a substantial dividend, I strongly urge ARB to reduce the use of allocations and offsets. I don't think the oil and gas industry needs an offset, and I encourage you to also not encourage...

Thanks.
CHAIRPERSON NICHOLS: Okay. Thank you.
Sue Lynn.
Anthony Garvin.
MR. GARVIN: Thank you, Madam Chair and Board members and staff of CARB. I represent the University of California, it's all ten campuses and five medical centers. And while the university generally supports the historic efforts and historic regulation that the Board will pass today and implement over the next few years, we're extremely disappointed that, while industry is given free allowances, the university and higher education in general and hospitals -- public hospitals do not receive free allowances or any financial assistance or transition assistance under the proposed regulation.

The proposed regulation will have a significant impact upon the university. We have five cogen plants and one large heat thermal plant that will be captured by the cap and trade regulations. We estimate that the cost of purchasing allowances on the auction will range between 7 million and 30 million per year, depending upon the actual cost of the allowances on the auction.

To put it in -- to give you some perspective, the university and higher education and education in general, as I'm sure the Board members are aware, is under significant financial pressure. The amount of state
funding of the university has declined dramatically since 1990, by 51 percent of the cost of funding of each student. In order to compensate for these declines, dramatic declines in our revenues and state budgets, we've had to increase tuition and fees by roughly 40 percent over the last two years. And the cost to comply with the program by purchasing allowances would of course come out of general funds and would have to either come out of tuition and fees or state funding, which is unlikely given the dire strait of budget situation. So we ask for transition assistance.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

BOARD MEMBER SPERLING: Madam Chair, I have a question.

CHAIRPERSON NICHOLS: Yes.

BOARD MEMBER SPERLING: This is a question for staff.

I noticed in the resolution it refers to that the Board directs the Executive Officer to review the treatment of combined heat and power facilitates to ensure that appropriate incentives are being provided. Was this for this particular case? Is that -- or does it handle that?

ASSISTANT EXECUTIVE OFFICER KENNEDY: It has the
potential to handle that. There's also in the Attachment B -- one of the things for 15-day changes is taking a look at the possibility of transition assistance of some form for those who are left out of the industrial allocation but are in the narrow scope. And so that was actually more -- that provision was more targeted towards this particular problem and others that may be similarly situated.

BOARD MEMBER SPERLING: Where is that, Appendix --

ASSISTANT EXECUTIVE OFFICER KENNEDY: I'm remembering off the top of my head. I think it's on page 8 of Attachment B and it's Item No. 6.

CHAIRPERSON NICHOLS: That's pretty good.

BOARD MEMBER SPERLING: Thank you.

Let's see if I'm which question I answered with that answer first thing this morning.

CHAIRPERSON NICHOLS: We have a few university affiliates of people up here.

Go ahead.

BOARD MEMBER BALMES: In the interest of transparency, in addition to Dr. Sperling and myself, our Chair is also a faculty member of U.C. But it's not just U.C. It's the Cal States and it's public hospitals. I mean given the -- I mean we're all under economic pressure
in California now. But given the pressures at higher
education and public hospitals, I think it's nuts to not
do something to help them out.

MR. GARVIN: And the staff has indicated that
they're willing to work with us over the next year during
these workshops. And so we're looking forward to that.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Yeah, I had an opportunity to meet with Mr. Garvin and some of his colleagues. And one of the things I think we need to recognize is that, somewhat similar to the situation of the municipally-owned utilities, they are actually making significant investments at this moment to try to make themselves more carbon free. And so we've got to find a way to encourage that the investments that they do get to make get targeted where they belong, which is on reducing their carbon footprint.

Okay. Next, Catherine Garoupa White, followed by Jeanne Merrill and Catherine Rehies-Boyd.

MS. SHARPE: Actually I'm not Catherine. She asked me to speak in her stead. And I'm later on the list, so we're going to combine our comments together. We thought we'd save you a little time.

CHAIRPERSON NICHOLS: Okay.

MS. SHARPE: My name is Sarah Sharpe. I'm the
Environmental Health Director for Fresno Metro Ministry.

Thank you for having us. It's been a very long day.

Fresno Metro Ministry is a multi-faith and multi-cultural organization dedicated to the creation of a more respectful, compassionate and inclusive Fresno that promotes social, economic, and environmental justice.

We are encouraged by the swift action California has taken to address climate change through AB 32. And we are very involved in protecting this structure -- we were very involved by opposing Proposition 23. However, from the beginning we've been very concerned about proposals to create a cap and trade program.

As the Governor just mentioned when he came and surprised us, Fresno suffers from both extremely high poverty rates and extremely bad air, and severe health problems, such as high asthma rates, due to these problems. We are concerned that pollution trading could result in increased local pollution of criteria pollutants. The communities we work with, the disadvantaged and most vulnerable populations, are very concerned with increasing pollution and the cumulative impacts of multiple sources in their small communities.

We want to thank you for adding the Community Benefits Fund in today's staff modifications, because the San Joaquin Valley will desperately need the assistance to
both cope with climate change and achieve local carbon dioxide reductions that will include co-pollutant benefits and improve public health in our region. However, we are still concerned with the proposed use of agricultural offsets. Our understanding was that the CO2 reductions from agriculture were determined to be too difficult to verify or quantify to include it in the cap, yet your proposed draft allows for offsets from these same sources. How will these emission reductions be verified or quantified? We're very concerned about that. Also, we believe that the use of offsets should be geographically confined to within the state and possibly within the air basin where they originate. I'm also here -- so those comments were on behalf of Fresno Metro Ministry. And I'm also here on behalf of CVAQC, Central Valley Air Quality Coalition, which is a broad coalition and we're just one of the members. So we have a broad range of -- we have submitted written comments this morning. We tried to get it in sooner but, unfortunately, as a coalition, it's harder to do that. But we ask that when you consider this program, you take precautions to protect the most vulnerable people in our region. We have three specific areas. First, we want, as I said, to limit offsets from biomass, dairies, and agriculture until they are
We want you to set a price on allowances from industrial sources that will incentivize reductions in CO2 and criteria pollutants.

And we want CARB to complete a more comprehensive analysis of the health impacts of cap and trade program on the disadvantaged and cumulatively impacted communities like so many of our small rural communities we have in the San Joaquin Valley.

So thank you.

And who else did you say you were speak for? I'm sorry.

I was speaking four Catherine Garoupa White, who's on the list. And I'm later on the list, almost at the end today. So I'll cross that off later - number 165.

Got it. Thank you, thank you.

Okay. Jeanne Merrill.

I'm Jeanne Merrill. I'm the Policy Director with the California Climate and Agriculture Network. We're a coalition of sustainable agriculture and farmer member organizations.

And California today is leading the country in
addressing climate change. However, we're concerned that the cap and trade regulation as written represents a missed opportunity in achieving climate solutions in one of the state's leading economic sectors, agriculture.

California agriculture is the most diverse and productive agricultural system in the United States. A $35 billion industry, the state's farms and ranches produce 400 commodities, supplying nearly 50 percent of the country's fruits and vegetables.

Depending on weather and the availability of natural resources, especially water, agriculture is also uniquely vulnerable when it comes to climate change. Investments in research, technical assistance, and financial incentives are urgently needed to help meet the goals of AB 32, reduce greenhouse gas emissions in agriculture, sequester carbon in our agricultural soils and woody biomass, and keep farmers on the land.

And in 2008 as part of the scoping plan, the Ag Climate Action Team and the Economic and Technology Advancement Committee found that through a variety of practices, California agriculture can reduce greenhouse gas emissions between 9 and 16 million metric tons of CO2 equivalent. The AgCAT and ETAC committees recommended investing in additional research financial incentives and technical assistance to meet these emissions reductions.
Similarly, the Economic and Allocation Advisory Committee also recommended a portion of allowance revenue going towards biological carbon sequestration activities in agriculture. We can't rely on carbon markets to meet greenhouse gas emissions reductions in agriculture. The marketplace lacks adequate funding for technical assistance and financial incentives and research for agriculture to meet the challenges of climate change.

The cap and trade regulation provides an opportunity for CARB to make recommendations to the Legislature about how funding of revenue can be made. And we strongly encourage you to include in your recommendations funding for agriculture.

And I'll just add in terms of agricultural offsets, it's our hope that when developing those, that you consider whole farm systems, rewarding farmers first, and transparency.

Thanks.

CHAIRPERSON NICHOLS: Thank you. I expect we'll be talking further about these issues.

All right. Ms. Reheis-Boyd, followed by Eric Sauer and Tamara Rasberry.

MS. REHEIS-BOYD: Good afternoon, Chairwoman Nichols, members of the Board. Cathy Reheis-Boyd, President of the Western States Petroleum Association.
Thank you for the opportunity to comment today on this proposed regulation.

I do appreciate very much the time and effort that staff has provided to us. They've definitely listened to our concerns. We've had too many conversations. But similar to the low carbon fuel standard, which we were with you all at your last hearing in November, I think we've done a good job in working with your staff on getting some of our issues addressed in the resolution.

We've been active. We've been I think productive participants in this program. We've worked with the staff, like I said, on the low carbon fuel standard resolution. You actually got NRDC, CEERT, and WSPA to actually agree on provisions at your last hearing, which I think was pretty monumental.

But we do believe there is a consensus. You've heard it today. There's lots of issues to work on in 2011 and beyond. And we need to design this well, and you all know that. But in particular, for our industry the energy system has to be adequate to support the consumer short- and long-term goals as we transition to this future -- to this low carbon future. So we need to be smart. We need to be thoughtful. We need to build a process for review so they have time to adjust and modify as we go forward.
I did submit extensive comments to you yesterday. So you have those. We touched on things like the importance of offset and linkage, transportation fuels, and the cap and trade; the issue of emissions intensity trade exposure. And the idea of leakage and risk determinations we've discussed in our comments, designing a benchmarking scheme that transitions and works to the future over time. And the issue of linking cap and trade credits with the low carbon fuel standard I think needs some additional conversation.

Again, the resolution touches on these issues, and I appreciate staff for doing that.

I also note this morning there was provisions for combined heat and power and CCS, carbon capture and sequestration. Chairwoman Nichols appointed me to a task force in the Energy Commission, and we actually adopted that plan yesterday. And so to have a protocol for CCS is really important. So I'd like to thank you for that.

Just last two quick comments. The idea the Chairman had for an expert work group in the opening comments I think is a good one. And your idea to hire an expert to look at the impact on the state energy markets is also in the regulations, and I do support that as well.

So thank you very much. We look forward to working with you in 2011.
CHAIRPERSON NICHOLS: Okay. Thank you.

Eric Sauer.

Are you here?

Okay. Tamara Rasberry.

MS. RASBERRY: Good afternoon. I'm Tamara

Rasberry representing the Sempra Energy Utility Companies,

Southern California Gas Company, and San Diego Gas and

Electric. Thank you for allowing me to comment today.

I want to thank the staff for all their hard work

and keeping the line of communication open. I know from

the e-mail I received at 11:00 at night and 6 in the

morning you all are working very hard. So I appreciate

that.

I anticipate participating fully in the 15-day

comment period that starts beginning next year. I've

filed comments, but I just want to briefly go over a few

points.

Should the Board decide to adopt the regulations

today, we ask that you direct staff to modify the

treatment of natural gas local distribution companies,

LDCs, to reflect that natural gas LDCs are already at 1990

emission levels.

We've been working with staff, and appreciate

their work, to address the allowance allocations for

natural gas LDCs. We have a proposal in our comments.
But we do want the Board to understand that reductions in natural gas emissions are best achieved by programmatic measures like energy efficiency. The proposed regs add the natural gas sector to cap and trade in 2015. So in that time we ask that the Board work with stakeholders on expanding the very limited portfolio of gas supplies, which include renewable biogases.

We also would ask the Board to eliminate the dichotomy in the allocation of allowances for the state's electric utilities. The cost of electricity consumed in the state should equally reflect the real cost of carbon. Unfortunately the proposed regulation on the use of allowances -- on the use of allowance revenues for IOUs and POUs would put IOU customers at a disadvantage.

And as stated earlier by SMUD and PG&E and my colleagues at Edison, if the Board adopts the mandatory GHG reporting regulation today, we really want the Board to consider adding language to assign a zero-GHG attribute to all renewable energy that meets the RPS and RES requirements as adopted by this Board in September.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

James Brady.

Larry Greene.

MR. GREENE: Madam Chair, members of the Board.
I'm Larry Greene, Air Pollution Control Officer here in Sacramento. And I'm speaking today for the California Air Pollution Control Officers' Association.

I would certainly like to acknowledge this historic day and recognize the Board and the staff for their hard work in the issue of global warming. It's an issue of national and international importance, and we have received so much recognition in California for that.

Our members strongly support the Board's approval of this regulation. We have demonstrated our support through our members' efforts over the past years in working with local communities, our work with ARB on SB 375 and various scoping plan regulations, our publishing of three well received documents related to quantifying global warming emissions, and our work at the national level with the National Association of Clean Air Agencies. And we've spent a lot of time with your staff in working with this over the last years.

We believe that our work and programs can be more fully leveraged by the ARB staff to support their work in global warming and to better integrate the state program at the local level.

Regarding partnerships, we appreciate and acknowledge the recent decision of the ARB staff to resolve differences over perceived conflict of interest.
with verifying reported greenhouse gas emissions in the mandatory reporting regulation. This significant resolution did not extend into the cap and trade regulation and needs to be incorporated there. We have provided recommended language in our comment letter to make the necessary changes there. And we encourage the Board to direct that those be made.

Our comment letter also notes several remaining issues from the scoping plan process that need resolution. There's a completion of a joint work plan, consolidation of a reporting local greenhouse emissions, and the use of an inter-agency task force to implement the provisions of the cap and trade program.

We also believe air districts can be very helpful to ARB in verifying offsets and in developing ideas and structure for offset protocols that ARB would then approve.

We encourage the Board to support integration of district efforts into CARB's global warming process and to review progress on this periodically.

Thank you very much.

CHAIRPERSON NICHOLS: Thank you, Larry. Thanks for all your leadership at the district level on these issues too.

Juliette Beck?

Eric Eisenhammer.

MR. EISENHAMMER: Hi. Thank you for the opportunity to speak to you guys today. I'm representing the Coalition of Energy Users. We are thousands of taxpayers and small businesses who are concerned about this.

I talk to small business owners every day that are concerned that these regulations could put businesses out of work, people out of work.

It's an effort to show leadership. But I'm concerned that other states have not wanted to participate in this program. Right now we have only New Mexico. And Congress as a whole now is a majority that is opposed to cap and trade.

Please look at the hundreds of on-line comments from regular citizens and business owners who are urging you to postpone this plan.

I know some have posited that with Prop 23 it's a mandate to go full speed ahead. However, please also realize that three million Californians voted "yes" on 23 and believe that there's very serious concerns that should be addressed, that this is not something we can afford right now with record high unemployment, a $20 billion budget deficit, and at a time when the nation as a whole
does not wish to go forward with this plan.

So thank you for giving me the chance to speak to you. And I hope you will at least consider postponement for economic reasons.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Gary Grimes.

I'm sorry. James Hendry.

Excuse me, Mr. Hendry. And then Gary Grimes and Laura Baker.

MR. HENDRY: Good afternoon, members. My name is James Hendry. I'm representing the San Francisco Public Utilities Commission.

At the beginning of this meeting Mary Nichols identified, you know, what are fundamental design issues that should and must be addressed by the Board versus the details that could be allocated to staff.

I'm here to argue and address the issue of the allocation of 10 to $20 billion in allowances to the electric utility sector and to argue that this is an issue that should and must be addressed by the Board. Instead, the current resolution delegates to the Executive Director the discretion to bring this issue back to the Board for consideration, while the ARB staff is proposing use of a model that has not been fully and publicly vetted.
Unlike the allocation of allowances to the industrial sector, which were part of the initial statement of reasons in the 45-day comment period, the ISR contained no allocation mechanism for the utility sector. Indeed, the first that anybody would have heard about the proposed allocation would have been when it was released at today's meeting.

CHAIRPERSON NICHOLS: Excuse me, but that's not true. That's just flat-out not true. There have been multiple, multiple meetings and workshops with all the utilities in the state invited. If yours wasn't there and you didn't know about it, that's unfortunate. But it's not for lack of opportunity. This issue has been under discussion. I personally have been involved in some of those discussions, including conference calls with every single utility in the state on them. So I just don't know what you're talking about.

MR. HENDRY: I'll follow up with that, if I may. That was my next --

CHAIRPERSON NICHOLS: I think you should.

MR. HENDRY: The staff proposal highlights the intents of numerous discussions that occurred with the joint utility groups that guides the staff's proposal, as highlighted by the numerous utility representatives who were part of the JUG and have testified in support of it.
However, none of these meetings were posted in the ARB website. They were not publicly noticed. And they were not open to any outside stakeholders, such as environment groups, affected ratepayer groups, or even the general public.

Even the SF PUC, one of the larger utilities in the state, did not even hear about the discussions until staff presented it for consensus approval.

The problems inherent in having a consensus proposal where not all parties were present can be highlighted by -- seen in the joint proposal. The SF PUC, despite having the lowest emissions profile of any electric utility in California, could find itself under this proposal with having to buy allowances, while the utilities that have emission profiles a hundred times worse could find themselves with excess allowances that they could sell to reduce --

CHAIRPERSON NICHOLS: Thank you, but you have used up your time. You have written testimony, and we will review it. And we will address this issue as we proceed with the discussions.

