

MEETING  
STATE OF CALIFORNIA  
AIR RESOURCES BOARD

JOE SERNA, JR. BUILDING  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
BYRON SHER AUDITORIUM, SECOND FLOOR  
1001 I STREET  
SACRAMENTO, CALIFORNIA

THURSDAY, DECEMBER 16, 2010

9:09 A.M.

TIFFANY C. KRAFT, CSR  
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## APPEARANCES

### BOARD MEMBERS

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Ms. Doreene D'Adamo

Ms. Lydia Kennard

Mr. Ronald Loveridge

Mrs. Barbara Riordan

Mr. Ron Roberts

Dr. Daniel Sperling

Dr. John G. Telles

Mr. Ken Yeager

### STAFF

Mr. James Goldstene, Executive Officer

Ms. La Ronda Bowen, Ombudsman

Mr. Tom Cackette, Chief Deputy Executive Officer

Mr. Kevin Kennedy, Assistant Executive Officer, Office of  
Climate Change

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

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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

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ALSO PRESENT

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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

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ALSO PRESENT

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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

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Elizabeth Hadley, Redding Electric Utility

Lane Hallenbeck, ANSI

APPEARANCES CONTINUED

ALSO PRESENT

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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

APPEARANCES CONTINUED

ALSO PRESENT

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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

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ALSO PRESENT

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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 Tassaró, 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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1 PROCEEDINGS

2 CHAIRPERSON NICHOLS: Good morning, everybody.  
3 And welcome to the December 16th, 2010, public meeting of  
4 the Air Resources Board.

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

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

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

15 CHAIRPERSON NICHOLS: The Clerk will please call  
16 the roll.

17 BOARD CLERK MORENCY: Dr. Balmes?

18 BOARD MEMBER BALMES: Here.

19 BOARD CLERK MORENCY: Ms. Berg?

20 BOARD MEMBER BERG: Here.

21 BOARD CLERK MORENCY: Ms. D'Adamo?

22 BOARD MEMBER D'ADAMO: Here.

23 BOARD CLERK MORENCY: Ms. Kennard?

24 BOARD MEMBER KENNARD: Here.

25 BOARD CLERK MORENCY: Mayor Loveridge?

1 BOARD MEMBER LOVERIDGE: Here.

2 BOARD CLERK MORENCY: Mrs. Riordan?

3 BOARD MEMBER RIORDAN: Here.

4 BOARD CLERK MORENCY: Supervisor Roberts?

5 BOARD MEMBER ROBERTS: Here.

6 BOARD CLERK MORENCY: Professor Sperling?

7 BOARD MEMBER SPERLING: Here.

8 BOARD CLERK MORENCY: Dr. Telles?

9 BOARD MEMBER TELLES: Present.

10 BOARD CLERK MORENCY: Supervisor Yeager?

11 BOARD MEMBER YEAGER: Here.

12 BOARD CLERK MORENCY: Chairman Nichols?

13 CHAIRPERSON NICHOLS: Here.

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

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

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

22 We will be imposing a time limit today. It will  
23 be three minutes as usual, although we may shorten it up  
24 depending on how many speakers we have. And we appreciate  
25 it if you have written testimony if you make sure that we

1 know we have your written testimony and do not read it,  
2 but just summarize it and go straight to your main points,  
3 because your written testimony will automatically be  
4 entered into the record of the hearing.

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

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

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

25           I think that in light of the numbers of



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

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

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

24           We will be considering a resolution, and there  
25 will be a lot of specifics. And I know many of the people

1 here have participated at great length in the development  
2 of the regulations and are very interested in specific  
3 language that will be in the Board resolution and the  
4 direction to the staff. And we'll be talking about a lot  
5 of pretty detailed issues probably as we get towards the  
6 end of the meeting. But we're going to do our best to  
7 have all of us keep track of the issues that we're most  
8 concerned about and be ready to have that formal  
9 discussion at the end of the day.

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

22           The proposed regulation that's before us was  
23 released at the end of October. And as I'm sure most of  
24 you in the audience are very well aware, California has  
25 been known for many years now as a world leader in energy

1 efficiency, air quality protection, and clean technology.

2           So the proposed Cap and Trade Program really  
3 builds on a history, a legacy of leadership in our state.  
4 It does provide another opportunity for us to take a  
5 leadership role. It will establish, if we adopt it, the  
6 nation's first broad-based cap and trade system that uses  
7 market forces. And it will cover the sources of about 85  
8 percent of our emissions, although the rule itself doesn't  
9 try to achieve all of those reductions through the market  
10 system.

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

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

22           It's our belief -- and I think it has been now  
23 well supported by the public at large -- that, indeed,  
24 adoption of a program like this is probably California's  
25 best insurance against future recessions. The Cap and

1 Trade Program sends a clear signal to the global  
2 investment community that investment in California's clean  
3 technology and clean energy industries will be rewarded.  
4 It will maintain our status as a magnet for clean tech  
5 investments and help drive the development of clean jobs  
6 and clean innovation. This will help our economic  
7 economy.

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

14           At the same time, we're also well aware that we  
15 in California are indeed on a different path from many  
16 other states in terms of our willingness and eagerness  
17 even to be out in front on the issue of reducing  
18 greenhouse emissions and that we're not likely to see  
19 comprehensive federal climate legislation in the next  
20 Congress, as many had hoped. And, therefore, California,  
21 along with other states that are willing to move forward,  
22 has the opportunity but also the responsibility to take  
23 actions that demonstrate that we can address climate  
24 change in a way that actually improves the environment and  
25 protects the economy.

1           We have much to lose if we just wait for things  
2 to get better, and we have even more to lose by waiting  
3 than we do by acting.

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

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

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

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

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

21           Staff will present for your consideration the  
22 proposed cap and trade regulation, including four offset  
23 protocols as well as amendments to the mandatory reporting  
24 regulation. We'll present the key elements of the  
25 regulations. And since the two regulation packages are so

1 closely linked, we're going to present them together, but  
2 you will vote on each of them separately.

3 I'd like to build on Chairman Nichol's comments  
4 about the importance of California and other states moving  
5 forward to act on climate change. In designing the Cap  
6 and Trade Program, we worked closely with our partners in  
7 the Western Climate Initiative to design a regional  
8 greenhouse gas market program. The regulation you'll  
9 consider today includes the framework for linking  
10 California's program with those implemented in other  
11 Western Climate Initiative jurisdictions. We anticipate  
12 three or four of our partners, New Mexico, British  
13 Columbia, Ontario, and Quebec to have programs approved by  
14 early next year. Staff will be back in the second half of  
15 2011 with specific recommendations on linking with those  
16 programs so that broader WCI market system can be launched  
17 when our program starts in 2012.

18 Looking beyond the Cap and Trade Program, we're  
19 also working with our WCI partners at a broader array of  
20 emission reduction measures needed to achieve our overall  
21 goals. We've been participating in what we call the three  
22 regions effort with other jurisdictions, the RGGI  
23 initiative in the northeast and the Midwest Governor's  
24 Accord. The point is while we're taking strong leadership  
25 in what we've been doing here in California, we're not

1 acting alone.

2 Now I'd like to ask Dr. Steven Cliff from our  
3 Office of Climate Change to begin the staff presentation.

4 (Thereupon an overhead presentation was  
5 presented as follows.)

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

9 Today, I will present staff's proposed regulation  
10 for the California Cap and Trade Program, including four  
11 compliance offset protocols.

12 I will also present our proposed amendments to  
13 the mandatory reporting regulation. Although I'm  
14 presenting these two items together, they are two separate  
15 action items for your consideration.

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

21 The Cap and Trade Program you are considering  
22 today is the final major piece of California's climate  
23 change mitigation strategy. Through a declining emissions  
24 limit, the Cap and Trade Program provides emissions  
25 certainty but also allows the State to achieve its

1 emission reduction goals in a cost effective manner.

2 --o0o--

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

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

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

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

15 --o0o--

16 PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: Cap  
17 and trade is an effective environmental tool for reducing  
18 emissions. It has been used successfully by the U.S. EPA  
19 to reduce acid rain and is used to regulate greenhouse gas  
20 emissions in the European Union and ten states in the  
21 eastern U.S. A well-designed Cap and Trade Program  
22 provides green benefits. It puts a price on emitting  
23 greenhouse gases which provides incentive for reducing  
24 emissions and spurs innovation. Cap and trade stimulates  
25 reductions from covered sources without requiring an



1 individual regulation for all greenhouse emissions.  
2 Pricing greenhouse gases and creating a market allows for  
3 participants to seek out the most cost effective emission  
4 reductions, lowering the program's overall cost.

5 Cap and trade also establishes a framework for a  
6 low carbon economy and drives long-term investment in  
7 cleaner fuels and more efficient use of energy.

8 The proposed program is designed to complement  
9 other measures, including standards for cleaner vehicles,  
10 low carbon fuels, renewable electricity, and energy  
11 efficiency. It will also support California's existing  
12 efforts to reduce criteria and toxic air pollutants.

13 Another feature of this program is that it can be  
14 linked to others, such as our partners in the Western  
15 Climate Initiative, or WCI. Linking with the WCI will  
16 create a regional market that will provide greater  
17 emission reductions than would be possible if California  
18 acted alone.

19 --o0o--

20 PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: As I  
21 mentioned earlier, the Cap and Trade Program establishes a  
22 limit, or cap, on the amount of greenhouse gases that can  
23 be emitted by all covered entities. The cap provides  
24 certainty in the total tons of greenhouse gases that may  
25 be emitted. Cap and trade uses allowances to limit total

1 emissions, allowances or permits, and each one is equal to  
2 one metric ton of emissions. The number of allowances  
3 issued is equal to the cap.

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

9 --o0o--

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

21 Additionally, the Economic and Allocation  
22 Advisory Committee, EAAC, was created to assist ARB in  
23 developing the Cap and Trade Program.

24 Staff carefully considered the input from these  
25 Committees during the program's development. In addition

1 to workshops, staff had hundreds of individual stakeholder  
2 meetings and considered thousands of comments.

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

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

12                               --o0o--

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

25                               --o0o--

1               PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: In  
2 addition to our regional activities, we are also working  
3 with our federal counterparts. U.S. EPA has taken  
4 important first steps to initiate a national program to  
5 regulate greenhouse gases as required under the Clean Air  
6 Act, and ARB strongly supports their effort.

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

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

16    --o0o--

17              PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: ARB  
18 plays many key roles in designing and administering the  
19 Cap and Trade Program, including setting the cap and  
20 creating allowances, tracking the market, approving  
21 linkage to other programs, and ensuring compliance.

22              And now let's turn to these details.

23    --o0o--

24              PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: The  
25 cap is a subset of the statewide limit on emissions under

1 AB 32. Setting the cap at the right level is critical to  
2 achieving our 2020 goal. The regulation specifies the  
3 number of allowances issued each year, totaling 2.7  
4 billion over the life of the program.

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

8 The program establishes three-year compliance  
9 periods: The first from 2012 through 2014; the second  
10 from 2015 through 2017; and the third from 2018 through  
11 2020.

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

16 --o0o--

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

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

25 In 2015, the program scope is expanded to include

1 emissions from fuels. The 2015 cap adds the expected  
2 emissions from fuels to that of emissions covered in the  
3 first compliance period, increasing the cap to about 395  
4 million metric tons. The cap then declines to 334 million  
5 tons in 2020. The Scoping Plan estimated the 2020 cap to  
6 be 365 million metric tons. This number was based on the  
7 emissions from entire sectors that we cover in the  
8 program. Since then, we have refined exactly which  
9 emission sources within the sectors that are covered under  
10 the program. The proposed regulation, therefore, sets the  
11 cap at 334 million metric tons in 2020. This does not  
12 increase the stringency of the program, but simply  
13 reflects a better estimate of covered emissions.

14 --o0o--

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

23 --o0o--

24 PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: Now  
25 that I've described what entities must do, I'd like to

1 turn to what they are allowed to trade.

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

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

11                                   --o0o--

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

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

22                                   --o0o--

23           PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: The  
24 program creates a gradual transition through the design of  
25 the allocation system. This approach relies primarily on

1 free allocation at the start of the program to minimize  
2 near term costs to California consumers and businesses,  
3 and to minimize emissions leakage. Although most of the  
4 allowances will be freely distributed in the early years,  
5 a small percentage will be directly auctioned by ARB.

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

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

20   --o0o--

21           PROGRAM DEVELOPMENT SECTION MANAGER CLIFF:

22 Consistent with the EEAC recommendation, staff proposes to  
23 allocate allowances to the industrial sector to promote  
24 growth and minimize leakage. This approach includes what  
25 we've termed "transition assistance," which provides free



1 allocation at the end of the program to prevent economic  
2 impacts to businesses in California.

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

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

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

22           The risk of emissions leakage was determined by a  
23 quantitative assessment of emissions intensity and trade  
24 exposure for each industrial sector. The results of our  
25 analysis serve as the basis for calculating how allocation

1 to the industrial sector will change over time.

2           We received many comments regarding our  
3 assessment of leakage for different industries and will  
4 continue to refine this analysis and make recommendations  
5 to the Board for any changes to our assessment. Staff  
6 will continue to finalize the benchmark values as part of  
7 15-day changes.

8   --o0o--

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

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

20           This approach also allows California to build on  
21 its aggressive actions and goals to reduce emissions in  
22 the electricity sector. Productions from strong energy  
23 efficiency goals and by increasing renewable electricity  
24 sector to 33 percent by 2020 under the renewable  
25 electricity standard recently adopted by the Board. The

1 proposed allocation system builds on utility resource  
2 plans that are designed to comply with the 33 percent  
3 renewable requirement and to increase energy efficiency.  
4 We are working to ensure that our allocation strategy  
5 compliments this. Staff will finalize the details of the  
6 allocation system following additional data renew and  
7 analysis.