Is there a Gary Grimes here?

Yes, you are here.

How about Laura Baker?

Okay, great. You're next, and then Emily Rooney.
Thanks.

MR. GRIMES: Madam Chairwoman and distinguished Board members. I'm here today representing Paramount Petroleum, a small independent refiner in southern California.

We're the poster boy for leakage. We leaked two weeks ago when we shut down our refinery for economic reasons. But we're optimistic that we will be back when economic conditions improve.

I will focus on just a very few critical points today. And I want to dispel a few common misconceptions. To do this, we'll need a few slides which we'll move through at warp speed. Hang on.

First, we are very different from the major oil companies that most people are familiar with and who are competitors. This slide captures most of these differences.

This shows some of the differences graphically. There are only two small refiners making transportation fuels in California. The axis are size and complexity and the circle size represents gasoline-making capacity. We are ants in a field of elephants.

Next slide please.

--o0o--

MR. GRIMES: Let's talk about leakage. This
slide shows the changes in refining capacity since 1988 in the U.S., the world, and California. You can see that California is already leaking capacity, and this does not include our plant.

Next slide.

--o0o--

MR. GRIMES: Well, where will the leakage go? This slide adds China refining capacity. India capacity is growing similarly. Their latest refinery built for export is now the largest in the world. It is massive. Almost five times larger than anything in California. It's one third the size of Manhattan, and took 100,000 people to build.

Next slide please.

--o0o--

MR. GRIMES: Passed through. A little bit about us.

This notion bears little relation to obvious realities. Let's look at the reality. Most people have the mistaken impression that oil refining is a lucrative industry because of the high cost at the pump. Unfortunately this price has little to do with refining profitability. What does is the difference between the price of products and the cost of raw materials. This slide shows you the 3, 2, 1 spread, an industry metric.
commonly used as a reference for the relationship between cruel oil and product prices.

Note, refining profitability dropped significantly during the 2008 recession and has not returned. With the spread in 2006 and 7 Paramount was profitable. And with a lower margin, since it has not been. Somewhere between is break-even.

The high cost of crude oil has been hard on us.

Now, if pass through of costs were possible for us, wouldn't we pass through these increased costs to our customers instead of shutting down?

Last slide.

MR. GRIMES: The major oil companies that are integrated do not need to make money on refining. With the high cost of crude, they can still be very profitable. Because of the recession, we urge you to consider the economic health of the industry's companies and especially the jobs affected in your rulemaking, and consider a form of hardship relief similar to what the EPA has.

We also recommend you consider raising the cap on offsets for those subject to leakage.

One of the goals of AB 32 is energy security. And it would be ironic if it did just the opposite.

Thank you for your consideration.
CHAIRPERSON NICHOLS: Laura Baker, Emily Rooney, Ethan Ravage.

MS. BAKER: Good afternoon. I'm Laura Baker. I'm with the Center on Race, Poverty, and the Environment. The Center on Race, Poverty, and the Environment has been a supporter of AB 32 since its inception. We've participated in the Environmental Justice Advisory Committee for the scoping plan, and part of Communities United, a coalition that fought Prop 23 and supported AB 32. And we oppose the cap and trade regulation proposed, because it will not effectuate the goals of AB 32.

While I stand before you today as one person, I'm in fact speaking for over 800 San Joaquin Valley residents from 20 different communities, communities in the state's worst air quality basin that oppose the proposed rule. I've submitted their comments to you for your consideration. But you should know that this group is not here in person because this Board's discriminatory process at the November 20th, 2008, hearing on the scoping plan.

These residents, who are overwhelmingly Latino and Spanish speaking, were discriminated against then, and that discrimination has continued in a lack of Spanish translation equipment provided absent specific advanced requests. Please see their written comments for details.

On a substantive note, the unbridled use of
offsets in the proposed rule from out-of-state sources will mean that jobs and economic benefits resulting from -- any benefits will not benefit California. As a result, in no way does this structure maximize environmental and economic benefits for California as required by AB 32. For this reason, and those identified in our written comments, the proposed regulation should not be adopted.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Just as a factual matter, is somebody here prepared to address the issue about translation services and how we make them available? We've certainly had them at previous Board hearings that I'm aware of. We've had translators here.

CHIEF COUNSEL PETER: There's going to be one here tomorrow, for example. But we have had them --

CHAIRPERSON NICHOLS: There will be one here tomorrow. So if you made a request and someone was not provided, I'd like to have some information in detail about that, because that is not Board policy and never has been.

Okay. Emily Rooney, and then Ethan Ravage and then Nicholas Van Aelstyn.

MS. ROONEY: Good afternoon, Madam Chairwoman and
members of the Board. Thank you for your time today.

My name's Emily Rooney. I'm President of Agricultural Council of California. We're a public policy association that represents farmer-owned businesses and cooperatives, many of which cook and process food for all of our consumption. And for those reasons, many of my members exceed the 25,000 metric ton threshold and will have to participate in the cap and trade program.

We've submitted written comments, so I'll defer to those. And we've been working with staff over the last self months on this regulation, and we look forward to continuing that process.

Our biggest concern with this regulation is emissions leakage. We are sensitive to low cost competitors in other parts of this country as well as across the globe. For example, in the canning peach industry, we've been overwhelmed with Chinese imports. Just from July through August of this year Chinese imports of processed peaches have increased by 45 percent. And since 2006 those numbers have actually -- the imports have actually tripled. And China and Mexico are both making major headway in tomato paste and other tomato products.

So displacement of these California products by countries that have little to no environmental standards conflict with the fundamental purpose of this regulation.
So we'll be working with staff to accurately reflect the leakage issues with our industry and making changes with the emissions intensity factor and also the industry assistance variable.

And we do support the language in Resolution 1042, Attachment B, which takes a deeper look at leakage. And we're hopeful that the periodic review language will be increased beyond the once a compliance period to maybe monthly or so to truly evaluate the impacts this regulation could have on our industry.

So thank you very much.

CHAIRPERSON NICHOLS: Thank you.

Ethan Ravage, and then Nicholas Van Aelstyn and Sabrina Means.

MR. RAVAGE: Madam Chair, the Board, thank you for having me. I'm Ethan Ravage, the West Coast representative of IETA, the International Emissions Trading Association.

With 165 member companies, IETA is the largest trade association representing businesses involved in carbon markets and controlling carbon emissions. All major economic sectors are represented, including companies in electricity, diversified energy, manufacturing, finance, plus the firms -- the service firms doing offset origination, verification,
IETA is the only voice covering all sectors of the emissions market, and we operate in all major centers. IETA has offices in San Francisco, Washington, Brussels, Geneva, and Toronto.

First and foremost, IETA extends its appreciation for ARB's leadership in developing a cap and trade program as a principle component of its efforts to reduce greenhouse gas emissions in the State of California. We applaud California regulators for their ongoing efforts to thoughtfully integrate practical market-based mechanisms that minimize compliance costs while effectively and efficiently reducing emissions.

Second, IETA, with its highly diverse membership, recognizes that there has been a lot accomplished in the past year. And we appreciate that there is still much to do to integrate not only the voices of those who will trade the market, but the voices of those who will be subject to compliance obligations and who value certainty above all.

IETA's membership would like to note and be appreciative of progress in adapting flexible approaches and would like to stress the importance of the following three general items:
Number one, to avoid the temptation to have extremely high allocation -- oh, sorry -- auctions at the onset of the program. And we've made a lot of progress there.

Number two, to, you know, continue to think about higher quality of offset limits and allowing more methodologies and standards into the state of play.

Number three, considering future linkages to comparable markets that have broadly symmetrical regulations.

Pursuing these objectives and others will aid in the creation of a market that maximizes efficiency and liquidity while achieving its environmental goals.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Nicholas, and then Sabrina and Bruce Moorhead.

MR. VAN AELSTYN: Good afternoon, Madam Chairwoman, members of the Board, and staff. My name is Nicho Van Aelstyn. I represent the Carbon Offset Providers Coalition.

First of all, I just wanted to join so many others in commending the Board and the staff for their vision, leadership, and plain hard work in getting us to this point after three and a half long years. It is truly an historic day. And we support the regulation for all
the reasons that the Governor expressed so well.

I noticed he went over his three minutes.

Anyway --

(Laughter.)

CHAIRPERSON NICHOLS: You know, we all know who
our boss is.

MR. VAN AELSTYN: Unfortunately for all the wrong
reasons, California is in an important leadership
position, not only within the United States but within the
world at large. I was fortunate to be at the COB 16 in
Cancun last week. And I was very proud to be a
Californian there -- to be from California. California
certainly stood out. There was a lot of buzz at the COB
16 for what California was doing and it really is a beacon
to the world.

That said, there are -- an as staff acknowledged
in its excellent presentation this morning, there is work
to be done yet. And then in that regard, we really
welcome Resolution 1042 with the 15-day matters, and we
look forward to working with staff over the next couple of
months to address in particular those issues that we set
forth in our comments. Two of those I'd just like to call
out here very quickly.

The first is the, in our view, the regulation's
current inadequate addressing of early action credit. AB
32 mandates that credit be given to voluntary early action measures. And as presently stated in the regulation, it is too limited. More protocols need to be recognized. Very rigorous voluntary protocols do exist and quality offsets have been generated under them. They should be recognized. Similarly, additional registries should be recognized, not only CAR. We love CAR, but it's not the only one, and others ought to be recognized, and we hope that the 15-day rule will enable that.

Lastly, I would just like to commend particularly the REDD program and encourage its speedy development hopefully in the first compliance period. In this action today, the ARB is not only developing the first economy-wide cap and trade program in the U.S. but the very first cap and trade program in the world to recognize REDD credit, and we salute the Board for that and look forward to working with you more.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Sabrina Means, and then Bruce Moorhead and then Malaki Amen.

MS. MEANS: Thank you, Chair and Board members.

My name is Sabrina Means. I'm representing the California Transit Association.

Although technically our association is neutral
on the regulation, we do appreciate staff's recommendation
that the regulation includes a community benefits fund
that requires -- well, not requires, but would include
some allocation revenues to go to transit and land-use
planning.

You've all heard me before in past Board hearings
that transit will play a crucial role as part of the
state's effort to reduce greenhouse gas emissions. And so
anything that we can do to encourage some of the revenues
to go to transit would be terrific and we look forward to
working with ARB staff and Board to make that happen.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Bruce Moorhead.

MR. MOORHEAD: Good afternoon, Board members.

Thanks for the opportunity.

I'm speaking as a private citizen. I'm not paid
by any entity.

I would like to first state that I have no
quarrel with seeking to improve air and water quality.
Admirable goals.

I have a big quarrel with making political and
business decisions for the state and country based on a
scientific lie. The greenhouse theory has been shattered
by scientific analyses and is simply invalid.
In December 2008, 650 plus climate scientists from all corners of the globe made their concerns about global warming alarmism known on the U.S. Senate floor. In a March 30th, 2009, New York Times ad, 115 climate researchers, scientists, and others essentially called President Obama a liar for his comments about anthropogenic global warming.

It is astonishing to me how organizations such as yours and willing accomplices in the news media continue to talk and proceed as if 99 percent of climatologists agree with you about anthropogenic global warming, when surely the majority worldwide sharply disagree with you. I'm sure your actions are well meant, but they are misguided.

My question to the EPA and CARB is, when do you stop lying to the American people?

Thank you for your time.

CHAIRPERSON NICHOLS: All right. Malaki Amen.

MR. AMEN: Madam Chairman and members of the Board, thank you very much. I'm Malaki Amen. California NAACP is the organization that I am representing, the nation's largest and oldest civil rights organization. We thank you for taking on this monumental task to put in place the necessary regulations for implementation of AB 32 by 2012.
Our concern with the regulations is that we're at a point now where we're looking at formulas determining how cap and trade will be structured. But we would like you to strongly consider how this economic transformation that will get us to greater emissions reductions and will create jobs at the same time, how all of that will factor on the green jobs creation picture.

We can make all of these changes. But if we don't ensure that there's equity in the process for low income communities in the process of transforming our economic conditions or our economy so that we're less dependant on fossil fuels and more -- using more renewable energy sources, we won't have a position of equity in low income communities.

So we're asking you to use the Community Benefits Fund feature.

We're also asking you to consider the localized impacts so that we're not just blending all other kinds of sources of emissions with the emissions that are impacting low income communities.

Thank you very much.

CHAIRPERSON NICHOLS: Thank you. Appreciate the involvement of the NAACP on this issue. I know you were strong advocates for AB 1405 as well.

Okay. Brent Newell, are you here?
Brent Newell, then Caroline Farrell and Strela Cervas.

MR. NEWELL: Madam Chair, before my time starts, may I respond to the question you asked Ms. Baker?

CHAIRPERSON NICHOLS: Sure.

Go ahead. Just stop it. We can restart it.

MR. NEWELL: I think the point she was trying to make is that the agenda item tomorrow automatically is providing translation without request. And today one has to make that request.

CHAIRPERSON NICHOLS: That's not true.

Excuse me. That's not true.

MR. NEWELL: That's what it says on the agendas. The different agendas say that.

CHAIRPERSON NICHOLS: We had a request.

MR. NEWELL: No, the clerk said that the request came from the prior rulemaking hearing. So that's --

CHAIRPERSON NICHOLS: Excuse me. I'll allow Ellen Peter, our counsel, to speak for just a minute, and then you can take this outside.

CHIEF COUNSEL PETER: The way we get translation requests are either the staff has asked for them because they've been asked in workshops or other issues where it's come up that they would like a translator. So it's come to program staff's attention in advance.
In previous rulemakings where we had a request on a similar item, and this is -- tomorrow's is an amendment of the item --

CHAIRPERSON NICHOLS: -- it just carries over.

CHIEF COUNSEL PETER: -- it just carries over.

And then also on the agenda it says specifically -- which is issued ten days in advance - and the same standard language is on every single agenda - "If you would like a request for either assistance due to disability or language assistance or anything else, please contact the clerk."

So it can be put on for different manners. For the one tomorrow it was specifically because there had been translation services requested in previous rulemakings on the same topic.

CHAIRPERSON NICHOLS: And the point is, if you've called up and asked for it yesterday --

CHIEF COUNSEL PETER: -- we would have given to you.

CHAIRPERSON NICHOLS: -- we would have given you one.

MR. NEWELL: I don't need to call in a request to --

CHAIRPERSON NICHOLS: You don't need to, but apparently somebody did. Somebody is upset because there
wasn't one. It wasn't provided because it hadn't been provided at a previous meeting. If you objected to that or thought that that was inappropriate, then you or whoever else thinks that there should be a translator should ask. We don't have to -- I don't think it is required that we should provide translators for every single hearing that we have. So if anybody had been informed that there were people coming who wanted translation service, it would have been provided.

Now, let's start the time clock.

And you can start your testimony. We're not going to argue this point.

MR. NEWELL: I have two points to make today. We submitted a letter with detailed comments to which over 800 valley residents joined and ten environmental justice organization. We also join the detailed comments filed by Communities for a Better Environment.

My first point is that cap and trade will inflict disparate impacts on low income communities of color in California. Title 6 of the Civil Rights Act in 1964 prohibits any entity receiving federal funding from discriminating on the basis of, among other things, race. We will file a Title 6 complaint once this regulation becomes final.

Number two, there's a court order that's
controlling these proceedings. Judge Goldsmith of the San Francisco Superior Court has ordered that this Board may not take final action on this regulation until he issues his ruling in the scoping plan lawsuit.

He has further ordered that the Board must consider his opinion and his decision if his decision involves a cap and trade component of the scoping plan. In that lawsuit, which is being heard on the merits on Monday, we've argued four main points about cap and trade and the scoping plan:

The Air Resources Board failed to assess the maximum technological feasibility and develop cost effectiveness comparisons between direct reductions and market mechanisms.

Number two is the Air Resources Board failed to determine whether cap and trade would facilitate the achievement of the maximum feasible and cost effective reductions.

Number three, the Air Resources Board failed to consider the performance of other greenhouse gas reduction programs in other states and nations.

And, number four, ARB failed to adequately analyze alternatives to cap and trade in the functional equivalent document.

CHAIRPERSON NICHOLS: Thank you.
All right. I'll ask our General Counsel if we are prohibited from proceeding to take action today on the basis of any known order. We're not hearing from you further on this point.

MR. NEWELL: I didn't say that. I said you were prohibited from finalizing the rule. I didn't say you were prohibited today from voting.

CHIEF COUNSEL PETER: What the Court indicated was because there's a scoping plan lawsuit that's been going on for about a year and a half -- and, it's correct, it has not been resolved. There hasn't been a hearing. There was a specific request to the Court by the petitioners in that case to enjoin this hearing. The Court denied that request for a temporary restraining order. The Court is aware that the Board meeting's going on. The resolution that you have before us is totally appropriate for the Board to vote on. If for some reason later when the judge rules on the merits, which will be probably January or February, depending on what the appropriateness of revisiting that issue, we will do that. But that is actually on the scoping plan. It does not address the --

CHAIRPERSON NICHOLS: It's not a procedural --

CHIEF COUNSEL PETER: No.