8 --o0o--

9 PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: The  
10 ability to trade is one of the most important ways to  
11 program reduces costs. The trading allows entities to  
12 find the lowest cost emission reduction.

13 The proposed regulation also includes elements  
14 designed to further reduce compliance cost without  
15 compromising environmental integrity. The three-year  
16 compliance period provides flexibility by smoothing out  
17 annual emissions variation as seen in the electricity  
18 sector. It also gives covered entities a longer time  
19 frame to reduce their emissions.

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

25 I will discuss the allowance reserve offsets and

1 linkage in more detail in the next several slides.

2 --o0o--

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

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

20 --o0o--

21 PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: An  
22 offset is a credit that represents a reduction of  
23 greenhouse gas emissions from activities that are not  
24 covered by the cap. In the proposed program, offsets are  
25 equivalent to allowances and may be used by covered

1 entities for a portion of their compliance. Allowing  
2 offsets increases the supply of compliance instruments in  
3 the market, which reduces the overall costs of the  
4 program. Including offsets in the program also supports  
5 the development of innovative projects and technologies  
6 from sources outside capped sectors.

7 --o0o--

8 PROGRAM DEVELOPMENT SECTION MANAGER CLIFF:

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

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

17 A supply of compliance offsets is important to  
18 achieving the program's overall cost containment goals.  
19 To ensure that a sufficient supply of high quality offsets  
20 is available, the regulation establishes rules for third  
21 parties that operate offset programs to fulfill some  
22 administrative role. This will allow us to access the  
23 existing capability of third party registries so that the  
24 offsets program can be deployed quickly. These programs  
25 be subject to ARB audits and oversight.

1           Under the proposed program, a covered entity may  
2 use no more than eight percent offsets to satisfy its  
3 emissions obligation. When combined with the allowance  
4 reserve, this limit ensures that a majority of reductions  
5 come from covered entities, if the reserve is not fully  
6 tapped.

7                               --oOo--

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

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

1 U.S.

2

--o0o--

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

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

10

--o0o--

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

20 There are currently four types of projects  
21 identified in the regulation for early action offsets.  
22 The project types are: U.C. forest projects, urban forest  
23 projects, U.S. ozone depleting substances project, and  
24 livestock manure digester project. There could be  
25 additional offsets that qualify for early action in the

1 future. As staff proposes additional compliance offset  
2 protocols, it will evaluate whether existing offsets  
3 should be accepted for compliance on a protocol by  
4 protocol basis.

5 --o0o--

6 PROGRAM DEVELOPMENT SECTION MANAGER CLIFF:

7 California has the opportunity to encourage international  
8 offsets to reduce emissions. The proposed regulation has  
9 a framework for accepting sector-based offset credits from  
10 developing countries. We're currently not proposing to  
11 approve any sector-based offset programs or adopt any  
12 related protocols at this time. However, our proposed  
13 framework will help provide incentives for developing  
14 countries to reduce their emissions and to establish  
15 sector-based offsets programs of high quality.

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

20 Since 2008, we have been working on issues  
21 related to reducing emissions from deforestation and  
22 forest degradation called REDD, through existing  
23 partnerships, such as the Governor's Climate and Forest  
24 Task Force, or GCF. REDD is likely one of the first  
25 sectors to be proposed to the Board for consideration.



1           Last month, Governor Schwarzenegger held the  
2   third annual Governor's Global Climate Summit. At the  
3   summit, the Governor announced an MOU between California,  
4   Acre, Brazil, and Chiapas, Mexico, to create a subnational  
5   working group to develop recommendations for REDD specific  
6   requirements. This partnership will further our goals of  
7   allowing high quality international offsets into the  
8   program.

9                               --o0o--

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

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

19           Our program will take on some aspects of those we  
20   link with so we will need to carefully evaluate each  
21   program before we decide to link. Once California links  
22   to other programs, California sources can use allowances  
23   for offsets issued by the linked programs for compliance,  
24   and vice versa. This fungability of compliance  
25   instruments will allow sources in both programs to seek

1 out the lowest cost reductions across systems. Such  
2 flexibility will lead to a more liquid and better  
3 functioning market.

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

10                                   --o0o--

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

20           The proposed program establishes rules to balance  
21 safeguards against market manipulation with transparency.  
22 The regulation has extensive requirements for information  
23 disclosures to assist in market monitoring. The  
24 regulation also deals with efforts to corner the market.  
25 We've included limits on how many allowances an entity may



1 emissions each year of the three-year compliance period.

2 --o0o--

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

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

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

20 The co-pollutant emissions assessment focuses on  
21 the potential for direct, indirect, and cumulative  
22 emission impacts of the proposed cap and trade regulation.  
23 It evaluates the potential co-pollutant benefits from the  
24 rule, scenarios which might lead to potential increases in  
25 co-pollutants, and cumulative emission impacts on

1 communities already adversely impacted by air pollution.

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

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

9   --o0o--

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

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

22           One of the potential adverse consequences that  
23 has been cited by stakeholders is the potential for  
24 increases in localized air pollution as the result of the  
25 proposed regulation. Although we believe that emission

1 increases due to the cap and trade are extremely unlikely,  
2 we are committed to avoid any localized air quality  
3 impacts.

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

8 --o0o--

9 PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: This  
10 concludes my overview of the proposed Cap and Trade  
11 Program.

12 Now I'll turn to the other action item before you  
13 today, which is staff's proposed amendments to the  
14 regulation for the mandatory reporting of greenhouse  
15 emissions.

16 The proposed amendments are designed to support  
17 the Cap and Trade Program. The scope of the Cap and Trade  
18 Program is broader than that of the current reporting  
19 regulation, such as new reporting requirements for fuel  
20 suppliers.

21 Modifications are also needed to include  
22 reporting of electricity imports consistent with the first  
23 deliverer approach. To support cap and trade  
24 benchmarking, there will be additional reporting  
25 requirements, such as the collection of production data.

1 Preventing emission leakage is a primary goal of the cap  
2 and trade allocation strategy for industrial sources.

3           The current reporting thresholds are 2500 metric  
4 tons from power plants and 25,000 metric tons from other  
5 facilities. Adoption of the proposed amendments would  
6 lower the reporting threshold for facilities and fuel  
7 suppliers to 10,000 metric tons to monitor emissions at  
8 and potential leakage to industrial facilities and  
9 suppliers below the cap.

10           Those sources between 10,000 and 25,000 metric  
11 tons will use an abbreviated reporting procedure.

12           Combustion emission would be calculated directly  
13 from fuel input, and third party verification would not be  
14 required.