CHAIRPERSON NICHOLS: -- delay, it's a question
on the merits if the court agrees with Mr. Newell that
what we're doing is a violation of whatever laws and
constitutional issues he wants to raise?

CHIEF COUNSEL PETER: That's correct. And it's
also -- that lawsuit's on the scoping plan. It's not on
this regulation.

CHAIRPERSON NICHOLS: Okay. Caroline Farrell,
and then Strela Cervas and Caitlin Sparks.

MS. FARRELL: Good afternoon, Chairman Nichols,
members of the Board. My name is Caroline Farrell. I'm
the Director of the Center on Race, Poverty, and the
Environment. I wanted to touch on two issues, both having
to do with the proposed 15-day modifications -- or the
resolution with the proposed 15-day modifications.

First deals with the finding that the cap and
trade regulation is consistent with ARB's environmental
justice policies and will equally benefit residents of any
race, culture, or income level. That's contradicted a
little bit later on in the resolution where it finds that
because of the flexibility imbedded in the cap and trade
program, it's difficult to pinpoint where reductions will
happen and where there might be increases in criteria
pollutants or toxic contaminants. And because of the
siting of many of the industries under the cap, they are
disproportionately sited in low income communities and
So one of the things that the Environmental Justice Advisory Committee and several environmental justice groups have been talking about for a long time has been being clear about where localized pollution increases are happening and being sophisticated with that analysis. And I think one of the issues that has been raised several times is where health impacts are happening due to the cap and trade regulation. And the health impact assessment came out just two days before the public comment period was over. And I think that was the opposite of what had been hoped for, were that the health impact assessment would help guide the crafting of the regulation.

I would also add that the way the cap and trade system is structured in terms of localized pollutions is that it will be monitored as the program evolves. And there's some language in here that says that if -- I'll just finish my sentence -- if unanticipated adverse environmental impacts are identified that are substantial enough to interfere with or undermine the achievement of the objectives for the cap and trade program as defined by AB 32, that's a little vague in terms of what will actually trigger changes especially as the program is implemented in the long term because of the need for
certainty. So the chances of adjustment down the course
without some criteria of what that will be are going to be
less likely.

Thank you.

CHAIRPERSON NICHOLS: Okay. Thank you.

Strela Cervas, followed by Caitlin Sparks and
Chuck White.

MS. CERVAS: Hello. My name is Strela Cervas and
I'm with the California Environmental Justice Alliance.
We are an alliance of six environmental justice
organizations up and down the State of California. And
I'm here representing numerous communities that could not
be here today who are suffering disproportionately from
our state's pollution and toxic burdens.

We were on the executive team of the Communities
United Against Dirty Energy proposition. We fought hard
and spearheaded an aggressive voter mobilization program.
As you well know, we contacted two million voters through
on-the-ground door knocking; phone banking; speaking to
the media, especially Spanish radio and mailings. We
mobilized communities of color to vote. And we did all
this to save AB 32, because AB 32 is supposed to protect
low income communities who are already disproportionately
overburdened with our state's pollution and toxic dumping.

Our fight around AB 32 is not over. We are all
responsible in ensuring that AB 32 is implemented correctly, especially for our communities that are disproportionately impacted.

AB 32 requires that ARB ensure that the regulations do not disproportionately impacted low income communities and also consider benefits to the economy, the environment and public health. If ARB adopts the cap and trade rule, AB 32 requires ARB to design the program to prevent an increase in emissions, consider cumulative impacts, and direct public and private funds to disadvantaged communities. However, if implemented, this cap and trade rule -- the cap and trade rule does none of these.

CEJA was a co-sponsor of AB 1405. And you all know what 1405 did. It would do two things:

It would create a community benefits funds. And I understand that the Community Benefits Fund is already integrated into the proposal. This is a good step forward. However, the adoption of a community benefits fund -- let me just finish my sentence -- should not be in lieu of conducting an analysis of localized impact. We recommend no less than 30 percent of total revenues going towards a community benefits fund and that resources go towards the most impacted and disadvantaged communities.

Thank you.

No, I'm sorry. Caitlin Sparks was next. I apologize.

Is Caitlin Sparks here?

Okay. Then it is Chuck White.

MR. WHITE: I'm Chuck White with Waste Management. I really appreciate the opportunity to be here on this really historic occasion.

Waste Management is the largest provider of environmental services in the United States and in California. And we generally support the cap and trade regulations, and we have worked closely with staff. They've been responsive to us when we ask questions regarding a specific meeting. And we look forward to the 15-day changes, which we think may reflect some of our concerns.

Specifically Waste Management has partnered with Linde, and we've developed one of the lowest carbon fuel producing facilities at our Altamont landfill, producing 13,000 gallons of renewable LNG per day. It's the lowest carbon fuel currently being produced on a commercial scale in California. That's just the tip of the iceberg.

And we ask that the Board, when you move forward with the implementation of these cap and trade regulations, continue to recognize the greenhouse gas
reduction benefits associated with waste-derived energy
and resources. We urge you to continue to recognize
biogas- and biomass-derived fuels as carbon neutral,
particularly those biomass and biogas fuels that are
derived from waste materials.

We urge you to rapidly develop additional
protocols for generating greenhouse gas reduction credits
associated with waste diversion, waste to energy, and
waste recycling activities. One example is the low carbon
fuel standard. You've already adopted protocols under low
carbon fuel standard. Make those credits available to
transfer into the cap and trade system as soon as you
possibly can. That will further provide a value for those
kinds of reductions.

Finally, our last concern is with waste-to-energy
facilities. There's three waste-to-energy facilities
plants in California. Waste Management doesn't own any of
them. But they are situated such they're only being
evaluated on the fossil fraction of their emissions. And
we urge the Board to take a look at a broader view of
waste to energy and the multiple benefits -- life-cycle
benefits that waste to energy provides by diverting waste
from landfills, providing additional metal recovery, and
providing a useful energy source.

And so not only can the three facilitates
continue to operate, but future waste-to-energy
facilitates can hopefully go forward.

So thank you very much. Continue to think waste
reduction through the greenhouse gas program through
increased biofuels and bioenergy.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Andy Katz.

Bonnie Holmes-Gen.

MS. HOLMES-GEN: Good afternoon, Chairman Nichols
and Board members. Bonnie Holmes-Gen with the American
Lung Association in California. And the American Lung
Association did submit written comments on the public
health recommendations together with the Global Warming
Action Coalition and over 20 public health and advocacy
organizations.

And the American Lung Association has been very
engaged in the AB 32 implementation process, and we strive
to make public health protection and protecting vulnerable
and disadvantaged communities a key consideration in the
design of the cap and trade program. Therefore, we
greatly appreciate the progress that has been made in
looking more closely at this program through the lens of
public health and building a partnership with the
Department of Public Health. And we appreciate the
efforts of your staff and the Department of Public Health
to conduct emissions and public health assessments of
different cap and trade scenarios, and to look more
closely at emission impacts and vulnerabilities in
communities like Wilmington and Richmond.

And we realize that this public health assessment
that was done is a first that has been attempted on such a
complex program. We think it's provided helpful
recommendations. And we do want to thank Dr. Balmes for
his efforts to get the ball rolling on this.

Three specific recommendations:

Number one, to ensure ongoing and consistent
investment in health improvement and GHG reduction in
disadvantaged communities through the Community Benefits
Fund. We appreciate the resolution which calls for a set
aside of revenues, initiation of a public process for
determining funding priorities. And did want to
understand -- I think the intent is that this language
would be in the 15-day changes. But just wanted to
understand that is the intent.

And, second of all, we wanted to reinforce the
importance of ongoing assessment of emission impacts and
health surveillance in local communities. And we want to
work with you to get this built into the periodic review
discussed in the -- the periodic regulation review that's
discussed in the 15-day changes in Attachment B.

And then we continue to look forward to your continued collaboration with Department of Public Health and working with your agencies to better understand and evaluate the public health aspects of cap and trade.

Thank you for all your efforts.

CHAIRPERSON NICHOLS: Thank you for all your support.

All right. Dan Gies, and then Shankar Prasad and Nidia Bautista.

MR. GIES: Good afternoon, Madam Chair and members. My name is Dan Gies with the Ag Energy Consumers Association. We represent approximately 40,000 agricultural businesses and family farms across California. Most of the work that we do is strictly at the Public Utilities Commission working on rate making. And so just the mere fact that we're here illustrates and underscores the impact that we see of this proposal may have on our rates down the road.

Just want to make a real narrow comment.

Basically we're extremely disappointed with the economic analysis of the proposal. It's only 20 pages long and certainly not very robust and not at the level that we're used to when we look at rate making and impacts that we look at at the Commission.
We're also very skeptical that the impacts on the price of electricity to consumers is anywhere near as modest as the economic analysis, as bare as it is, proposes.

Energy prices for the farming community have risen approximately 40 percent in the last decade. Largely that was due to poor policymaking through the deregulation debacle back of the 1990s. And so you can understand our concern and our hesitancy a little bit about this potential cost impacts that a proposal just like this will have without having a robust understanding behind it.

Since deregulation, the cost of the actual commodity of electricity, where this proposal will have its main impacts for our members, is a pass-through cost for the utilities. And at this point we see that the utilities have a little bit of exposure in terms of the pass-through costs that they're going to pass on to the customers. A lot of the risk of this is coming down on the ratepayers - our family farms, our agri-businesses. And that's going to come out in the form of higher energy costs.

We're concerned about that, because in the 1980s when we had a lot of high energy cost and it started going up, a lot of those agricultural customers moved to diesel
and moved off of electricity, which I think is the opposite direction that we would like to see in the movement in the spirit of what this proposal offers.

We look forward to continue to work with the Board on this proposal as it moves forward, and assist as we can to help make this economic analysis more robust.

Thank you very much for the opportunity.

CHAIRPERSON NICHOLS: Thank you.

Shankar, and then Nidia and Robert Hasslebrock.

MR. PRASAD: Chairman Nichols and members of the Board, thanks for the opportunity. I'm Shankar Prasad from the Coalition for Clean Air.

On a personal note, I want to express my gratitude and appreciation for you, Chairman, and includes the two doctors on the Board, Roger Welsh, and AB 1405 to have made the Community Benefits Fund a reality today. It has been a long fight and thank you for making that.

Dr. Bill Friedman, who you may recollect was a medical member on the Board, nine years back said, "Put money where your mouth is." And at last. It has taken nine years for this Board to make that a reality. And thank you for that.

Having said that, I want to offer some comments to improve where we are.

We suggest that the Community Benefits Fund
receive funds from all sectors, not just from the direct auction alone. We also believe that the size of the Community Benefits Fund should be equal into the elements value of offsets, at least at a minimum at the floor price level. When you calculate that, it actually translate to about $2 billion over a period of nine years. This will ensure the emission reduction that is missed by offsets within the state. You have an opportunity today to increase the size of that fund. Think about that. And we suggest you give it serious consideration on that fact. Also, we have concern and want to suggest that deleting the second sentence on the resolution at the bottom of page 11 or moving it to a separate resolution, because it could come for us as a hindrance for the legislative effort that we want to pursue on this aspect of it. It applies not only to the Community Benefits Fund, but it would also apply to the whole revenue allocation piece. And we are joining with the NRDC in their comments about the fuel piece that they talked about and the resolution on page 14. Thank you. CHAIRPERSON NICHOLS: Thank you. Nidia -- yes, you're next.
MS. BAUTISTA: Good afternoon, members of the Board, Chair, staff. Nidia Bautista, Policy Director at the Coalition For Clean Air. We are a statewide air quality advocacy organization with offices in Los Angeles, Fresno, and Sacramento. And we've been a strong supporter of implementing California's Global Warming solutions Act.

We appreciate the opportunity to provide testimony on the proposed cap and trade regulation. And we really want to acknowledge the efforts of staff and Board to get us to this day.

You know, obviously today, in terms of the decisions you make today, we're going to be living with these for a long time. So it's really important that we do our best to get it right.

And because of our concern with California's high levels of air pollution, we have been focused and committed to ensure that the promises in AB 32 to protect and strengthen California's neighborhoods are fulfilled.

And specifically we want to ensure that, as AB 32 promises, that benefits for implementing our climate change law are realized locally just as we combat this global challenge.

And I think it was great that, you know, our current Governor reminded us about what the voters said in November where they overwhelmingly defeated Prop 23,
largely because of their concerns with air pollution. And so we need to ensure that this regulation and our actions match what the voters deserve and what Californians deserve.

So to that end, we do urge the Board to direct staff to make some changes to the proposal both in terms of limiting the use of offsets, which we don't want to see the exportation of jobs, technological innovation, as well as the opportunities to reduce air pollution locally. Also to commit to a quicker rampdown on the free allowances, so again so that we're spurring that innovation here in California.

And then as we consistently champion, as Shankar Prasad just mentioned, you know, on the Community Benefits Fund.

We do appreciate the resolution language that was submitted today. So thank you for that. From our perspective, we would like to see that strengthened, again to ensure that it's 10 percent from all sectors as well as to allow for, as was noted in both your ISOR and the initial statement of reasons as well as in the resolution, that, you know, legislation will still be necessary. And to that end, we just want to make sure that the process doesn't hinder our efforts to be successful in those pursuits.
But thank you very much, and appreciate the time.

CHAIRPERSON NICHOLS: Okay. Robert Hassebrock, and then Nick Buxton and Joel Levin.

MR. HASSEBROCK: Madam Chair, members of the Board and staff. Thank you very much for letting me present. My name's Robert Hassebrock and I'm just here as a citizen. I'm not with any of my professional association today.

And I'm here mainly to just -- a little different tack, I think. For me, I listened to a lot of the comments, and I think I degree most with the statements from the -- a couple. There was an Austin Ford, there was the California Hispanic Chamber of Commerce. I thought his comments were spot on, with the exception he had a sentence I disagreed with. And he supported the goals of AB 32. And I just question the goals of AB 32 personally. I don't believe that the goals are based upon scientific fact. They're based on consensus. Consensus historically -- the quote I have is "Consensus has been the first refuge of scoundrels. It's a way to avoid debate by claiming the matter is already settled and closed." And I don't believe that's true. A whole lot of scientific evidence is out there. In fact, we see monthly, weekly, if not daily things, findings, whether it's from NASA or other organizations, former IPCT
members, et cetera, that are questioning the current consensus. And in my statements I've provided there's extensive notes that you can refer to.

I believe there's some parallels to historical. There's -- we had something recently or in the past about this. It says -- some climate change that was ahead of us. And the consensus was we should do something. Quotes were "We should be concerned about the extreme gravity of this global situation. Governments are refusing to face facts. New political movement is necessary. We must embrace this new philosophy of life, whose goals can be achieved without us destroying the environment." These quotes aren't recent. These quotes are from 1972, when we thought we were going into an ice age.

The parallels are very similar. The science was poorly done and they are now. I would like to ask the Board to reject the proposals from staff, send them back. Let's get some rigorous science and let's not do anything that would undermine the livelihoods of California citizens until we know for sure.

Thank you.


And then Anthony Fisher will be the last witness.
MR. LEVIN: Good afternoon, Chair Nichols and members of the Board. My name is Joel Levin. I'm with the Climate Action Reserve.

And on behalf of the Climate Action Reserve Board of Directors and staff, I want to congratulate you on the development of the first economy-wide cap and trade program in the U.S. I certainly think this is a very historic indication. Your staff have done a tremendous job and they should be applauded.

We fully support and we strongly encourage the adoption of the regulation today. We've submitted a letter addressing significant elements to the program. But I'd like to take this opportunity to just draw your attention to two key points.

First, we support the accreditation of third-party offset registries to assist with program implementation. We believe that it is not a good use of public resources or is it necessary for the ARB to duplicate or reinvent existing robust registry architecture such as that which the Climate Action Reserve has built and operated and proven with real world experience over the last ten years.

However, to maintain high quality standards in the cap and trade program and to ensure accurate and consistent guidance to offset projects, the Reserve
strongly encourages the Board to impose very strict competency requirements on such registries and to be assiduous in its oversight. And we welcome such scrutiny. Second, the Reserve has been honored to have four of its protocols included in the program, and we urge you to adopt them as part of the regulation today. As you're probably aware, our board has also adopted seven other standardized protocols. We now have nearly 400 projects in 44 U.S. states under these rules in our system. And we encourage Board to encourage these additional protocols to ensure that the cap and trade program has adequate offset supply from a broad range of sources. So in closing, let me just say that the Reserve is very proud of our close collaboration with ARB, and we're honored for the opportunities to contribute to the cap and trade program and we look forward to serving as a strong partner in the continued development of the program.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Okay. Anthony Fisher, you are the last witness. Somebody had to do it, and it was you.

MR. FISHER: Well, thank you, Madam Chair and Board members, at least for including me. I am Tony Fisher of Anrafi Associates LLC, who appreciates the
Enraphia Associates recommends that CARB revise its proposal of imposing charges for omissions or requiring offset use, to apply such appropriate provisions only to those designated major greenhouse gas business emitters who have not installed reasonable available control technology on their existing operations or best available control technology on their new operations. In other words, no charges for emissions or requirements for offset use should be imposed on businesses that are implementing cost effective reasonable and best CARB-controlled technologies.

The advantage of this approach is that it would not penalize such designated businesses with added cost burdens if they have timely installed the appropriate technologies established by CARB.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

I think it's time now to turn this back to the staff briefly and then to the Board.