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

20           To support the accuracy needs of the Cap and  
21 Trade Program, California reporters would often be  
22 directed to higher tier more rigorous methods for  
23 quantifying their emissions.

24           Moving forward, third party verification would  
25 continue to apply to reporters above the cap and trade

1 threshold of 25,000 metric tons. The amendments include a  
2 biofuel verification requirement until a biofuels  
3 certification program is in place.

4           Finally, we have proposed the addition of a  
5 qualified positive verification statement for cases of  
6 minor non-conformance without material misstatement of  
7 emission. If approved by the Board, these new  
8 requirements are expected to be in place for reporting  
9 2011 emissions in 2012.

10   --o0o--

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

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

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

25   --o0o--



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

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

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

18                               --o0o--

19           PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: There  
20 are also elements of the mandatory reporting regulation  
21 that staff will address in 15-day language. Our local  
22 partners at the air districts can play an important role  
23 in implementing the program. We propose to clarify the  
24 role of air districts as verification bodies as part of  
25 the 15-day rule making.

1           We also need to clarify that we are not requiring  
2 reporting of fugitive methane emissions from farms,  
3 livestock, or landfills. Agricultural pumps need to be  
4 added to our specific list of exclusions, which is  
5 consistent with the U.S. EPA's approach. We will clarify  
6 the reporting rules for those entities between 10- and  
7 25,000 metric tons. This involves including fuel use  
8 inputs as the mechanism for reporting combustion emissions  
9 and deleting requirements to report process emissions.

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

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

18   --o0o--

19           PROGRAM DEVELOPMENT SECTION MANAGER CLIFF:

20 Developing the Cap and Trade Program has been an  
21 incredible and unprecedented three-year journey. With the  
22 help of stakeholders and experts from around the world, we  
23 have developed new strategies and innovative solutions to  
24 very difficult problems. In the absence of federal action  
25 on climate change, attention has once again turned to

1 California. The adoption of the Cap and Trade Program  
2 will establish the first-economy wide cap on greenhouse  
3 gas emissions in the U.S.

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

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

10 CHAIRPERSON NICHOLS: Thank you, Steve.

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

23 So lest anybody is worried about our staff, the  
24 Board, or not having enough to do, I think they're well  
25 aware of the fact that after a well-deserved break for the

1 holiday, they're going to be back in the thick of it soon.

2 I expect that there are going to be a number of  
3 issues the Board members are going to want to discuss and  
4 some proposals that will be coming from Board members in  
5 terms of the resolution or amendments, but I think that at  
6 this point we should just limit ourselves to any questions  
7 that people have of the staff, if there are questions,  
8 before we hear from the witnesses.

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

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

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

21 My name is Michael Lipsett. I'm Chief of the  
22 Environmental Health Investigations Branch at the  
23 California Department of Public Health and a former  
24 long-time member of the Air Resources Board Research  
25 Screening Committee.

1 I'm going to be presenting a brief summary of the  
2 findings of the health impact assessment that was referred  
3 to in the prior testimony. And this was done of a  
4 potential Cap and Trade Program in California.

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

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

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

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

25 Initially, stakeholders identified five core

1 areas of interest, specifically:

2           One: Changes in emissions;

3           Two: Changes in employment and demand for labor;

4           Three: Changes in energy costs;

5           Four: Economic, environmental, and health

6 effects from specific offset projects;

7           And five: Distribution of allowance revenue

8 towards community investments.

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

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

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

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

21           The first, net changes in employment are expected  
22 to be minimal. Job dislocation and insecurity will effect  
23 some households, clearly. However, the HIA suggests the  
24 potential health impacts of job loss can be reduced by  
25 adopting worker transition assistance programs, investing

1 in adult education, and providing temporary insurance for  
2 displaced workers. These mitigation efforts may be most  
3 helpful if targeted to effected workers and populations  
4 that have historically been vulnerable to unemployment.

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

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

18           Third, the four offset protocols before you today  
19 are on the whole likely to be net beneficial for public  
20 health. Targeting offset projects to fill in existing  
21 need, for example, directing urban forest projects to  
22 vulnerable communities, with limited green space or tree  
23 canopy coverage would maximize the public health benefits  
24 associated with the offset project. Because the most  
25 immediate health co-benefits are likely to be local to a

1 particular offset project, keeping these projects in  
2 California when feasible will maximize the positive health  
3 benefits associated with them.

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

17           We recommend that any such revenue investments be  
18 based on our department's highly successful tobacco  
19 control program, which has averted about a million  
20 tobacco-related deaths and lowered health care costs by  
21 about \$86 billion. This model involves forging  
22 partnerships between the state and local health  
23 departments, which in turn facilitates the creation of  
24 broad-based community coalitions to help design and  
25 implement local programs.



1           Improving surveillance and reporting of  
2 environmental health risks will increase our understanding  
3 of potential health impacts and allow for mitigation of  
4 negative local health impacts, should they occur.

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

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

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

19           The full report should be found on the web sites  
20 of the Climate Action Team or Public Health Work Group and  
21 on the website of our environmental health investigation.

22           Thank you again for this opportunity to present  
23 these comments.

24           CHAIRPERSON NICHOLS: Thank you for coming today  
25 and for presenting this information. And I do want to

1 indicate that recognizing the directives of AB 32, it  
2 certainly is our intent to continue to work with your  
3 department along the lines that you've suggested and try  
4 to develop the best possible way to assure that our state  
5 is prepared to deal with the effects of global warming,  
6 which we know are already underway. So it's going to be  
7 an ongoing collaboration I think.

8 Do Board members have any questions?

9 Dr. Telles.

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

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

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

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

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

24 But, overall, the broad story is that we see that  
25 interventions that can focus on reducing existing health

1 disparities as well as building on communities' capacity  
2 to adapt to climate change are both -- would be both  
3 beneficial within the context of community health.

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

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

13           CHAIRPERSON NICHOLS: Thank you.

14           Dr. Balmes.

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

17           As the Board member who proposed the resolution  
18 that was adopted to do a health impact assessment of AB  
19 32, I want to thank the California Department of Public  
20 Health for their hard work and partnership on this matter.

21           And I'd like to echo the Chairman's hope that we  
22 can continue to work together. I think it's important  
23 that we always assess the public health impacts as we move  
24 forward with AB 32 regulations.

25           CHAIRPERSON NICHOLS: Any other questions? If

1 not, thanks very much.

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

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

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

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

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

21 We believe that this can improve our energy  
22 security, create new business opportunities, and create  
23 more jobs and provide the incentives for innovation for  
24 California and for the United States. What you're doing  
25 today is really a landmark.

1           Second, we support the maximum use of auctioning  
2 as the method of allocating allowances for three reasons.  
3 We believe auctioning is preferable. It provides a  
4 sharper price signal and a more effective market  
5 incentive. It avoids competitive advantage on incumbents,  
6 and it raises revenue for the state of California that can  
7 be used to offset any cost burdens.

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

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

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

1 California.

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

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

23           And then the last recommendation is that  
24 significant portions of the allowance revenue be used for  
25 the benefit of California consumers and people in

1 California and to further the goals of AB 32. As  
2 economists, we would recommend retaining the maximum  
3 flexibility in using this revenue for those purposes.

4           So to close, we commend you. And we believe the  
5 action today will be for the benefit of the California  
6 economy. Thank you very much. Thank you for this  
7 opportunity.

8           CHAIRPERSON NICHOLS: Thank you.

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

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

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

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

25           DR. HANEMANN: Absolutely.

1           CHAIRPERSON NICHOLS: Yes, Dr. Balmes.

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

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

7           I don't know. And I'll say I became aware -- I  
8 was originally aware of it when I was a graduate student  
9 35 years ago. But PPIC did a report about five years ago  
10 on the effects of the electricity prices on employment and  
11 jobs in California. Daily new market PPIC bought the data  
12 or acquired it just for California. When I asked him  
13 about it, he said it was expensive and I didn't want to  
14 ask.

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

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

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



1 plant openings.

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

4           Yes?

5           BOARD MEMBER TELLES: In this regard, in the  
6 presentation today, slide 32, there's going to be some  
7 15-day changes on benchmarks which has to do with the  
8 leakage issue. Is that a realistic amount of time to be  
9 able to get back to all your stakeholders and come up with  
10 something that is more acceptable? Seems like it's a  
11 pretty short amount of time, especially over the holiday  
12 season.

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

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

20           The 15-day process is a process that we use at  
21 ARB to take your suggested changes from what we initially  
22 proposed, work with stakeholders to finalize them, and  
23 then do a somewhat similar process to what we just went  
24 through in terms of public comment. Given some of the  
25 complexities of what I'm sure we're going to be dealing

1 with, it's likely we would workshop some of what came out  
2 of this.

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

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

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

20           DeeDee.

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

23           And the process that you just outlined makes a  
24 lot of sense. There is quite a few substantive issues  
25 you're going to have to deal with.

1           But as far as compliance, at some point, we're  
2 going to butt up against another challenge. And that is  
3 making sure people have certainty. So what can you tell  
4 us about how that 15-day change process interfaces with  
5 the need to at some point say this is what it is?

6           EXECUTIVE OFFICER GOLDSTENE: That's an excellent  
7 question.

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

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

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

25           Again, I think today actually we hope -- we've

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

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

13           Yes?

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

17           And to me, what it is is to see if there are any  
18 major structural issues that are either unacceptable or  
19 need change or whether -- in which case, you know, we  
20 might have to postpone or have further deliberation, or  
21 whether we are identifying only small details -- maybe not  
22 details to some people but details in terms of the  
23 structure of the program that can be accommodated and  
24 dealt with over time by the staff. That to me is the  
25 number one -- that's what I'm thinking is the one goal.

1           And the other goal is to create a process or  
2 ensure there is a process in place to make sure that  
3 whenever there are unanticipated consequences or problems  
4 that come up that there is a way to deal with them,  
5 whether it goes back to the Board or the Executive Officer  
6 can act on it. And to me -- I just want to check with  
7 everyone and make sure that's how I'm approaching this day  
8 and these deliberations. Is that shared by staff and  
9 by --

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

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

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

25           And one person's detail is another person's

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

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

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

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

1 respond to it. Hopefully that helps.

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

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

24           So I'm going to start with Michael Endicott  
25 followed by Tim Feller and Bill Snyder.

1           MR. ENDICOTT: Good morning, Chair and fellow  
2 members.

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

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

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

20           AB 32 is also a tribute, a recognition of one of  
21 the preeminent issues that face our environment that will  
22 affect not my life, but the life of my children and their  
23 children and yours as well. But how AB 32 acts, whether  
24 it is effective or not, whether it keeps us on the cutting  
25 edge depends on how you operate it now as you pass the



1 regulations.

2           Our natural forests pick your favorite one in the  
3 sierras -- is a attribute to how well the laws of nature  
4 work. And they depend on the diversity of age, of  
5 habitat, of species. It's all interconnected. And that  
6 resilience is so importance in how we get to the point of  
7 actually being adaptive to climate change as well as  
8 trying to control our emissions.

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

19           But the last one, clearcutting, is not ready for  
20 prime time. It has major issues with how you do the  
21 accounting, which are critical to determining whether or  
22 not you actually have additionality, verification of that  
23 additionality, and also whether you're permitting leakage.  
24 These issues have been put off for future dates by the  
25 Climate Action Reserve and they will get to them. But you

1 should not launch it at this part of the program and now.

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

8           Thank you.

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

11           Tim Feller, Bill Snyder, Mark Pawlicki.

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

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

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

23           A salient issue for me is retaining management as  
24 a viable silvicultural system. To take that off our book  
25 of tools would be a tragedy. We do have a lot of cut-over

1 timber lands. We have disturbance oriented fire eco  
2 systems. And we have large fires that occur in the state  
3 of California. And whether by design, mother nature, even  
4 aged management meets the goals of the state of many lands  
5 owners. And with the recognition there are forest  
6 practice rules and forest practices acts, CEQA and other  
7 guidelines, even aged management achieves distribution of  
8 landscape habitat, forest productivity, fuel reduction,  
9 and long-term sustainability.

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

18           Step ahead 20 years and you have Gage in exactly  
19 the same spot at age 20. Now these are close-ups. And  
20 photos three and four are the same spot at age 10 and 20.

21           And I wanted to point out to you that in looking  
22 at photo three, you will see that there are thinnings.  
23 There's pruning. And this really is a capital investment  
24 to get it where it's at today. We don't have to do this  
25 type of activity. But to get there, we have to make an

1 investment.

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

5 CHAIRPERSON NICHOLS: Your time is up.

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

8 MR. FELLER: What are they by?

9 CHAIRPERSON NICHOLS: What is it? Photo five.

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

14 CHAIRPERSON NICHOLS: Thank you very much.

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

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

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

24 First of all, I'd like to commend the staff for  
25 their cooperation over the past few years as we work

1 through a number of these things, including the  
2 development of the forestry protocols. And I think one of  
3 the key elements of those protocols is the key premise  
4 that whatever we do, the carbon that we register truly has  
5 to be additional. And I really do think the protocols  
6 have gotten it right, recognizing there are still some  
7 controversial pieces of that. But as they're currently  
8 structured, I think additional carbon is at the heart of  
9 it. And I think that's an important goal and outcome to  
10 make sure we achieve in any offset.

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

18 There are a few things in a process and  
19 verification piece that we would certainly like to  
20 continue to work with with your Board staff. And I think  
21 it's going to be very important to people who are involved  
22 in the verification process, particularly the forestry  
23 side, are truly skilled in applications that are  
24 necessary. So we'd offer to continue to work with your  
25 staff in that area.