We have in front of us the resolution with appendices that was presented this morning, which I'm sure people are going to want to look at.

This will close the formal hearing.
And I will just say that, you know, oftentimes, in fact, normally I would go up and down the dais here and ask everybody to read allowed all of their ex parte communications. Mine alone would take us into the evening, and I suspect many others are the same. So I'm going to ask you to file them in writing with the clerk of the Board. I think you all have -- you know what they are because you prepared them for this meeting. Just give them to the Board clerk so we'll have them on file, and that will solve that problem.

But I think it's safe to say that most, if not all, of the Board members have conducted many meetings with many different stakeholders covering a wide variety of different viewpoints. And if there's nothing else that's been made clear by this meeting, it's that there is a wide variety of viewpoints on these issues, ranging from the "don't do anything" to the "you're not doing nearly enough."

There are some people who think that that means that we must have it just about right because, you know, there's people on all sides of us. I'm not actually generally inclined to that viewpoint. I like to try to think about what's actually the moderate course to take in a situation like this where we are pushing the envelope as far as we can go based on what we think the science and
the economics and the policy justify, but not so far that
it causes any undue harm. And much of what we're going to
be doing I think over the next few months is really
examining every one of the issues that have been brought
up where people have a claim that we didn't take their
particular situation into account, that we weren't
thinking about their issues when we were designing the
rule, and make sure that we've gone back and really tested
the rule to make sure that we have dealt with them and,
where we haven't, to fix those things.

So it's going to be a pretty extensive and
intensive process, I think. But again, except for those
who either reject the whole notion that one should do
anything about global warming, which I think we can safely
say the Board is not going to entertain, really we've not
heard anybody saying that we shouldn't be moving forward.
I think what we have heard is that there are people who
think there's still enough holes or issues with the way
that this is put together that it needs some serious
further attention. And I'm inclined to agree with them.
I think what we've got is a very good start that needs
more work before it's quite ready to hit the road.

So with that, I'm going to ask the staff to tick
off the major issues that you heard today and any other
comments that you have before we take it to the Board for
further discussion.

EXECUTIVE OFFICER GOLDSTENE: Well, the handful
of issues that came up at the higher level are the
waste-to-energy issue, the transition assistance issue for
non-energy producing facilities -- what else was on your
list?

ASSISTANT EXECUTIVE OFFICER KENNEDY: Clearly
there's significant work that still needs to be done in
terms of finalizing the industrial allocation benchmarks
and working through the details on the electricity sector
allocation.

A number of folks pointed out that the leakage
assessment that staff had done that was underlying some
key parts of the allocation system needs revisiting. We
have gotten some good information since we put out the
proposal with additional value. So that's another area
where we will be continuing to work.

Obviously the forestry issue, that protocol is
one that will require significant discussion.

There were issues around market readiness and
sort of our ability to be ready to turn the program on by
January 1, 2012.

So I think many of the issues that we heard today
were ones that we have been actually in active
cornerstone with the stakeholders on. We believe we've
managed to capture many of them in -- not all of them but
many of them in the resolution that we put before you.

CHAIRPERSON NICHOLS: Yes, I see many of them reflected in the actual language that's in the resolution and the appendices.

EXECUTIVE OFFICER GOLDSTENE: Maybe just one other item is just reaffirming our commitment to partnership with the air district.

CHAIRPERSON NICHOLS: Yes, right.

Well, I think it's time for further discussion on the part of the Board. Although it took up a lot of our time today, I think in some ways the forestry discussion is the simplest because it doesn't -- you know, we either will adopt the protocol or we won't. There may be some proposal for how to adopt it, and I'd just as soon deal with that. And then get into some of the other items as well.

BOARD MEMBER LOVERIDGE: It seems to me before we talk about the forest protocol, it would be nice to have an overview of it so we can get some sense of what it represents. Because we heard bits and pieces from people who testified, but --

CHAIRPERSON NICHOLS: Yes. Fair enough.

EXECUTIVE OFFICER GOLDSTENE: Shelby Livingston could give just a quick high level overview.
Okay. Shelby.

MANAGER LIVINGSTON: Environmental Justice & Special Projects Section Okay. Well, the forest protocol was developed with a multi-stakeholder working group over a period of a couple of years. And ARB sat on that work group as well and gave input to the process.

And the protocol addresses all of the requirements that AB 32 asks for in terms of being real, additional, permanent, quantifiable, enforceable, and verifiable reductions.

There are three eligible project types under the protocol. They include reforestation projects, improved forest management projects, and avoided conversion projects.

The protocol has a number of environmental safeguards built into it. It requires that all projects utilize what is defined by the protocol as natural forest management. These require projects to use native species, demonstration of sustainable harvesting practices, and also to conserve structural elements of the forest like standing and lying deadwood. These projects can be done on public and private lands, with the exclusion of federal lands at this time.

I think the biggest concern that we heard come up obviously today was this clear-cutting issue. And the way
the protocol is structured, I don't know that much of that
type of practice actually could happen on a project.

The whole basis of the protocol is an increase in
carbon storage on project lands. So any time you harvest
from a forest project, you have taken carbon off the land.
So it's treated as a deduction from what you started with.
So that deduction has to be replaced with new carbon in
existing trees.

In other words, projects are required to either
maintain or increase carbon over the life of the project.
They can't drop below where they start. So any time any
harvest is done, no matter what type of harvest that may
be, whether it's clear-cutting or if it's variable
retention, or just done removing individual trees,
whatever is taken off the project lands has to be replaced
with other carbon from trees in that project area.
So to the extent -- you know, the protocol
doesn't say certain harvesting methods cannot be used.
However, it seems that the way the protocol is structured
and the environmental safeguards that are included, that
type of forestry practice would be fairly limited in these
project types.
I mean I think that was the main concern. And I
hope that kind of clarifies the protocol in terms of how
it tries to address that issue. And if there's, you know,
further questions that I can answer on it, I'd be more
than happy.

BOARD MEMBER LOVERIDGE: Could I just follow up?

Does this come with the recommendation of the
staff that we should approve this?

MANAGER LIVINGSTON: I'm sorry?

EXECUTIVE OFFICER GOLDSTENE: Yes, we're
recommending approval.

MANAGER LIVINGSTON: Yes.

CHAIRPERSON NICHOLS: DeeDee.

BOARD MEMBER D'ADAMO: Well, I have a differing
view and would like to make a proposal. I don't know if
this is the appropriate time for that or not. But --

CHAIRPERSON NICHOLS: Well, I think we're in the
discussion stage right now. And then we can put formal
amendment language out if people -- if there seems to be a
sense that that would be supported, sure.

BOARD MEMBER D'ADAMO: I'll just throw out some
concepts then.

CHAIRPERSON NICHOLS: Yes.

BOARD MEMBER D'ADAMO: Okay. So I agree with
what staff said, that it would be limited. But I guess
the limitation is that it would only be allowed for 20
acres. And the way -- go ahead.

MANAGER LIVINGSTON: Just to clarify that piece.
California Forest Practice Acts allow 20 -- up to 40 acres of a clear-cut area. Other states can allow 500 or more acres. So what we did in the protocol -- or what happened in the protocol is we actually said we're going to actually restrict it back to California's more strict standard of only allowing 40 acres of clear-cut in any particular area. There's some other restrictions around it. But that was to kind of bring other states closer to California's more strict standard on clear-cutting.

BOARD MEMBER D'ADAMO: All right. And so I've been out to the forest and I've seen clear-cutting, and it just makes me real uncomfortable. And looking into this over the past several months, I wanted to gain a better understanding. Because I think when the protocol came before us initially, I was very concerned about it. And it was my understanding that we got a commitment from staff that they would come back with maybe a higher standard than the initial protocol, which was a voluntary program. And so I had expected to see something more stringent. In light of the fact that we didn't get anything more stringent, I would be prepared at some point to have a proposal that this practice of conversion -- so I'm not talking about any projects that are currently in the pike under the previous protocol or that which is outlined in the rule, but any future activities that would
convert from a natural diverse forest to an even-aged stand – that we not allow offsets for those types of projects.

And then I also -- there was quite a bit of testimony about the issue of soil sequestration, lying deadwood, and the release of carbon as a result of deep ripping, some of the practices that I guess don't always occur with even-aged management. That resonates with me. But it just doesn't seem that we have enough information on that. And so I'd be more comfortable with staff reporting back at a later time on that as to whether or not that might be an appropriate way to tighten up on the offset protocol.

CHAIRPERSON NICHOLS: Well, I guess my response to that is that I think that the Board's responsibility here is to deal with the issue of carbon. And when we start to then go beyond that and look at other things that we may agree or disagree with from an environmental perspective, that we're getting into an area which is not only beyond our official expertise but is really outside of our authority at the Air Resources Board.

I was and am extremely sympathetic to the views of people who live in and around the forest and who don't like the practice of clear-cutting at all and don't like other management practices on private land as well. But I
also believe that we at this moment are not in a position
to exactly craft changes to the protocol that would
accomplish our goals in a way that actually has
credibility from a forestry perspective.

I mean the bottom line here is, just to be clear
that -- to be frank about it, you know, there's one major
landowner in the Sierra who's using even-aged management,
as they call it - let's call it clear-cutting - as a
practice, which they believe helps them both harvest more
trees, make money obviously, and also keep their land in
production. And they've spent obviously a huge mount of
money and time justifying that position from a scientific
perspective. Their position, which I believe, is that if
they're not allowed to get offsets for what they're doing,
they'll keep doing what they're doing anyway.

The only benefit of getting offsets to them --
carbon offsets is that they would be required to leave
some more trees to grow older to collect more carbon from
them. That's the only thing they would get out of the
protocol that we've got.

So the question is, you know, do we punish them
by not letting them do what they're doing now and not get
offsets for it or do we -- because we disapprove of their
overall practices or do we stick to our last -- our
emitting and focus on the issue of growing more carbon in
the forests? And I'm not inclined to go further at this
time, although I think we could keep studying the issue.
Maybe we could learn more about it and try to figure out a
more nuanced way to do this. But I just don't think it
makes sense at this point. Obviously we could -- you
know, if it's the will of the Board to do it, we can do
it. But I don't think it's justified.

Ms. Berg.

BOARD MEMBER BERG: I just had a comment to add
to that. One of our people that testified, Gary Gero from
the Climate Action Reserve, specifically stated that he
did not believe that native forest conversion to managed
forest was eligible under the protocol. And I just
wondered what staff might -- if you have an input to that.

MANAGER LIVINGSTON: You know, I'm not sure
that's exactly what he had -- I think he was asked, you
know, whether or not clear-cutting could happen under the
protocol.

CHAIRPERSON NICHOLS: The question I think that I
asked him is, are there incentives for clear-cutting?
Does this provide an incentive? And he said no.

MANAGER LIVINGSTON: Right, which is correct. It
comes back to the idea that the protocol is structured
such that you only get credits for increasing the carbon
on your land. So anytime you remove carbon from your
land, you have to have replaced it with other carbon on your land. So you have to always maintain or increase the carbon, which --

CHAIRPERSON NICHOLS: Dr. Balmes.

BOARD MEMBER BALMES: Sorry to interrupt, Ms. Berg. But just a question.

So if in fact somebody cuts down trees and they reduce carbon, how good is our accounting system to pick that up?

MANAGER LIVINGSTON: The accounting system is very robust. I mean that's what we -- the work group spent, you know, over two years working out.

EXECUTIVE OFFICER GOLDSTENE: That's the essence of the protocol.

CHAIRPERSON NICHOLS: That's the point.

Okay. Other questions or comments for the staff?

Dr. Telles.

BOARD MEMBER TELLES: Are the protocols the same for privately-owned and commercially-owned -- I mean privately-owned and state-owned land?

MANAGER LIVINGSTON: Yes, for the most part the accounting is the same.

BOARD MEMBER TELLES: In that regards, an offset that's done on state-owned land, does the state get that revenue? And who do they hire to do the forest
MANAGER LIVINGSTON: That would be under their discretion, I mean whoever they have do the management. But the state is able to undertake a forest project the same as a private entity.

CHAIRPERSON NICHOLS: State Parks, for example, was engaged in some reforestation efforts on areas that were burnt over. And they wanted to use offsets -- or to be able to get the money to do that, because they didn't have the money in their budget to do it, through use of offsets. I don't know whether they actually succeeded in establishing those or not. But that was the kind of --

EXECUTIVE OFFICER GOLDSTENE: I know Director Coleman is still pursuing that. I don't know where they are.

BOARD MEMBER TELLES: I know that, you know, it's just carbon. But it seems like it's a little more sensitive issue than that.

CHAIRPERSON NICHOLS: Well, forests are a whole lot more sensitive than power plants, yeah, we all respond to the --

BOARD MEMBER TELLES: And one of the things I asked, is there any middle ground here or do we need a little more time to find middle ground? I really don't know. But when you see those pictures of the forest and
people who live up in that area, I think there's an environmental impact here that still has to be weighed in this decision. And it's not -- if it was just carbon, it would be a pretty simple decision.

EXECUTIVE OFFICER GOLDSTENE: The protocols are intended to preserve forests in the -- so overall --

CHAIRPERSON NICHOLS: No, more than to preserve them. To provide an incentive to let them grow older --

EXECUTIVE DIRECTOR GOLDSTENE: Right, to stay longer.

CHAIRPERSON NICHOLS: -- to keep trees in the ground and wood on the ground longer than it would otherwise. And I think they spent a couple of years trying to do that. I don't think everybody's satisfied obviously. There are many people who think it should be more.

EXECUTIVE OFFICER GOLDSTENE: And there is more work going on, as Mr. Gero from the --

CHAIRPERSON NICHOLS: Well, the other issue is -- my colleague over here was sort of reminding me, is the people who have to manage the land have to manage it not only for timber production, if they're actually in the business, but also for fire protection and for wildlife and water management. They are under -- you know, again not everybody's satisfied with it, but there is a
regulatory regime that covers their ability to do anything with the trees on their land. So it's a question of whether we're going to improve on that overall in the State of California as part of allowing any offsets, or whether we feel like there's enough benefit to having these kinds of offsets to push forward even though it's not as good as we might wish it would be. I mean I think that's really where it is.

And if we could come up with -- you know, I'm totally enamored with the middle ground idea, if there were a middle ground that would satisfy anybody. But this issue appears to be so polarized, that I'm not convinced that we can come up with anything that's actually going to advance the ball. I mean we've tried I think leading up to this hearing. Many people have been through a lot of different meetings to try to make that happen.

Yes, Ron.

BOARD MEMBER LOVERIDGE: We could take a vote of the Board and let --

CHAIRPERSON NICHOLS: Yeah, we could do a quick straw vote on that right now. Sure.

BOARD MEMBER BALMES: Well, I appreciated how you framed the question, because we're talking about whether it's just carbon or not.

How much carbon -- I know I should know this, but
if you could restate it. How much carbon would we expect
to be reserved through the implementation of this
protocol? Just to put in perspective.

MANAGER LIVINGSTON: Over -- are you asking --

BOARD MEMBER BALMES: Over some time period

that's realistic for us to think about, just to frame the

question appropriately, because otherwise we'll be talking

about in the thin air.

MS. AGUILA: Yeah, I can give you some -- oh, I'm

sorry, this is Brieanne Aguila -- just some preliminary

numbers. We've heard it's about eight million metric tons

of stored carbon through 2014. So extending out to 2020,
it would be substantially more. As time goes by, you have

more time to implement these projects. Projects will take

quite a while to start. So we'll start seeing more in the

future. But by 2014 it should be somewhere around eight.

We've heard all the way up to 19 million metric tons.

CHAIRPERSON NICHOLS: We don't have an inventory

though really?

MS. AGUILA: We don't, no. We've received some

data from the Climate Action Reserve and other various

stakeholders that have come to us and talked to us about

what they feel the potential is.

CHAIRPERSON NICHOLS: Yes, Ms. D'Adamo.

BOARD MEMBER D'ADAMO: Well, it doesn't appear
that there's support on the Board for this. I'll just say
that --

CHAIRPERSON NICHOLS: I'm not sure that that's
correct. I'm seeing a hand waving down here.

Ms. Kennard.

BOARD MEMBER KENNARD: Let me just, if I could,
suggest that what's troubling me here now is that we don't
know enough about this forestry protocol and there's a lot
of questions. What I'm concerned about is that we go
forward with the entirety of the resolution and it becomes
tainted by this one issue and becomes very negative. So
the question becomes a legal one: Within the resolution
if we could carve out the forestry protocol for a further
discussion at a different date and yet go forward with the
rest of the resolution. And I'm not sure if that's
possible.

CHAIRPERSON NICHOLS: Only -- I mean I'll have to
say I'm only willing to talk about this if there's more
information. And if somebody can be precise about what
kind of information they want, then I'm always willing to
delay to get more information. But I feel like I know
enough to know what I don't know, but what I don't know
isn't going to get answered. I'm not going to get
accurate information in time for us to actually acquire
any usable offsets from this program at the rate that
we're going. But maybe I'm wrong. Maybe there's enough there if we just pass some language that said no projects that are on land where any clear-cutting is allowed will qualify under this program.

BOARD MEMBER D'ADAMO: Well, what I had said though was in the future, not --

CHAIRPERSON NICHOLS: Yeah.

BOARD MEMBER D'ADAMO: -- and to include -- okay.

CHAIRPERSON NICHOLS: Yeah, I understood you weren't going to rule out past offsets that may have been banked or created under the existing --

BOARD MEMBER D'ADAMO: Right. And I think there might even be some projects that are under development under the existing protocol.

BOARD MEMBER TELLES: I just have a procedural question.

One of our things to do today is approve these offsets, which in a way could be separate from the overall regulation. And the way it's laid out, it could be done that way. And we have approved offsets separately. So I would just propose that we look at this offset separately and vote on it separately.

CHAIRPERSON NICHOLS: Well, that's fine. That would certainly be appropriate.

Just keep in mind that a very large number of the
witnesses who testified expressed grave concern about whether there would be enough offsets to perform the function that the offsets are supposed to perform, which is to increase the supply of carbon that's available for compliance purposes under the current rules. So if we knock out one of the measures, you know, we're just -- we're already eliminating one of the ones that we've got. But we can put this aside and do it at the end or we can do it right now.

BOARD MEMBER LOVERIDGE: We have as much information as we're going to get. I think we should do it now.

CHAIRPERSON NICHOLS: All right. Let's do it now then.

Okay. So the motion would be to amend the main motion so that in approving the regulation with the protocols we would be changing the eligibility of forest protocols to exclude going forward any projects that were done --

MS. STOUT: Madam Chair?

CHAIRPERSON NICHOLS: I'm sorry. Somebody --

MS. STOUT: Excuse me. Just as a matter of information.

CHAIRPERSON NICHOLS: Yes.

MS. STOUT: If you're going to go forward with
the forestry protocol separately and then separately the
forestry protocol doesn't receive an affirmative vote, we
would need to come back to the Board with a new notice for
the forestry protocol. Meaning it would be basically --
if my understanding is correct on where we're thinking of
going, if the forestry protocol basically doesn't go
forward today, is somehow rejected, separated, et cetera,
it would be dropped from the program and it would not be
eligible to come in through a 15-day notice subsequently.
Meaning as additional information came in and you wanted
to come back and do it again, it would be subject to a
whole new notice.

CHAIRPERSON NICHOLS: I'm not tracking what
you're just saying. Because I thought what we were just
doing -- what I was in the middle of trying to do was to
actually get an up or down vote today on whether the
protocol could move forward --

CHIEF COUNSEL PETER: Yes.

CHAIRPERSON NICHOLS: -- with the rest of the
program.

CHIEF COUNSEL PETER: You have a couple options.
One option is to move ahead with all four together. One
is to move ahead with three and defer one for further
consideration if you wanted to do a 15-day notice if there
was changes to make. The third choice would be to deny
the protocol today, and then that would be -- it would be
over. And then the question at that point -- you would
direct the staff not to proceed at all with that
particular protocol. It would be over. And what
Ms. Stout was just alluding to, if you did that one, you'd
have to renotice it with a 45-day notice and start the
process over again because there would be a Board
direction to the Executive Officer to drop the forest
protocol.

CHAIRPERSON NICHOLS: All right. Well, then
let's have a separate vote on this.

Is it the sense of the Board that you want to
simply not deal with a forestry motion today -- the
forestry protocol today at all and have it come back
another time? Or do you think we can deal with it one way
or another today?

Okay. So a "yes" vote or just a show of hands at
the moment says we're not going to talk about this anymore
and we'll bring it back when we're ready to bring it back
again sometime during the 15-day process.

BOARD MEMBER SPERLING: "Yes" should be keep it
as it is.

CHAIRPERSON NICHOLS: "Yes" should be we're going
to move forward with the discussion, and we might choose
to change it right here on the spot. We have the
discretion to do that.

Yes.

BOARD MEMBER D'ADAMO: I want to just make a comment since I started all of this.

CHAIRPERSON NICHOLS: Yes, okay.

BOARD MEMBER D'ADAMO: I feel strongly about the clear-cutting issue, but not to forsake the whole protocol. So I would not be in favor of putting the whole thing over. I think, you know -- we know what we know. And if there's an interest in making an adjustment just with respect to the one aspect of the protocol but I wouldn't be in favor of delaying it. I think it's going to hold up on oppor -- lots of opportunities for offsets.

CHAIRPERSON NICHOLS: Okay. So on Dr. Telles's suggestion, which was that we separate this out and not talk about it today, I'm seeing people are not wanting to do that. They want to move forward with it today. Everybody seems to be indicating that they'd like to move forward.

Okay. So then we get back to the question of, do we think we should at this point adopt a change to the protocol that would disallow clear-cutting projects. And it's a tough issue, it's a very tough issue. I don't think anybody wants to be in favor of clear-cutting, not when you've seen all those pictures.
At the same time, you know, we're presented with a protocol that a lot of people have worked on for a lot of time and feel pretty strongly about. So there we are.

Yes, Supervisor -- an elected official could maybe weigh in on this issue.

BOARD MEMBER YEAGER: Well, you know, what we do is we turn to staff for clarification.

(Laughter.)

BOARD MEMBER YEAGER: But I was just wondering -- I mean I'm sort of intrigued by what Ms. D'Adamo was sort of suggesting as far as not allowing future conversions. And I was just wondering if you could just sort of respond to that and how that would change the protocol.

MANAGER LIVINGSTON: Well, in terms of the protocol - and I think Gary Gero had also kind of commented to this - that we don't really believe the way the protocol's structured now that it really allows for much of that, but it doesn't explicitly exclude it. So, you know, putting in some sort of thing that -- you know, finding some way to prevent the conversion of natural forest to simplified even-aged plantations certainly could be put in, but it would also at the same time limit to some extent the number of projects that could happen under the protocol.
And, for instance, like we were talking about before, you know, Mary had brought up, a project really -- when an industrial forester who has these practices enrolls their lands in a forest project, they're promising to maintain all of their carbon for a hundred years. So because we're saying, "Well, we're not going to allow any of this type of practice," they may say, "Well, I'm just not going to do a project," and therefore they don't commit to maintain the carbon that they would have otherwise.

BOARD MEMBER YEAGER: Yeah, that's the tough issue in this. I mean whether we do or don't do it -- as the Chairman was saying, forestry practice allows them to do a certain amount of clear-cutting anyway whether we include it or not. But I think a lot of it is what signal we're sending. And obviously we care very much about the forest and not having the conversion. And as Ms. Kennard said, we also don't want to have everything that we're doing just sort of overshadowed by this one small element, as important as it is to many people. So I think that's why we're debating.

MANAGER LIVINGSTON: One of the other comments that we've made was, you know, that this isn't just carbon, you know, with the forests. And I think an important point to that is that there are elements in the
protocol that aren't solely about carbon accounting. And they were placed there by the work group specifically to address some of these concerns. And that's the natural -- the requirements for natural forest management and sustainable harvesting practices. In California we have these under the Forest Practice Act, but other states may not be as stringent.

So it does go beyond carbon accounting to an extent to ensure the environmental integrity of these projects. So that's an important point as well.

CHAIRPERSON NICHOLS: And if someone tries to do a project that would qualify as an offset in California but they're in Nevada, they would still have to comply with our standards in order -- so we would be propagating our higher standards in other places as a result of it.

That reminds me, and I just wanted to ask one legal question. I'm not sure if this was actually what Ms. Kennard was getting at. But is there sufficient language in the regulation that we will be adopting and the resolution that we'll be adopting that makes it clear that if someone were to legally challenge the forestry protocol and get it knocked out by a court, that that would not take down the whole rest of the rule?

MS. STOUT: Absolutely. There's the severability clause.
CHAIRPERSON NICHOLS: Okay. So we are protected -- politically it may taint it, but from a --

MS. STOUT: Right.

CHAIRPERSON NICHOLS: -- practical perspective it does. Okay, just to be clear.

All right. I'm going to try this just in order to move us along. Could I see a show of hands on the number of Board members who would be willing to at this time, subject to, you know, new information and changes which we've said are going to happen in other areas as well, proceed to approve the forestry protocol as it was presented to us.

BOARD MEMBER ROBERTS: Approved as it was presented?

CHAIRPERSON NICHOLS: As it's before us.

Seven. I think we've got it.

Did anybody else count? I was trying to count.

I think that's it then.

Okay. Then we'll move on.

Other Board members want to specifically present language to add to or change the resolution?

BOARD MEMBER TELLES: Chairman?

CHAIRPERSON NICHOLS: Yes.

BOARD MEMBER TELLES: Can we talk a little bit more about offsets, since we're talking about offsets?
CHAIRPERSON NICHOLS: Sure, yes. Offsets is one of the areas.

BOARD MEMBER TELLES: But not forestry offsets, not urban forestry offsets but -- livestock digester offsets.

And the offset -- I've read the offset in there, and I think it's a great idea. And I tried to get some information from our dairy industry whether they're going to be interested in this. And if you notice, nobody in the diary industry was here today. And the reason why is, having talked to some dairy representatives, is that it doesn't really apply too well here in California. There's no economic interests for it. And I've talked to some people on the staff here.

And I would encourage that we get all the agencies together to make this work for California, because really the purpose of this is to have green jobs in California. We have the largest dairy industry, not only in the United States but probably the world, localized in San Joaquin Valley. And it's a great opportunity -- I mean I've talked -- a great opportunity to have, quotes, "green jobs" in the valley. And we could probably generate 250 to 500 megawatts of energy from this.

But what needs to be done, in talking to these
dairy representatives, is a kind of collaboration with the Public Utilities Commission, the utilities and everybody, to get a little bit more money into the renewable energy credits you get from this particular sector. And it's unfortunate that that wasn't in position right now, because we're launching an offset that would be of great benefit to be done here in California, which is going to be done in Wisconsin, New Hampshire, Vermont, areas where they don't have the regulations for this, where they have renewable energy credits which make it more economically feasible. And I'm just wondering if we can expedite some kind of movement with all the agencies in California and the expediting the environmental things that have to be done to get these projects approved.

CHAIRPERSON NICHOLS: I'm going to ask Kevin to address this one. Kevin is a veteran of these issues from his past with the Energy Commission.

ASSISTANT EXECUTIVE OFFICER KENNEDY: That's right.

And this is an issue that has come up in a variety of contexts. Until actually you asked it in the context of the offset protocol, I hadn't heard it in that particular context. But the question of what sort of electricity rates can be paid for these sorts of projects when they're doing that is an issue that we have heard
about in terms of how that plays out in terms of the PUC rate making. It is a set of issues that once you get into this sort of looking at a variety of environmental and energy policy issues, the coordination across the agencies gets to be a bit tricky. But I think it is one that we could bring to the energy principles group.

CHAIRPERSON NICHOLS: We really need to push this issue forward, not only for the dairies and the biomass projects that Dr. Telles is pointing out here. But I've been contacted by people on behalf of water agencies who want to do projects on their land. It's all about tariffs. And it's FERC and it's, you know, the PUC. And it needs some real push behind it. And there's never been enough real sustained effort to make it happen. But I think the time has come, maybe because of cap and trade and the opportunities that are now out there for renewable projects, that we could get some traction behind us.

ASSISTANT EXECUTIVE OFFICER KENNEDY: Yeah. And I think the work that we've been doing and, Chairman Nichols, that you've been helping lead with the energy principles gives us actually a good opening for being able to work with the PUC and the Energy Commission and sort of --

CHAIRPERSON NICHOLS: Well, it's also totally consistent with what our incoming governor has been
talking about in terms of greater coordination and focus on green jobs and in the renewable energy area. I don't know how he's planning to structure that effort either. You know, he's not even Governor yet.

But clearly we have some opportunities to have some input on this. And I think we should put a proposal together, at least a plan, you know, something that indicates how we'd like to see this move forward and work on it. Because I agree, we can't just let it languish out there, or we won't get the benefits here in California.

ASSISTANT EXECUTIVE OFFICER KENNEDY: Yeah. I can add it to the agenda for the January energy principles meeting.

CHAIRPERSON NICHOLS: That would be good.

Okay. Other -- Yes, Supervisor Roberts.

BOARD MEMBER ROBERTS: If I could, there are three areas that I just want to get into quickly, because I think there may be -- I'm hopeful there's simple answers. We've heard from the military, we've hear from universities, and I've heard from the private sector on all issues revolving around cogeneration.

CHAIRPERSON NICHOLS: Right. Military, universities. And what was the third you just said?

BOARD MEMBER ROBERTS: Universities, private sector --
CHAIRPERSON NICHOLS: -- Oh, that's right.

BOARD MEMBER ROBERTS: -- and the military.

Let me give you an example. There's one company that I know of who has invested heavily in a LEED Certified Gold Campus that is significantly dependant on cogeneration. They are now -- because they're going to exceed the threshold of the 2500 MTE, they're being kicked into a regulatory level. If they cut off their cogeneration and return to electricity, their emissions would go up dramatically but they would have no issues that they would have to deal with.

It seems like somehow we've got this thing backwards. And I'm wondering -- and it seems to involve cogeneration as a -- looking at it as a negative thing in a sense in terms of the regulations. And yet it's a net positive from an emissions standpoint.

Have I got this backwards or is there something we need to do to align ourselves on the right side of this issue?

ASSISTANT EXECUTIVE OFFICER KENNEDY: I think there's a couple of different issues at play in what you're talking about. And one is making sure, for cogeneration in the industrial sector, that as we set up the allowance allocation system, that we're getting the incentives right so that the companies that do clean
cogeneration will be rewarded for having done that,
compared to companies that don't. And we've been working
to incorporate that into the industrial allocation.
There's technical details that need to be worked
through. And I'm not sure whether there's anything that
the staff would add on where we are in that particular set
of issues.
But then the other set of issues when you start
talking about public campuses, for example, that have
cogeneration, as we were looking at the overall allocation
system, starting from a point where we wanted to rely
relatively heavily on auction and focus the free
allocation on industries where there was a potential for
leakage, where the manufacturing activity might pick up
and move out of state, that was the real emphasis as we
started designing the allocation system for free
allocation, and it focused on industries where that was an
issue.
As we came to terms with how bad the economic
downturn was and what that meant for starting the program
in 2012, we shifted for the first compliance period from
saying we're just going to focus on leakage on the free
allocation, but we're going to provide all industry what
we were calling transition assistance. So even industries
that we considered to be at low risk of leakage, in the
first compliance period, 2012 to 2014, we'd give, you
know, a hundred percent of allowances. Or the assistance
factor would be at a hundred percent for that.

What we didn't do at that point was then say,
"Are there other entities that weren't captured in the
original industry allocation scheme that also needed that
sort of transition assistance?" And that's the issue that
the University of California has been very effective in
bringing to our attention, making us recognize that that
was an oversight in the way we looked at it.

We haven't come up with what the right answer is
for what that transition looks like. But we do want to
avoid the sort of perverse incentives that you're talking
about even there.

When you get to 2015 and the distributed use of
natural gas is also covered by the system, there'll still
be an economic advantage to having cogeneration, whether
you are captured as, you know, a point source or just
paying through it in terms of the pass through on the
fuel.

But in that first compliance period there is a
real issue. So we're committed to working with the
University of California and others that are similarly
situated, that as we publish the rule wouldn't get any
transition assistance, to figure out -- you know, it may
be free allowances, it may be something very similar to
what we did for industry, or it may be another
mechanism -- to make sure that they're not penalized and
that they are also able to start the program with an
appropriate transition. Because, you know, the public
entities also are facing very difficult budget times. And
so, you know, the same sort of concerns we had about
industry the public institutions share. So it's something
we're committed to working through.

BOARD MEMBER ROBERTS: So for the private
companies that have made these investments, they're not
going to be penalized, and on a continuing basis we're
going to acknowledge that those are -- they're a net
decrease in emissions by using these systems?

ASSISTANT EXECUTIVE OFFICER KENNEDY: Yeah.

BOARD MEMBER ROBERTS: And we're going to deal
with the other eight, the public agencies, such as the
university. And I presume the military in a similar -- in
a different way than is currently --

ASSISTANT EXECUTIVE OFFICER KENNEDY: Yeah. And
we're looking at a number of options for that. And we'll
be working with UC and others similarly situated to come
up with a good system --

BOARD MEMBER ROBERTS: Good. Okay.

Let me, if I can -- I'll try to go quickly.
The verification issues - we've heard this both from the air districts and from some private organizations - are we working to broaden out the qualifications possibilities, and who's going to be able to do that? Are we going to involve especially the air districts in this? And is it possible they're going to also involve the private sector on these issues?

ASSISTANT EXECUTIVE OFFICER KENNEDY: In terms of the air districts, for verification for reporting, I believe that the 15-day changes include clear specific language. And for the similar issue on verification of offsets, we're going down the same path with the air districts and sort of setting up the same sort of consideration of how they're situated as a potential verifier for offsets. So we would expect the eventual language that will be included in the cap and trade regulation for verification of offsets to mirror pretty closely what's been put out for the reporting verification.

There were other issues raised today in terms of how we do the certification of verifiers. And I don't know whether there's anything that we're able to say right now. We may be able to come back in the morning with a bit more on that. But it is an issue that's --

CHAIRPERSON NICHOLS: We're not coming back in
the morning. I do not detect a desire for this to come
back in the morning. I think we want to get this resolved
tonight.