1           And I think as we look at continuance for other  
2 strategies that might be available to us to take advantage  
3 of sequestration for the capacity of the forest lands and  
4 continue to work with your staff on the development of  
5 protocols to deal with those pieces of it.

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

13           Thank you very much.

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

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

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

22           The Board has before it today forestry protocol  
23 that was developed in large part over an 18-month period  
24 by a multi-stakeholder group under the Climate Action  
25 Reserve. And that's a process that Cal/EPA actually

1 funded. You remember a couple years ago when you visited  
2 this issue, you directed CAR to go back and work on that  
3 protocol they had come up with several years ago to  
4 improve it to include a wider array of participants.

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

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

17           CHAIRPERSON NICHOLS: Thank you.

18           Jeff Shellito and then Michelle Passero and Paul  
19 Mason.

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

23           Three years ago, I spoke to you on behalf of the  
24 a group that was part of a coalition of environmental  
25 groups and land trust groups that urged you to adopt the

1 forest protocols that were part of the early actions taken  
2 by this Board. They were the ones that were originally  
3 adopted by our predecessor to the Climate Reserve as a  
4 result of some 2002 legislation that was enacted before AB  
5 32. As many know, that was a measure authored by Former  
6 Senator Byron Sher, the man for whom this auditorium is  
7 named for.

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

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

20           Those groups, as many recall, opposed the  
21 protocol in 2007 because of issues that they were  
22 concerned about, largely because they didn't allow  
23 clearcutting is one example. Specifically, clearcutting  
24 allows native forests to be converted to mono culture tree  
25 plantations. The protocols before you today allow this.



1 That's why I, myself, along with a number of other groups  
2 that will speak after me are urging that you not include  
3 these forest protocols as part of your regulation unless  
4 they are amended to specifically exclude even aged  
5 management. Pretty simple and straightforward policy  
6 action you can and should take today. And I would urge  
7 you not to refer this issue back to the Climate Reserve or  
8 to ARB staff or further study, but allow these flawed  
9 protocols to move forward intact.

10           These issues were raised at a Board meeting in  
11 2009 -- September 2009, and basically nothing has been  
12 done about them by CAR. Instead of fixing the problem,  
13 CAR has refused to even calendar for discussion a  
14 compromise that many of the groups that will speak next  
15 after me had put together. This was a compromise proposed  
16 back in January.

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

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

25           BOARD MEMBER D'ADAMO: Thank you.

1           Michelle Passero, followed by Paul Mason, and  
2 then Bill Magavern.

3           MS. PASSERO: Thank you.

4           Michelle Passero with the Nature Conservancy.

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

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

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

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

22           In response to concerns -- some of the concerns  
23 raised about the prospect of more diverse natural forests  
24 being converted to conditions that are less diverse and  
25 more simplified, we recommend that ARB clarify that forest

1 offset projects not do this, they do not receive credit.

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

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

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

21           So related to this, we do in the mandatory  
22 reporting recommend that suppliers and providers do report  
23 on biomass. This is important from an accounting  
24 perspective and also from a double counting perspective.  
25 You could imagine there would be offsets coming from

1 certain forested areas as well as materials being provided  
2 for biomass energy.

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

6           CHAIRPERSON NICHOLS: Thanks.

7           Paul Mason and then Bill Magavern and Addie  
8 Jacobson.

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

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

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

21           With biomass, one of our biggest concerns with  
22 cap and trade regulation is the presumption that  
23 biomass -- particularly forest biomass -- would not need a  
24 compliance obligation and would not be available to  
25 generate energy without having to account for those

1 emissions under the cap. We believe that biomass should  
2 be under the cap and should be required to generate a  
3 compliance obligation. And there should be monitoring of  
4 where the source materials are coming from so you could  
5 distinguish between biomass material that is a benefit  
6 versus that which is creating a greater carbon debt. Not  
7 all material is going to be created equal from the  
8 emissions perspective.

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

19           In regards to the forest protocol, again we  
20 support the adoption of the protocol and urge you to move  
21 forward with that, while flagging three areas that we  
22 think are important to address. I'll start with two that  
23 are related to just getting the accounting correct and  
24 making sure we capture the important carbon pools of lying  
25 dead wood and soil carbon. We are doing activities that

1 disturb the soil. These have both been part of previous  
2 versions of the protocol, are viable. And as the white  
3 paper that the Climate Action Reserve commissioned on both  
4 of these topics in response to the controversy around this  
5 more than a year ago, they are clearly significant pools  
6 that should be included just to make sure that we are not  
7 missing important pieces of the accounting.

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

16           CHAIRPERSON NICHOLS: Thank you.

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

25           Mr. Magavern, good morning.

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

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

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

20           Offsets we think need to be limited to assure the  
21 integrity of the emission reductions and fulfill the  
22 letter and spirit of the law. The staff presentation, you  
23 heard that a majority of the emission reductions required  
24 under this rule would have to come from the emitters  
25 themselves rather than from offsets. But the flip side of

1 that is that up to 49 percent of the emission reductions  
2 required under this rule could come from offsets. We  
3 think that's far too high, that one of the great promises  
4 of AB 32 is to green our energy economy. And that means  
5 making our industries more efficient, move to cleaner  
6 sources, which is not consistent with letting them achieve  
7 a great deal of their compliance by purchasing offsets  
8 which may not even be in California.

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

14           In terms of the allocations, we do think that the  
15 proposal is far too generous in the industrial sector in  
16 terms of the free allocations, the bulk of which go to oil  
17 extraction and refining. We think it was a mistake to  
18 classify those industries as highly at risk for leakage.  
19 We think they actually are low leakage risks. Should be  
20 reclassified accordingly, because otherwise what you're  
21 talking about is giving what is really a very valuable  
22 public asset to these companies, which by the way are  
23 making very good profits right now. But most importantly,  
24 it's a misclassification, because they don't need the  
25 help. So it would amount to essentially windfall profits.



1           In terms of where money is spent that is raised  
2 by this system, we do support having the full value of the  
3 allowances in the utility sector returned to the used for  
4 furthering the purposes of AB 32 through energy  
5 efficiency, renewable energy, and rebates to low-income  
6 consumers. Thank you.

7           CHAIRPERSON NICHOLS: Thank you.

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

15           Ms. Jacobson.

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

21           But today I'm here like I was 15 months ago to  
22 address you as much as an individual, as a mother and a  
23 grandmother and a citizen of the Sierra. And, today,  
24 there is not just the 30 people who have signed up to  
25 talk, but there is even more people who have come. And

1 some of them have worked their way into the room, and I'd  
2 like to have them raise their hands and acknowledge  
3 themselves because some of them are trying not to impinge  
4 your time by talking. So I want you to know all of us got  
5 up before light and we made our way through the fog and  
6 this is important to us. We have no financial gain. We  
7 only want to see everything get done right.