ASSISTANT EXECUTIVE OFFICER KENNEDY: Okay. And
the question of how to certify verifiers is actually one
that we feel very confident in the system that we've set
up. We've been having ongoing discussions with other
partners in the Western Climate Initiative who are
thinking about other approaches. So that could be
something that ends up changing down the line. But we
feel like the standards that we've set for certifying
verifiers are very solid at this point.

CHAIRPERSON NICHOLS: And that there won't be a
shortage of verifiers?

ASSISTANT EXECUTIVE OFFICER KENNEDY: And we do
not expect a shortage of verifiers.

BOARD MEMBER ROBERTS: Okay. Then --

CHAIRPERSON NICHOLS: I mean that's critical.

There have to be enough out there or this isn't going to
work.

Yes, go ahead.

BOARD MEMBER ROBERTS: One last area that
concerns me. Earlier I mentioned the research that's
going on and where we have companies that are using --
basically emitting. And as I started thinking about
that - and I've thought about this over time now - we have a lot of them doing basic research, and I'm thinking like the algae people who are pumping CO2 and, you know, helping us grow the algae and everything, and I'm certain releasing into the atmosphere a fair amount of CO2. How are we going to deal with those? Because it just seems like -- you know, we keep patting ourselves on the back and we're California and everything wonderful's going to happen here. And then we -- the reality is we set up all these rules to make it difficult and create negative incentives. And it's real easy to move that research. In fact we're seeing it happen.

CHAIRPERSON NICHOLS: I think most of them just wouldn't be covered at all. They're just not part of the system. But I would like to clarify that. I mean there's limited pool --

BOARD MEMBER ROBERTS: That's what I -- I'd like to hear that.

CHAIRPERSON NICHOLS: You'd like to have it, yeah, stated explicitly.

PROGRAM EVALUATION BRANCH CHIEF FRIEDMAN: This is Judy Friedman.

They're not combustion emissions. They're not covered. They're not part of the program.

BOARD MEMBER ROBERTS: They're not what?
PROGRAM EVALUATION BRANCH CHIEF FRIEDMAN:

They're not combustion --

CHAIRPERSON NICHOLS: They're not burning anything, so they're not --

BOARD MEMBER ROBERTS: Well, some of them could be combustion. So solar is clearly combustion emissions.

PROGRAM EVALUATION BRANCH CHIEF FRIEDMAN: Well, at this point we don't know that they pass our threshold.

I don't know if anybody else wants to add to that. But as far as I know, they're not covered.

PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: In the case of solar turbines specifically, I think they do exceed the threshold. They test their turbines and they just go over the threshold. They use, as I understand it, natural gas to test the turbines. And within the regulation, they're eligible to receive free allowances a hundred percent of their benchmark in the first three years. And that benchmark is actually set at natural gas.

So because they're burning natural gas and they're receiving a hundred percent of their allowances, effectively their emissions, you know, should largely be covered. We'd have to look at their specific facility to determine the actual allocation. But that's actually all specified in the regulation as it stands.

BOARD MEMBER ROBERTS: So if it's natural gas,
DR. CLIFF: Well, any fuel would receive allowances. But the benchmark is set at natural gas. If they were burning something that's more emitting than natural gas, they would receive fewer allowances. If they were to burn bio fuel they would receive fewer allowances relative to their emissions. And if they were to burn, say, biofuel, they would receive more allowances relative to their emissions.

BOARD MEMBER ROBERTS: So we don't know, they may or may not depending on -- I don't know their business well enough.

CHAIRPERSON NICHOLS: Yeah, we don't know the facts at this point.

BOARD MEMBER ROBERTS: But their concern was that they couldn't tell whether -- what level this benchmark is set, so there's a great deal of uncertainty.

DR. CLIFF: Right. And that's specified in the regulation. And we're more than happy to follow up with them directly and have more conversations to understand their specific issue.

BOARD MEMBER ROBERTS: Okay. I'd appreciate it if you do that.

CHAIRPERSON NICHOLS: I think that has to happen.

BOARD MEMBER ROBERTS: We're obviously getting --
you know, this is not -- what did Winston Churchill say, "This is" --

CHAIRPERSON NICHOLS: It's the end of the beginning.

BOARD MEMBER ROBERTS: -- "This is the end of the beginning." And I think it's very apropos, because I think this -- this is going to take a lot of work, the complexity in there. I just want to make sure that we keep a very strong sensitivity to the fact that we -- you know, we want to encourage innovation, we want things to happen here in California. And we need to find solutions. Yes, we want to clean up the emissions. But, you know, all this commitment to the green economy, I don't want to see us driving the green economy somewhere else.

CHAIRPERSON NICHOLS: Right.

Well, it's interesting, the closer you get to the launch of a real cap and trade program, the more people decide they'd really rather have regulation, you know. Because it's a little easier.

Mayor Loveridge.

BOARD MEMBER LOVERIDGE: Several just very quick comments, and then I have two things that I'd like to see if the Board would agree with.

And the first is just the Governor's appearance reminded me that we are really here in many ways because
of his strong political leadership he's brought to AB 32 and cap and trade.

And I also think, as many of the people spoke, and I would just, speaking for myself, acknowledge the Chair of our Board -- I mean this is new policy. I mean it's not been done. You can't go -- you know, go to a binder and pull it out. And so I want to acknowledge really Mary's extraordinary leadership in this.

You know, the defeat of 23 really was the -- I thought that gave a green light to kind of the aspirations and objectives of AB 32. But now comes to try to take those aspirations and objectives and make them happen, and which is, I think as Ron -- I mean extraordinarily complex, it's extraordinarily difficult, it's also extraordinarily important what we're doing to -- important in terms of California's economy and important to green initiatives and so forth.

I also would just like to reinforce what -- I've been doing a little travel as the National League President, and you hear a lot both in this country and others about what we're about ready to vote on today. I mean the comment the world is forging is sometimes an idle comment. It is not idle this afternoon.

Two quick things: One is something that seems can strengthen our efforts, and this is the partnership
with the CAPCOA and the air districts. It seems to me
we'd be better off together rather than separate. And I
think we talked about the agreement on having the CAPCOA
and the air districts serve as verifiers.
But I'd like to make four suggestions very
quickly:
One is just the agreement that, to the CAPCOA's
point, that districts should be allowed to verify -- serve
as verifiers to verify offsets provided by districts that
they meet the criteria applicable to other verifiers.
Second, that the districts should be able to
develop offset projects which use ARB-approved protocols
and are verified by a third party.
And, third, that we should welcome efforts by the
districts to develop additional protocols.
And, fourth, that the Board direct the Executive
Officer to establish an advisory Committee with air
districts to facilitate their involvement and
implementation of this regulation and other AB 32
programs. That the Executive Officer could report back in
three months on progress.
But the purpose of this is to try to get
cooperation and partnership in place and employ it.
CHAIRPERSON NICHOLS: I would second that for
purposes of discussion. But before we talk about it
further, I -- I'm afraid we're about to lose a visitor who just arrived. And I'd like to at least introduce him and acknowledge significant role that he has played in all of this, if you're willing to come back down to the front here. Just in case the other Board members don't know him, this is Assemblymember Kevin de Leon from Los Angeles, from my hometown, who has been the acknowledged leader I think in the Legislature on the issue of using AB 32 revenues for purposes of addressing the concerns about communities that are disproportionately impacted by existing air pollution today. He was the author of AB 1405, which was not signed last year. But I know he continues a very strong interest in this. And I just wanted to welcome you and thank you for coming over. Even though the public hearing is officially closed, we will acknowledge that you were here and thank you for coming over. And also just wanted to say publicly that in the resolution that we're looking at, that hopefully we'll be voting on in a few minutes, we have included language which is intended to create a space for future legislation that would be much more extensive, understanding that we don't have right now the ability. And this was what we worked on with you last year, was an opportunity for the
Board and the Cal/EPA to go out and do hearings in the community to really develop a plan for how the monies would be spent. We're not prepared to do that right now.

But what I think we can do, hopefully it's within the scope of our authority - at least we're willing to put ourselves out on the line here - is to say that we believe that 10 percent of the revenue -- you know, that's not the end, but that that 10 percent should be allocated for the purposes described in AB 32 for dealing with the Community Benefits Fund.

So I'm hoping that that's a good start down the road towards what you were trying to accomplish. And I want to thank you for all your efforts.

ASSEMBLYMEMBER De LEON: Thank you.

CHAIRPERSON NICHOLS: Thank you for coming.

Bye-bye.

Okay. Sorry.

So on the air districts issue, the four points that you're raising are ones that were in the South Coast letter, I believe.

BOARD MEMBER LOVERIDGE: Everything that -- well, most of them came out of the CAPCOA letter.

EXECUTIVE OFFICER GOLDSTENE: They are South Coast issues mostly, but the CAPCOA members have agreed to this generally.
CHAIRPERSON NICHOLS: And I would say that -- you know, I have no hesitation about acknowledging and committing you and the staff, of course, to work with CAPCOA as partners on developing new protocols and on verification. I mean I think that's a -- that seems like a natural and it just should happen.

The only one of the proposals that I had any questions about, and it's mainly just because I really don't understand it, is the idea of districts somehow being holders of or creators of offsets. I know the description was somehow the districts -- well, South Coast at least as an agency that often acts as a lead on CEQA projects takes in money from people who need credit, or sometimes they get money as part of enforcement cases. And they want to be able to use those on things that would create offsets under our program. And I guess I don't have a problem with the idea that monies that they get should be used to create offsets. I mean it's a good idea that we should be reducing CO2 emissions.

Where I have a little bit of a concern is if the district is in the role both of the collector of the money and the doer or the owner of the offset. I do think that creates at least an appearance of a conflict of interest, which I think is something that our partners in WCI would be concerned about at least even if we weren't concerned.
I don't know, Kevin, if you want to comment on that.

ASSISTANT EXECUTIVE OFFICER KENNEDY: I would agree with that. And I think there is also depending on the exact nature of what they're doing the potential for problems with additionality. If the money that is being spent to develop the offset project is a CEQA mitigation, it is already offsetting some degree of emissions. If you generated a credit then and tried to sell it to offset emissions within the cap and trade system, you're potentially double counting.

So I don't think we have ever gotten a clear sense of exactly how they picture this system working well enough to understand whether it would work or not. But we do have concerns about trying to play multiple roles in a system where we've tried to design it where everyone is looking over everyone else's shoulder to make sure that all pieces fall into place.

CHAIRPERSON NICHOLS: Let me ask just a clarification.

BOARD MEMBER LOVERIDGE: Let me just subtract out perhaps what was number two and ask that it be a part of the consultation and to come back in three months.

CHAIRPERSON NICHOLS: That's fine.

BOARD MEMBER LOVERIDGE: So we're doing one,
three, and four.

EXECUTIVE OFFICER GOLDSTENE: Could I ask for clarification.

CHAIRPERSON NICHOLS: Sure.

EXECUTIVE OFFICER GOLDSTENE: I think we're on the same page, but I want to make sure.

One I think was allowing them to be verifiers --

BOARD MEMBER LOVERIDGE: Right.

EXECUTIVE OFFICER GOLDSTENE: -- both for facilitates and also for offset projects if they chose to get into that business.

And then three or four might have been establishing some sort of subcommittee of this Board maybe?

BOARD MEMBER LOVERIDGE: Three is to welcome efforts by district to develop additional protocols. And four was to set up the committee.

EXECUTIVE OFFICER GOLDSTENE: Right. And I have already had a discussion with Board Member Berg about that with Larry Greene about some kind of process similar to what we've been doing on the Moyer program where we at least have Sandy involved, but any others who would be interested in participating, as kind of a place to mediate or discuss.

CHAIRPERSON NICHOLS: Okay. So I think we will
accept those all. And thank you.

Any others?

Yes.

But that's just -- oh, sorry. One more. I know you had another issue, which is the waste to energy.

BOARD MEMBER LOVERIDGE: This is the waste to energy where there's the three waste-to-energy facilitates.

I'd like to read a Resolve. I'm proposing it.

It comes from the person who spoke most clearly and effectively about this.

"Be it Further Resolved, that in accordance with Section 415160 of the Health and Safety Code which requires that resource recovery projects should be encouraged as a matter of State policy, the Board directs the Executive Officer to determine and report back to the Board a mechanism to satisfy all the risk of emissions leakage and compliance obligations of existing municipal waste-to-energy facilities in the proposed cap and trade program."

CHAIRPERSON NICHOLS: I think that's a good proposal.

Yes.

BOARD MEMBER D'ADAMO: I thought there was also an issue with respect to accounting. And I just want to
make sure it's captured in -- has staff seen the language?

EXECUTIVE OFFICER GOLDSTENE: I don't know if

I've seen that language. But it's simply -- it's assessing. It's a commitment to assess the issue.

BOARD MEMBER D'ADAMO: I just wanted to make sure that it encompasses accounting the avoided emissions.

BOARD MEMBER LOVERIDGE: Yes.

CHAIRPERSON NICHOLS: Yeah, it would.

BOARD MEMBER LOVERIDGE: Yes.

EXECUTIVE OFFICER GOLDSTENE: That would have to be part of the discussion. That's been part of one of the challenges.

CHAIRPERSON NICHOLS: Okay. I think you see consensus on that one.

Others?

Professor Sperling.

BOARD MEMBER SPERLING: I have a few items.

First of all, I do want to comment that this proceeding is unusual and exceptional in dealing with the cap and trade in the sense that we are here debating, you know, what makes the most sense in a scientific way and an economic way. It's standing in sharp contrast to how the cap and trade in Washington DC happened. And so that's one of -- you know, that's a comment to the staff and to the Board that we have managed to make this as science
based and economics based as possible for something so
huge and important as this.

But with that comment, a few little ones. And I
think what's great about this process is that we are
focusing on, you know, making it work a little better.
And so far we haven't heard any real structural problems.

So some little ones are -- one thing I would like
to communicate to the staff is that we place -- following
up on the offset discussion, that we should encourage the
staff to give a very high priority to developing offsets
and offset protocols. You know, that's not an obvious
outcome of this. And I think we want to emphasize it.

There's a lot of organization out there starting to
develop protocols. And I think we should, you know, make
that a high priority to adopt them eventually.

Another item is that, Chairman Nichols mentioned
this idea of midcourse corrections. And I think there
should be -- the staff should -- I would like to see the
staff come up with a process on how we are -- something
written on how we are going to deal with all of these
changes that we're contemplating, not just for, you know,
in the next few months but for the coming years. In other
words, which of them are going to be dealt with by the
Executive Officer and the staff, which are going to go to
the Board? And maybe we can't put that into, you know,
really precise terms, but as precise as we can. And I think that would help and reassure a lot of people and actually make the whole process, you know, move forward better if there's a better understanding of that.

CHAIRPERSON NICHOLS: I think there's pretty good language actually on page 15 of the resolution, the Board directing the Executive Officer to develop regulatory amendments at least once each compliance period, time to adjust the program prior to the start of the next compliance period. And -- I'm not going to read the whole thing allowed. But it specifically says that the Executive Officer needs to report to the Board if he thinks that no rulemaking is needed also.

So the concept here is that the rulemaking is done by the Board. And anything that doesn't require rulemaking that's within the -- you know, within implementation could be done at the level of the Executive Officer, but he still has to report to us on what he's done within every compliance period.

I think this is an area, frankly, where the regulated community has as much of an interest as the Board does on assuring that this is going on and that it's going on in a very transparent way.

I will just say, although I wasn't on the private sector side, I was on the public sector side of this one,
having lived through the complete collapse of the
electricity market in California, that was launched with,
you know, a lot of good intentions and with a lot of
political support at the time, I don't think anybody ever
wants to go through anything like that again. And so
setting up a process whereby we are constantly monitoring
and looking at what needs to be done is going to be
absolutely critical to the success of this program. And I
don't think we would have the support to launch it,
frankly, if we haven't convinced people that we're
prepared.

EXECUTIVE OFFICER GOLDSTENE: I agree.

CHAIRPERSON NICHOLS: But I accept that comment.

BOARD MEMBER SPERLING: Wait a minute. I've
got --

CHAIRPERSON NICHOLS: Do you have more?

BOARD MEMBER SPERLING: -- a couple more, I
think.

One more, kind of along the same lines, is there
was discussion about -- well, I guess there's a resolution
item here on page 13 that talks about -- that the Board
directs the Executive Officer to contact with an
independent entity with appropriate expertise that will
monitor and provide public reports on the operation of the
market.
And I'd like to add to that with a suggestion, that in addition to contracting out that analysis, which I think is a very good idea, also have some kind of advisory board or advisory committee of experts and -- experts in these markets that can interpret that, you know, that have a political sense as well as an economic and financial sense and can translate that back both to the Board as well as to industry and the regulated parties. I've heard that suggestion in a number of places and it resonates with me, because there's a lot of concern by a lot of companies that -- you know, they come up with scenarios about how things could really go awry. And I think the more we can reassure the market and the industry and the regulated parties on that I think is a good idea.

I know we're talking about all these advisory committees, but this can be a small one. And so that's my suggestion on that item.

BOARD MEMBER TELLES: Could I add to that and make it a bigger one?

CHAIRPERSON NICHOLS: Yes.

BOARD MEMBER TELLES: With all the presentation today there was no mentioning about the market, you know, where it's going to be, how it's going to be, how it's going to be designed, who's going to be the broker, the transparency of the market, all these issues. And one of
The commentators today mentioned that a new market is the most vulnerable to be manipulated. And I think if you look at the derivative market, if you read the issue on the front page of the Wall Street Journal -- I mean of the New York Times a few days ago on how a sophisticated market could be manipulated, that we are potentially vulnerable here to be manipulated. And I just don't see enough safeguards in the design of the market. You know, there's no mention of how this is going to actually come out.

And like Professor Sperling is suggesting, I would suggest a very robust group of people to -- and I'm sure you're already doing this. I just want to assure that this is being done, is to design this market so that it's very protected. And specifically I would want the transparency to be that the buyer and the seller know the price - not like that derivative market article that was mentioned in the New York Times - and there be a transparency, and also that the brokerage fee be transparent, and that we don't begin something that could get out of hand. I'm not sophisticated enough to know how to do that, but I'm sure you can find people out there that can design a market that won't be manipulated. And I think it's very important for the success of this.

So it's one step behind his, is to add to that
maybe that -- to maybe that it's going to do this - and
I'm sure you're already talking to people - to design a
market that's going to work and to report back to the
Board on all the safeguards that you put into there.

CHAIRPERSON NICHOLS: I think that's coming in
July, right? That's what we're going to be ready to do in
July?

ASSISTANT EXECUTIVE OFFICER KENNEDY: Yeah. And
that was certainly part of the resolution on page 13 that
talks about reporting back to the Board no later than
July. That's sort of very clear information about what
we're doing to set up the market, what steps have already
been accomplished, what still needs to be done, who we've
been consulting with.

In terms of the sorts of issues that you're
raising, a lot of what we've been doing is talking very
closely with our WCI partners, because we want to have a
coordinated market; we've been talking to Hink, that
runs the greenhouse gas rating program in the northeast.
They went through a long process to get their system up
and running. We and they both believe that we'll be able
to sort of avoid some of the time that they took by
learning the lessons that they've learned.

So I think there's a lot of opportunity. We are,
you know, reaching out to the right sort of expertise as
part of this process overall. So I would agree that we do
need to be doing all of that and --

CHAIRPERSON NICHOLS: I would just add a -- I
think you said this, but just to make it absolutely clear.
I think part of the transparency needs to be that there
are names that people who are experts will recognize who
have then consulted and agreed to give us the benefit of
their advise on whether this market has been set up
properly and is working properly. I think that's the real
advantage of a committee.

EXECUTIVE OFFICER GOLDSTENE: We had planned on
doing that. We had not planned on establishing a
committee -- a formalized committee. So I want to get
some clarification from --

BOARD MEMBER SPERLING: So let me clarify.
You know, I don't think we want to dictate
exactly how to do this. But let me suggest that the staff
think about how to assure -- provide some kind of
transparencies. And it's more than transparencies. You
know, it's a concern about how things can go wrong, that
can be manipulated. Stuff happens. And, yes, you know,
the staff has done a great job designing it and probably
will. But, you know, you can't anticipate everything.
And if things go bad, it's like Chairman Nichols was
saying on the electricity deregulation, they can go really
And we just want to make sure that we anticipate it, and any signals that something like that is happening, that we detect them as quickly as possible.

EXECUTIVE OFFICER GOLDSTENE: We will do that, and we'll keep the Board informed. And that's part of the July briefing, but we can keep you informed more frequently too as we're going.

We're also -- and we have been -- Ellen Peter's team has been working with the Attorney General's Office and the Commodities Future Trading Commission and SEC and US DOJ and others. So we've been -- we have lots of people giving us good advise, and that will continue to be part of our process, as well as getting input -- these same issues that you're raising here are the exact same issues our counterparts in the other states and provinces are also going to be dealing with. And so whatever we do, it would also probably include our partners as well in terms of this market oversight and advise.

CHAIRPERSON NICHOLS: In the interests of adding some additional comfort to people who have been talking to us about what their concerns are about the market, I would offer some specific language about what could be potential actions that would be taken if the Board found that there was a problem, which could include things like taking corrective action prior to the next auction, adding new
allowances or a supply of allowance into the market to make sure that they were covered, or a temporary suspension of trading in the market. And then these are all mechanisms that, you know, I think could -- we may not want to use them and we may not need to use them, but I think just knowing that we're considering them and that they could be out there will make people feel more comfortable that we're serious about this.

So if that's acceptable, I'd like to see that actually added to the resolution.

BOARD MEMBER SPERLING: And I have just one little thing.

And there is one of the resolutions I was just reading through that I just -- I don't think I -- I'm not sure if I understand it. It's on page 14 in the middle. And it says, "The Board directs the Executive Officer to evaluate the cross-sectoral equity issues related to the treatment of transportation fuels in the cap and trade program." And it goes on and on.

I think it's referring to electric vehicles. Am I right? I'm trying to translate this.

ASSISTANT EXECUTIVE OFFICER KENNEDY: Yes, you are right in that. And some of why the language, which I think I drafted probably yesterday afternoon, is a big convoluted is I was trying to capture the issue from two
different directions at the same time. We're hearing from
the transportation fuel suppliers that as they look at
potential competition with the electricity providers in
the transportation sector, that the fact that we're giving
allowances away for free to the electric distribution
utilities give them an unfair leg up. We're hearing from
the electric utilities concerns that increased
transportation demand is going to mean problems in terms
of whether they're being traded fairly in the
cross-sectoral all issue.

So this was intended to capture essentially that
as we see increased electricity use in transportation,
this is a set of issues that we need to think about how it
plays out from all directions. So that was the intent.

BOARD MEMBER SPERLING: I like that, and that is
what I thought you were saying. Thank you.

That's it.

I guess we're just going to go down the line
here.

BOARD MEMBER D'ADAMO: I have two I'd say
questions, not requests, at this point.

But NRDC made a suggestion and they said they had
some language regarding use of allowances to return to the
customers for energy conservation programs. And I see the
language on, let's see, page 12, Be It Resolved Number 5.

And I suppose, you know, the funding could be used for
energy conservation but it's just not explicit enough.

Do you have that language? Is this what it was
related to, this provision?

ASSISTANT EXECUTIVE OFFICER KENNEDY: I have seen
the language before. I don't have it in front of me at
the moment.

And I believe what they are suggesting in terms
of what we have in our draft resolution is being more
specific about what we say there. And, you know, we
certainly could take a look at the NRDC language. And if
the Board is interested in having that be more specific
there, we could borrow from that language.

EXECUTIVE OFFICER GOLDSTENE: Again, that's a
PUC -- you're directing us to work with the PUC.

BOARD MEMBER D'ADAMO: Right. I don't want to
tie anyone's hands too much, but I'd like the idea of at
least prioritizing.

CHAIRPERSON NICHOLS: Right. And I would take
that, but I would also broaden it, because there's a
number of areas where ongoing relationship with the PUC,
this issue about the wreck accounting and how that's going
to be treated, these are not things where we can just sort
of walk away having adopted the regulation. We're going
to have to have some pretty intense and ongoing
relationships with the other agencies.

BOARD MEMBER Balmes: Just one specific point
while we're talking about the PUC. On the same page 12 it
says, second from the bottom, "Be It Further Resolved that
the Board encourages the CPUC and the POU governing boards
to work with local governments to direct a portion of
allowance value." I think "encourages" is kind of weak
there. I realize we don't have any direct authority. But
I think we should say "strongly advises" or "asks for,"
you know. But acknowledges seems wimpy to me.

BOARD MEMBER D'ADAMO: And then I had a couple of
others.

CHAIRPERSON NICHOLS: Okay.

BOARD MEMBER D'ADAMO: Okay. Louis Blumberg from
Nature Conservancy with respect to auction revenues. And
again, I don't want to like overly commit the funding.
But I did like his idea about including land use and
public transportation projects. I just came from a
meeting with the San Joaquin Valley Policy Council on
implementation of 375. It's going to be a huge challenge.
So I think that might be a nice incentive to help move
along our related goals on SB 375. I don't know where it
fits in nicely. There's the Community Benefits Fund.
And I don't know if that's necessarily the spot.
CHAIRPERSON NICHOLS: Well, having taken the plunge on the Community Benefits Funds, I think we could add the other uses that the EAAC recommended, which include SB 375 implementation and urban transportation and adaption.

BOARD MEMBER SPERLING: -- and R&D.

CHAIRPERSON NICHOLS: -- and R&D.

BOARD MEMBER TELLES: Page 32.

CHAIRPERSON NICHOLS: Okay. The language exists, I think, and it ought to -- I mean without specifying amounts or, you know, any of that, just to say that the Board agrees that these are uses that we think that the auction revenue -- I mean the Legislature ultimately is going to decide, but we could at least put our imprint on this.

BOARD MEMBER BALMES: That's beyond the 10 percent or is it --

CHAIRPERSON NICHOLS: No, beyond. We're spending people's money here.

BOARD MEMBER D'ADAMO: And then I did have just one question. I was a little unclear on Metropolitan Water District and the State Water Project. They raised concerns that it was unclear as to how staff's going to proceed in that regard.

EXECUTIVE OFFICER GOLDSTENE: Hold on just a
ASSISTANT EXECUTIVE OFFICER KENNEDY: Yeah, and we have at this point started the discussion with them in terms of the analogy that we're using -- you know, for the electricity system we're looking at the utilities as a mechanism for returned value to their ratepayers. Is there a similar mechanism for the water utilities essentially to be the vehicle for returning value to their ratepayers so that the allowance value that would be given to them if we went down that path would look parallel? We haven't worked out whether the analogy works or if there is an alternative set up. So we're in the middle of discussions with them to figure out what the right approach is to deal with the issues they're raising.

CHAIRPERSON NICHOLS: Okay. Is that it? I'm going to save mine till last because others -- I'm going to give others a chance.


BOARD MEMBER BERG: Thank you, Chairman.

First of all, I'm very heartened by the fact that this whole process has been remarkable. If we look over the two-year process and the angst and the concerns and the people that just didn't see any way that this was going to go forward, to the stakeholders meetings that all of us, but I'll say on my behalf, have had over the last
30 days, I don't know, there's something in the water, because people came back to the party really with issues that were implementation oriented, not that this couldn't be done. And that really falls back not only on the stakeholder involvement but also staff. So great job.

I'm also heartened by our Chairman's comments and the comments of staff that today is the beginning of a new level of details. I am very concerned that we have a laundry list longer than Santa's gift list that needs to be delivered in a short period of time.

And so I'm pleased that what I've heard is that we do have within the regulation the procedures and the authority to be able to handle not only the concerns we've heard today but the written concerns that have been turned in. And so we're all in agreement with that? Because it is quite a broad list. And I don't want to get in the weeds here and go down every issue that I heard. I'm going to trust that we have the ability to go through and deal with these things.

The couple of things I would like to bring up, and that is the benchmark. We heard quite a bit on the 10 percent. I'd like to hear how -- if we feel that's a policy issue and needs to be discussed at the Board level or if that is something that staff will be looking at and doing further review. And that's for the industrial
sector on their allocation. And the benchmarking issues, both in how we're establishing the benchmarks and the overall 10 percent. And maybe, are we going to give a hundred percent for the first period and then look at the 10 percent? If you could just give me some direction on that, and if you feel that you need Board discussion on that at this time.

ASSISTANT EXECUTIVE OFFICER KENNEDY: The underlying issue is how -- essentially how stringent to set the benchmark that we're using for the output-based allocation. For example, in the European Union the direction that they're going is to take a look at all of the facilities within a given industry and setting their benchmark at the facility that, you know, is better than 90 percent of the other facilities in the industry. So they've used that as a way of saying, "We want the benchmark to be particularly efficient."

We had started thinking about taking that sort of approach in California and realized that in terms of data availability it was probably going to be easier to take an approach that looked at what was going on within California facilities, and instead of -- because in some cases there's not enough industries to sort of say we're going to, you know, look at who's in the top 10 percent -- use a percentage of the average of the emissions intensity
for a given industry. And we've set that at 90 percent in
terms of the proposal that we put forward and the
direction we're intending to do.

And that does a couple of things from staff's
perspective. One is because the output-based approach
means that as we get into an economic recovery - and
certainly we hope by the time we get to the end of the
first compliance period in 2014 we have a serious recovery
taking hold, output will be going up, the amount of
allowance that would be given are going up - it gives us
in a sense a little bit of headroom in the overall
allocation, that we don't play out the formulas in a way
that we are trying to give away more allowances than we
have. And so it gives us some reassurance there. But it
also really does reinforce that we're trying with this
system to reward the most efficient of the plans within
California.

As we work through the details of the data and
see the spread of what the range of efficiencies are
within different industries, we may realize that we may
need to adjust that a bit. But we're comfortable with the
overall approach. And I think, you know, with that as the
explanation of what we're doing and why we're doing it,
it's -- I think to the Board whether or not that is
something that calls for serious policy discussion amongst
you in terms of whether to give more direction or
different direction than the approach that we were taking.

BOARD MEMBER BERG: I'm not quite sure yet what
my suggestion would be. But when you look at a three-year
running average for an industry like the cement industry,
that has obviously suffered a tremendous downturn, and
you're looking at 2008 through 2011 at their worst time
and that is going to be their allocated amount, how do we
deal with those types of issues?

So I don't know if I have a level of comfort yet.

Do we have enough flexibility? Are we looking at this
enough by industry to be able that you'll bring it back to
us, give us an updated report? There's an awful lot of
unknowns still out there, as we haven't established a lot
of the benchmarks. And so I really wouldn't know where to
take the conversation as far as from a Board discussion,
because we don't have a lot of facts and I guess that's
where my discomfort is.

ASSISTANT EXECUTIVE OFFICER KENNEDY: Two things
on that. First on the particular question of, as we put
out the proposal in October we were looking at the -- as
we, you know, played out the formula for how many
allowances a particular facility will get, we were looking
at the running average of three years of -- the three
years most recent data. So as you say, when we give out
allowances in 2012, we would be looking at the level of
output in 2008, 9, and 10.

We have heard from several industries, and cement
in particular because of the size of the downturn that
they have seen over the last two years, that that's a
particular problem. And in the attachment to the
resolution on page 8, item 3 at the very top, is a
suggestion that staff will take a look at, is it feasible
to essentially true up that allocation? So we might do
the initial allocation for 2012 based on that running
average. But once we have the actual 2012 output data, to
maybe have just given a portion of the allowances away
initially, and then give the final amount so that what
we're actually giving the allocation is based on the
actual 2012 output.

And so on that particular technical issue, we do
have the commitment to take a serious look at whether that
is something that we could work into the regulation in the
15-day changes.

On the broader issue that there is a lot of
technical detail, and it is going to matter a lot what the
final answer is on what those numbers are. That is,
without question, going to be one of the central things in
what's described in the report that we would need to come
back to the Board by the end of July saying, "Okay, we
have checked off the following things on implementation:

One of those pieces would be either we have the final numbers - and then we should if we're going to be able to start on time - or this is the plan going forward for that.

So there is an opportunity for us to report back to the Board on how those discussions go over the next six months, what the final answers look like.

So I don't know if that gives you the level of comfort you need or not.

BOARD MEMBER BERG: I think it does.

Does it also allow for Board input at that time?

Or if you feel that you have found other data that you want to bring back to the Board, would we be able then to resume discussion?

ASSISTANT EXECUTIVE OFFICER KENNEDY: Yeah. And if we were starting to see problems, we would probably want to come back to the Board sooner than the formal July report and just sort of let you know what's going on.

But in the context of 15-day changes, it is essentially left to the discretion of the Executive Officer is it necessary to bring any of those changes back to the Board. And I think as we got towards the July report, we'd be able to see, "Oh, no, we've worked it out and it's pretty much" -- you know, we just need to let you
know everything's fine, or is there a serious decision
that needs to be made that we do think needs to come back

to the --

CHAIRPERSON NICHOLS: And I would encourage all
the Board members, if you see something that you think may
not be getting addressed properly, to flag that quickly so
that we can bring it back.

BOARD MEMBER BERG: I think I'm comfortable with
that.

Also, this would also include the gap of the
companies that may come into the program from 2008 to
2012 -- oh, I'm sorry -- 2011 as we heard from Dow
Chemical, for example, and what the procedure will be for
those newcomers, so to speak?

ASSISTANT EXECUTIVE OFFICER KENNEDY: Yes.

BOARD MEMBER BERG: Great.

I think I'm comfortable with that, Chair, and can
allow that to stand.

The other issue that I did hear was, looking out
to 2015 I think we need to be mindful in bringing in the
transportation fuels and how we're going to handle that.
And the impact on to the price of fuel. And I would
certainly agree with my fellow Board members on the expert
working group, or however we're going to implement that on
the trading aspect, the price and the impact. But I'd
also like to encourage a working group that would be more
on the industrial sector that would deal with
implementation issues. I think there's a lot of
misinformation out there. And I think when it's
appropriate, it would be very helpful in the outreach to
be able to do an implementation group which has been very
successful on some of our other very difficult rules. And
I would encourage that. Although I'm not suggesting
anything specifically for a resolution. That's just an
encouragement.

So with that, I think I will say that I will stay
involved. I have a laundry list myself. But I do want to
say thank you very much, not only to staff but to
stakeholders. We'll stay close to assure that we can be
helpful in any way that you need us.