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

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

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

24           Susan Robinson, Doug Bevington, Karen Miki.

25           MS. ROBINSON: Good morning. Thank you for the

1 opportunity to speak.

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

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

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

23           Let's not forget the pictures that I've passed  
24 around and shown you that shows the clearcutting damage in  
25 our area. And now they're coming back and cutting

1 clearcuts next to clearcuts. All of this is something  
2 that California should not want to export to other  
3 countries like Mexico or Amazon. We don't need this brand  
4 of clearcutting in those countries, too. What we need is  
5 clearcutting removed from the protocols. Thank you.

6 CHAIRPERSON NICHOLS: Thank you.

7 Doug Bevington, Karen Miki, Dave Bischel.

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

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

21 No conversion would sacrifice hundreds of  
22 thousands of acres that have already been cut in this most  
23 egregious manner. To remain in this devastated state, it  
24 would provide incentives to keep clearcutting those areas  
25 over and over again. If we want not only to protect what

1 we have left but enhance and restore diversity which is  
2 compatible with the goals of this protocol, we need not  
3 only to not allow new clearcutting -- not only not allow  
4 conversion, but the Board needs to take action now today  
5 to stop any form of clearcutting from being incentivized.  
6 We do not want clearcutting to become the face of AB 32.

7 Thank you.

8 CHAIRPERSON NICHOLS: Thank you.

9 Karen Miki, Dave Bischel, Luke Breit, George  
10 Gentry.

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

15 So I'm here today to ask you to remove  
16 clearcutting -- no surprise -- as an eligible protocol for  
17 improved forest management. And there is really two  
18 reasons for that. One of them is the accounting that we  
19 have right now for clearcutting, it's not accurate. It  
20 has problems with the base line. It has problems with  
21 leakage. It also has problems with the amount of carbon  
22 in the soil. A lot of people think that's up to  
23 50 percent. So that's not assessed properly.

24 Another issue I'd like to bring up is that  
25 forests are very important, not just for carbon

1 sequestration and wood, but they're really important for  
2 water and for purifying our water for our air, for animal  
3 habitat. And clearcutting makes you wonder -- it really  
4 denigrates all that. It makes it harder for the foresters  
5 to provide for climate change to continue to be able to  
6 provide these things.

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

19           Thank you for letting me talk.

20           CHAIRPERSON NICHOLS: Thank you.

21           Dave Bischel, Luke Breit, George Gentry.

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

25           My name is Dave Bischel. I'm President of the

1 California Forestry Association. We're a trade  
2 organization that represents over four million acres of  
3 private forest land owners in the state, about 95 percent  
4 of the primary producer of wood products, over 400  
5 megawatts of renewable energy.

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

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

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

19           I was a member of the work group that met for  
20 nearly three years, a multi-stakeholder work group of  
21 forest land owners of State and federal agencies of  
22 environmental organizations that met every third Friday  
23 for almost two-and-a-half years and completely public  
24 input process as well. We brought in scientists. The  
25 protocol that was developed based upon science. It is

1 fundamentally based on maintaining the high quality  
2 protection measures that California has.

3           And I've given you a paper there that identifies  
4 a number of the more significant protection measures that  
5 clearcutting and even age management have. And I do want  
6 to point out that clearcutting in California is not  
7 clearcutting. It's not deforestation. It is, in fact,  
8 regeneration. Thank you for the time.

9           CHAIRPERSON NICHOLS: Thank you.

10           Luke Breit, George Gentry.

11           MR. BREIT: Madam Chair and members of the Board,  
12 Luke Breit representing Forests Forever.

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

20           Thank you.

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

23           And in fact, I'm going to read out the names of a  
24 number of other people who have indicated they're here to  
25 testify: George Gentry, Board of Forestry; Jodi Frediani,



1 Randy Compton, Barrance Wren, Marilyn Woodhouse, Mauro  
2 Oliveira, Ciyin Oliveira, Mahaia Sol, Jeff Conant, Brian  
3 Nowicki, Edward Murphy, Brian Shillinglaw, Steve Elias.  
4 If you feel that you have something to say that has not  
5 been covered, of course, we will let you come and speak.  
6 But if not, we're happy to just note your position and  
7 take it into the record. If you do feel like you need to  
8 speak, please come forward and just line up and give us  
9 your comments. Just state your name.

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

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

18 I want to cover something that hasn't even been  
19 mentioned so far, and that is the effect of clearcuts on  
20 the snow pack. You know, I think the number two-thirds is  
21 a correct fraction for how much water flows out of that  
22 Sierra snow pack that is so critical to California that we  
23 all depend on. I personally have been to State Water  
24 Resources Control Board who said, "Well, you know,  
25 clearcutting might create a problem with the snow pack, in

1 addition to global warming. But that's not really our  
2 purview. You need to take it to the Board of Forestry."  
3 I've been to the Board of Forestry. They said, "That's  
4 not really our concern. You need to take it to the Water  
5 Resources Control Board."

6           So I mean, basically that is an unintentional run  
7 around, but you need to take the snow pack into  
8 consideration. We all depend on it. It's critical to the  
9 health of California. And as far as I'm concerned, all  
10 the science that I've read points to clearcutting as  
11 having a devastating affect on the water we all need. So  
12 please, please take that into consideration when you make  
13 your decision.

14           Thanks.

15           CHAIRPERSON NICHOLS: Thank you.

16           MS. FREDIANI: Thank you. My name is Jodi  
17 Frediani. I'm Director of Central Coast Forest Watch and  
18 environmental forestry consultant to the Santa Cruz  
19 Chapter of the Sierra Club.

20           I would like to say there is no place and there  
21 should be no place for clearcutting in the protocols. As  
22 you've heard, our forest provides, in addition to  
23 sequestering carbon, they provide habitat for wildlife.  
24 They provide protection for water for our endangered fish  
25 and for drinking water. As climate change progresses,

1 we're going to see drinking water become an even greater  
2 issue for the state of California. We need to make sure  
3 that we have water as well as we're not adding to the  
4 carbon problem.

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

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

25           Thank you.

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

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

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

21           MR. COMPTON: Hello. My name is Randy Compton.  
22 I'm a life-long resident of Round Mountain. I was  
23 raised -- it's a logging community, sawmill community. My  
24 family, all my friends, everybody I knew is all come from  
25 the timber industry.

1           At this point, the forests in our area is being  
2 reduced the bare dirt. You can see all these clearcuts  
3 where all the species have been eradicated and poisoned.  
4 The grounds have been sterilized with herbicides.

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

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

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

21           Now the timber industry has the best scientists  
22 money can purchase. And they will tell you that all this  
23 eradication of the ecosystem is good for the wildlife.  
24 I'll tell you it's a lie. I've lived there all my life.  
25 I've watched the streams, the rivers, it all be polluted

1 and degraded beyond -- it's beyond irresponsible. It's  
2 criminal.