Thank you.

CHAIRPERSON NICHOLS: Thank you very much.

Dr. Telles, do you have any additional points?

BOARD MEMBER TELLES: Well, first of all, I think
last week everybody was in a -- the people that I talked
to were in a panic about the trade-exposed and
energy-intensive issue in this. And I think in listening
to the staff here and the comments from the public,
that this was going to be a six-month process and there'll
be plenty of time to listen. And specifically the
industries in the area that I live in, the food processing
industry, had some points that were kind of new and will
be considered, I'm sure, by staff. But that's probably
just representative of one industry, and I'm sure there's
lots of others. And I feel much more confident that
that's going to happen now, that there's a process for
that going on.

Now, having said that, I think the process needs
a lot of monitoring. And there is a provision for
monitoring on page 14, at the bottom there, in the
resolution. And I would add a few other things that
should be monitored.

Is everybody there at the bottom of the page?

"Monitored and reported back on a yearly basis to
the Board." Things which I would add would be the effect
on small businesses. Some of the small businesses here
suggest that there actually be a special committee to look
at that. But I think maybe the staff could do that.

I think also the effect of leakage on California
industries. And I would look at that as not just leakage
of carbon but loss of market share for our industries,
some way to report that back to the Board on a yearly
basis.

The effect on low income households. And also
the effect -- or the origin of offsets. I think to have
the benefits in California, we have to have as many
offsets in California as possible. I would like to be
able to see some kind of report of where the offsets are
coming from, hoping that we will see a lot of offsets in
California. And if we don't see a whole lot of offsets in
California, that would be potentially a problem.

PG&E in their comments mentioned that it was
important to monitor the reserve account. And I think in
case we're getting to some critical low level. They also
suggested that if the reserve account gets to some
critical low level, that the price of these allowances
becomes so high that the process be put on hold for
awhile. But I don't know if that's possible.

CHAIRPERSON NICHOLS: Well, I think that was what
I was suggesting in the language that I offered and the
methods that could be used.

BOARD MEMBER TELLES: But we should at least be
aware of where the reserve account is.

So that goes to monitoring.

As far as the general concepts of the program,
the Economic Advisory Committee suggested that there be a
dividend or a rebate. And a lot of the public suggested
that also today. And I'm just wondering why wasn't that
included? It's a question. And I'll come in with why I
think it should be included.
CHAIRPERSON NICHOLS: Well maybe I could address
that and just put this out there.

We have believed from the beginning that while
ARB had -- this is the legal advise that we've had -- that
while ARB has the option to conduct an auction - and not
everybody agrees with this, by the way, but I think our
attorneys are comfortable with this - that we have the
authority to conduct an auction, we do not have the power
to appropriate the money to direct how the money would be
spent from the auction. So, you know, I guess we've gone
out on a limb by saying what we think should happen with
some of the proceeds.

BOARD MEMBER TELLES: I was -- you know, we have
the -- the utilities are getting a free auction and we
kind of tell the utilities how to use that.

CHAIRPERSON NICHOLS: I grant you it's a question
of what's within our authority.

BOARD MEMBER TELLES: And what's the difference
in telling a utility to use it for this energy saving
thing directed by the PUC versus just giving a rebate back
to the ratepayer?

CHAIRPERSON NICHOLS: Well, could I pull lawyer
rank on you? There's a difference between a tax and a
regulation, even though some people are going to say
they're the same thing. And we could go a lot further
into this if you want to, but I don't want to do it right here.

BOARD MEMBER TELLES: Can I pull a common sense rank?

The common sense is this is a market -- It's supposed to be market-based. We're excluding I think the most important entity from the market, and that's the citizen from California. And the way we're excluding them is that they're not getting a rebate to decide how to use the money from this market.

CHAIRPERSON NICHOLS: I don't think we're excluding them. I just think we're doing the limits of what we have the authority to do.

BOARD MEMBER TELLES: Let me state this a different way. In page 14 -- or what is it, page -- well, one of the resolutions there where we direct the Public Utilities Commission to direct the utilities -- to direct them to kind of compensate for this --

EXECUTIVE OFFICER GOLDSTENE: Is this paragraph 5 on page 12?

BOARD MEMBER TELLES: Yeah. And I mean we're having a public agency tell a public agency telling a utility how to spend this money. And to me somewhere if you have three agencies and a public utility involved in the market, you don't have a market. You know, it's --
CHAIRPERSON NICHOLS: This isn't a market like hog bellies. It's one of the -- it's a market-like program.

BOARD MEMBER TELLES: What I'm saying is let the citizen in California decide how to use the money from this rather than have the Public Utilities Commission tell the public utility or the privately owned utility how to use the money.

CHAIRPERSON NICHOLS: I understand what you're trying to accomplish. And we could argue about whether that's the right thing to do economically, legally, or morally. I'm just saying I don't think we can do it here. We can talk further about this. But, you know, we could pass a resolution that said we wished that's what would happen, that the Legislature would do that. Although I don't know that we would want to do it right now. But we can't do it in this regulation.

BOARD MEMBER TELLES: Well, I'm a little confused, because on page 11 where we talk about the Community Benefits Fund, it sounds like we're directing the Legislature on how to spend 10 percent of the -- I know we can't do that, but --

CHAIRPERSON NICHOLS: We can't do that. We're breaking --

BOARD MEMBER TELLES: Is the language there
wrong?

CHAIRPERSON NICHOLS: No, we're just putting it aside. We're just putting it aside before we turn it over to them. They can still spend it if they want to. They could --

BOARD MEMBER TELLES: They could spend it any way they want.

CHAIRPERSON NICHOLS: They could do whatever they wanted to.

BOARD MEMBER TELLES: So that little piece of resolution for the Community Benefits Fund really has no meaning.

CHAIRPERSON NICHOLS: Correct. And we've acknowledged that. We said that to the community. We know that if the Legislature wants to come in and override us on that, they can. And they might. Although I think that we will -- because we're operating completely within the language of AB 32, I think we have a strong ground to stand on there that this is the way that we're implementing the language that's very clear in AB 32 about what the Legislature wants to have happen with respect to impacted communities.

I don't think there's anything in the legislation -- I mean first of all the whole issue of cap and trade is treated as a maybe, you could do it if you
made certain findings. And beyond that there's no
direction as to how it's supposed to work.

So, you know, we're inventing this. I mean,
we're just -- you know, we're creating something here
that, frankly, you know, we've adopted or we will have
adopted hopefully by the time we finish with this, you
know, something that we can package up and show to the
world. But there's still going to be quite a bit of
action needed before it actually becomes operational.

BOARD MEMBER TELLES: Now, here's the ringer. My
almost noncompromisable position on this is that, when you
read AB 32, one of the important things there is to not
hurt the economy and not to disadvantage any already
disadvantaged community. And no place in this regulation
do we have language strong enough to do that. And I'll
give you a great example.

About four months ago I came into my office and
one of the new people I hired was crying. And I said,
"Maria, why are you crying?" And she said, "Well, two
weeks ago they turned off the electricity in my house."
And I said, "They did?"

Okay. The Public Utilities Commission and PG&E
didn't protect that person. And I think it's behooving
to -- I mean we need to be in a position to protect that
type of person.
And if you look at the Economic Advisory Committee, page 38, there's a table there that shows you the disproportionate impact. This is a regressive tax on the economically disadvantaged community. It's a regressive tax. It states that in there and it gives a good example why.

I do not think that we can pass something that doesn't in very strong language protect this particular group of people. I think it would be -- and maybe we're not supposed to do moral things. But to me this is a moral issue that is beyond the issue of greenhouse gas emissions reductions. This to me is a higher value than greenhouse gas emissions reductions.

I don't know how you're going to deal with this. But it has to be much stronger than this. I don't think we're accomplishing what AB 32 wished us to do. There's not enough protection here for that group.

CHAIRPERSON NICHOLS: I don't think we have the time to debate this. I really don't. And I regret that, because I don't know what the situation was with the woman that was working for you or why it was that she couldn't pay her bill.

I live in the utility service area of a utility which has about half of its customers on lifeline rates and where people do not get their utilities shut off. I
mean there's an emergency fund that exists to make sure
that people don't get their heat and their lights turned
off in winter that people pay into voluntarily. I mean
you really have to be willfully refusing to pay your bill
and unwilling to get help in order to have your
electricity turned off.

So I don't know what the story is on this person.
It's sounds like a tragedy. But I just think it's beyond
the scope of what we can talk about right now.

We're also about to lose one of our Board
members. And I think everybody here wants an opportunity
to vote on this. We are at the point where, you know,
we're coming down to the last minutes, I think, of
people's ability to stay. And I think it's important that
we give ourselves an opportunity to vote on this measure.

So I'm going to have to just stop you on that
one, I think. And I regret the consequences if that is
too difficult for you to accept. But I think it's also
important to realize that there are limits to what we can
resolve before we've actually gone through the details of
implementation here, and there is a lot of implementation
detail. And I think the issue that you're raising is a
legitimate one, for how do we make sure that customers at
the low end are being protected.

It's not just the PUC, because 40 percent of the
people in the state aren't served by investor-owned utilities. So it would be something we should look at doing somehow through the state regulation. And I'll accept that as an amendment to the regulation, that the impact on low income people is one of the things that we need to continue to monitor. I'm just not able to take it to the next step and specify what the mechanism for dealing with this is going to be.

If you've got other issues that you want to put in the form of resolution, we've got I think a couple of minutes and then we're going to lose Lydia Kennard. And so I'd like to try to wrap this up with the things that we could actually put in the resolution.

BOARD MEMBER BALMES: I have one quick issue, so hopefully it won't take too long. And it was brought to my attention by the Coalition For Clean Air, which has been one of the major supporters of the Community Benefits Funds.

And it was really -- you know, they're very pleased that we have a Community Benefits Fund resolution. The second sentence about directing the Executive Officer to initiate a public process to develop recommendations to the Legislature and Governor, they're actually concerned that that's going to impede the Legislature acting quickly on that. And I just wanted to be reassured that that's
not the case.

CHAIRPERSON NICHOLS: I think it's not the case.
And I think to do anything different actually makes it
less likely that we have the opportunity to give them some
further -- I mean the legislation that was being
considered before directed us to do exactly the kind of
process that we're saying we're doing now. So in effect
we'd just be getting a jump-start on the legislation as
opposed to precluding it. So I don't think that's an
issue.

I have one more that I want to add, which is also
one of the issues that was raised by the environmental
community. It was raised by several people. And that was
a request that we look at the role of biomass under the
cap. It's not there. It's not -- I mean we have the
waste-to-energy issues, which are important. But we have
a lot of biomass in this state, and we haven't thought
about how it gets included or doesn't get included. And
that's one where I'd really like to see the staff initiate
some investigation and report back to the Board. No
specific direction on what to do but to look at that
possibility.

BOARD MEMBER BALMES: Well, I was actually going
to bring that up. But in the interest of time, decided
not to. So I strongly endorse that position.
CHAIRPERSON NICHOLS: Good. Thank you.

BOARD MEMBER SPERLING: Are you asking -- is it
the idea of exempting the biomass from the measurements
or --

CHAIRPERSON NICHOLS: Yes. As of now it's
treated as zero for measurement purposes.

BOARD MEMBER SPERLING: Okay. So I did give a
lot of thought and time and discussion to that. And I
think that -- obviously a shortcut was taken in doing that
to simplify things. But I think it was a reasonable one,
and so I would -- for the simple reason that, one, on the
transportation side it's already handled through the LCFS,
which is going to be more binding than the cap and trade
in that case; and on the electricity side it's probably
going to be a very minor effect, because most of it's
waste materials to start with. And so, yeah, there'll be
some extra greenhouse gases associated with equipment use.

So I would just say I don't -- after paying a lot
of attention and talking to a lot of people, I'd say that
the staff should monitor it especially on the electricity
side. But it's not likely to be a big issue or shouldn't
be a high priority item.

CHAIRPERSON NICHOLS: I'd be happy if they gave
me a report that just said what you just said, with a
couple more numbers associated with it, or a citation or
two.

EXECUTIVE OFFICER GOLDSTENE: We'll work on a report.

CHAIRPERSON NICHOLS: Well, we should look at it. Just your word is good but not maybe quite good enough.

BOARD MEMBER D'ADAMO: I just want to make sure that - staff would probably do this anyway - but look at the impacts in the valley, because we have the ag burning prohibition and a need to redirect that waste, in the valley especially.

CHAIRPERSON NICHOLS: Right. Good point, good point.

EXECUTIVE OFFICER GOLDSTENE: So we could do a regional analysis.

CHAIRPERSON NICHOLS: I think we've done enough. I think it's time.

And I'm also really at the point where I want to wrap a bow around our decision today, because I think something extraordinary has been done. And when I came to the Air Resources Board in July of 2007, it wasn't even clear that the scoping plan was going to get done. And since that time we have now acted on every single measure that was called for in the scoping plan, and done every single one of them in a timely fashion.

It really is an extraordinary piece of work, and
obviously the staff has been the one that has done the
bulk of the work. But this Board deserves also to get
itself a lot of credit for the time and effort and energy,
intellectual and other energy that people have put into
becoming experts on the issues that we're dealing with
here today.

The cap and trade rule certainly is broader in
its scope and application than any of the other rules that
we've dealt with to date. We know that it is an historic
venture and we know that we will not have gotten
everything right. But we've done everything we could at
this point I think to get it into shape where we can
honestly say that we have a product that we are proud of.

And in light of the fact that California did go
through an unprecedented election where there was an
attempt to put the whole program to rest because of the
state of the economy and yet we still are in a situation
where the economy is fragile and where we do need to be
aware of the impacts of everything we're doing, I think
we've made very careful, good judgments about the extent
to which we're following the advice of our advisors that
would have wanted a pure auction versus the advice of I
think most political people which would be to do as little
as possible as slowly as possible, I mean just to make it
very, very cautious and careful. I think we are being
cautious and careful, but we're being cautious and careful
within the context of a very bold effort. And it's going
to be something that's going to have to be nurtured and
cared for for a long time to come.

But the step that we're about to take is one that
I think we will all look back on and think of as really a
capstone of this administration's work.

So I'm going to call for a vote at this point.
And I will ask the Board clerk to call the roll.

EXECUTIVE OFFICER GOLDSTENE: Chairman Nichols,
there are two votes, one on cap and trade --

CHAIRPERSON NICHOLS: -- and on the mandatory
report -- can't we vote on them both together, the cap and
trade and the mandatory reporting rule?

They're two separate resolutions.

CHIEF COUNSEL PETER: You could vote on them
both.

CHAIRPERSON NICHOLS: Vote on them both.

All right. Let's have a motion to approve both
of these resolutions.

BOARD MEMBER ROBERTS: So moved.

BOARD MEMBER BALMES: Second.

CHAIRPERSON NICHOLS: Moved and seconded.

All right. Maybe we could do this on a voice
vote. It might be just as easy.
BOARD MEMBER TELLES: I don't think we can do it on a voice vote.

CHAIRPERSON NICHOLS: We can't?

All right then, we won't.

We'll call the roll.

BOARD CLERK MORENCY: We're voting on Resolution No. 1042.

Dr. Balmes?

CHAIRPERSON NICHOLS: And --

BOARD CLERK MORENCY: -- and 10 -- yes, 1043. I apologize.

Dr. Balmes?

BOARD MEMBER BALMES: Yes.

BOARD CLERK MORENCY: Ms. Berg?

BOARD MEMBER BERG: Yes.

BOARD CLERK MORENCY: Ms. D'Adamo?

BOARD MEMBER D'ADAMO: Aye.

BOARD CLERK MORENCY: Ms. Kennard?

BOARD MEMBER KENNARD: Yes.

BOARD CLERK MORENCY: Mayor Loveridge?

BOARD MEMBER LOVERIDGE: Yes.

BOARD CLERK MORENCY: Mrs. Riordan?

Supervisor Roberts?

BOARD MEMBER ROBERTS: Yes.

BOARD CLERK MORENCY: Professor Sperling?
BOARD MEMBER SPERLING: Yes.

BOARD CLERK MORENCY: Dr. Telles?

BOARD MEMBER TELLES: No.

BOARD CLERK MORENCY: Supervisor Yeager?

BOARD MEMBER YEAGER: Yes.

BOARD CLERK MORENCY: Chairman Nichols?

CHAIRPERSON NICHOLS: Yes.

BOARD CLERK MORENCY: And the motion passes eight to two.

CHAIRPERSON NICHOLS: No.

BOARD CLERK MORENCY: Excuse me. Nine to one.

Excuse me. I apologize.

CHAIRPERSON NICHOLS: That's okay.

Well, I have invited the members of the Board and the staff to come and celebrate after this to have a little bit of holiday cheer. So hopefully we'll be able to do that.

But before we do that, I know that there's an indication that press had questions they wanted to ask, and I was asked to announce that there would be some availability in the pressroom downstairs in this building to answer questions.

Otherwise, congratulations, and thank you all.

Good night.

(Thereupon the California Air Resources
Board meeting adjourned at 7:05 p.m.)
CERTIFICATE OF REPORTER

I, TIFFANY C. KRAFT, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing hearing was reported in shorthand by me, Tiffany C. Kraft, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of December, 2010.

TIFFANY C. KRAFT, CSR
Certified Shorthand Reporter
License No. 12277