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

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

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

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

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

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

23           The trees breathe for you and the trees breathe  
24 for me. When your great, great grandchildren wonder why  
25 and look back on this day, will they curse you or bless

1 you. It's your decision to say.

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

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

8 Thank you.

9 CHAIRPERSON NICHOLS: Thank you, Ciyin.

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

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

16 I don't see any positive things in clearcutting.  
17 All the animals run from their homes and the trees to the  
18 suburbs and cities. They get hit by cars or shot at.  
19 Many just starve to death.

20 Next, cutting the trees and leaving one or two  
21 dead trees is still clearcutting. I go to the areas where  
22 there's clearcutting and I never see any natural  
23 biodiversity or any other trees. I don't care if they cut  
24 one out of ten trees. But when they cut 20 to 30 acres at  
25 a time with nothing left is heartbreaking.

1           I live on 40 acres. Do you know how much life is  
2 on 40 acres?

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

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

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

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

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

25           CHAIRPERSON NICHOLS: Thank you.



1           MR. OLIVEIRA: My name is Mauro Oliveira. I'm  
2 with Stop Clearcutting California. I'm also here as a  
3 father.

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

7           "It's one of those things I was a member of the  
8 IPCC special report on land use change and forestry that  
9 was published in 2000. I was a lead author. And as we  
10 were thinking about the implications of land use and  
11 forestry as it relates to the Kyoto protocol, on a very  
12 long time frame, one can think of these things as  
13 imbalance. So if we cut that forest down, the carbon will  
14 be replaced over the rotation link. The problem is the  
15 time interval that it takes. So it's going to take 80 or  
16 100 years to get that balance, which is a very long time  
17 when we think about carbon budget. We sort of made a  
18 sweep of the hand. It was just one of those things nobody  
19 did the critical thinking. We all said it roughly right."

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

23           There was a man who was with this process. His  
24 name was Carl Zichella. Back about 15 months ago he was  
25 hit by a car. He was Sierra Club's Western Energy

1 Manager. And he said on the way out of the meeting at CAR  
2 where they approved the protocols, he said, "We had to do  
3 this in a hurry because we had a time line to get this  
4 vote in. But there was a problem with the clearcutting  
5 and we need to go back and fix it." Carl assured all of  
6 us that that was going to get done. And frankly that's  
7 why you haven't heard from me over the last year. I had  
8 no way to imagine this was going to come up again, that  
9 this was going to get fixed.

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

12           Time is up.

13           CHAIRPERSON NICHOLS: Thank you.

14           MS. WOODHOUSE: Hi. My name is Marily Woodhouse,  
15 and I represent Battle Creek Alliance. I also live in the  
16 mountain communities where the images have been held up  
17 from. And I'd like to show you something. The place that  
18 I live, I've lived there for almost 22 years. And when I  
19 moved there, all the trees were as tall as this room at  
20 least and all over. And now they there are a lot of  
21 places that have trees this side instead. This is what  
22 you're allowing when you allow clearcutting. You're  
23 allowing big trees to be replaced with this. And this is  
24 not going to help us in the next 20 or 30 or maybe more  
25 years.

1           And that's what's really important about this.  
2 We need this now. Anybody that can read knows that we're  
3 in deep trouble right now. We can't wait for big trees to  
4 grow again. We need them to stay and do their job as they  
5 can.

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

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

17           That's all. Thank you.

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

21           My name is Jeff Conant. I'm here with the Global  
22 Justice Ecology Project based in Oakland.

23           California has always been a leader in  
24 environmental policy and action and is set to be a leader  
25 in climate legislation as well. But leadership in this

1 field will not happen through offset based emissions  
2 reductions.

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

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

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

25           I've just returned from the United Nations

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

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

16           Thank you very much.

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

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

22           And one is a point I don't believe has been made  
23 so far, and that is the impact on forest fires. When you  
24 replant a clearcut area with a tree plantation, all of the  
25 research indicates that that plantation is much more

1 vulnerable to fire than the forest it replaced. And the  
2 reason for that is that the trees are all more or less the  
3 same size. They're usually Ponderosa Pine, which happen  
4 to be highly flammable. They grow up very tightly spaced  
5 and with all the branches kind of connecting. An older,  
6 more diverse forest will resist fire much more easily  
7 because some of the trees are old. They have thick bark.  
8 They're much higher. A lot of the undergrowth will burn,  
9 but not all the large trees.

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

13 Second point, I think people have mentioned this  
14 a number of times, but I just want to reiterate that if  
15 you read the academic forest scientists as opposed to  
16 listening just to the timber companies, you will learn  
17 that it's very clear that forests store carbon -- diverse  
18 older forests store much more carbon than a young  
19 plantation tree farm. If you compare a very small tree to  
20 a very large tree, yes, that small tree will absorb carbon  
21 more quickly than the older tree. But if you look at the  
22 entire forest and compare the carbon storage of that  
23 forest, it will take anywhere -- according to the  
24 scientists, anywhere from 20 to 80 for 100 years until  
25 that plantation tree farm will be able to store the kind

1 of carbon that's being stored in the older forest. So to  
2 do that kind of clearcutting now when we're already facing  
3 in terms of global warming seems crazy.

4 Thank you.

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

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

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

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

24 Aggregation rules can enable -- level the playing  
25 field for smaller family forest owners, reducing cost and

1 achieve economies of scale, while maintaining offset  
2 qualities. Climate Action Reserve has adopted  
3 aggregational audits. And I just want to encourage the  
4 Air Resources Board to work in 2011 with that, other  
5 aggregation models, and incorporate them into the forestry  
6 protocol.

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

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

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

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

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



1 Reserve.

2 I want to make brief remarks just about the  
3 forest protocol here.

4 First, I want to say the forest protocol as  
5 developed through this multi-stakeholder process is sound.  
6 It meets the test of being real, permanent, additional,  
7 verifiable enforceable.

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

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

23 In adopting the protocol, our own Board directed  
24 us to develop a series of white papers to address soil  
25 carbon, lying dead wood, even-aged management, and forest

1 certification systems. Those papers are now nearing  
2 completion, and it was our anticipation to announce a  
3 stakeholder process in the new year to broadly engage  
4 that. And we would welcome ARB's leadership and  
5 partnership in that process.

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

11           CHAIRPERSON NICHOLS: Thank you, Mr. Gero.

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

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

23           CHAIRPERSON NICHOLS: Thank you.

24           Okay. Next.

25           MR. NOWICKI: Thank you. I'm Brian Nowicki with

1 the Center for Biological Diversity.

2           In the interest of not repeating comments that  
3 were made by presenters in front of me, I'm going to scrap  
4 the comments I was going to give you today and speak kind  
5 of directly to where we are now in the progression.

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

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

19           In the end, for the most part, most of our  
20 concerns, besides -- there is definitely the concern there  
21 is going to be incentives given for continuing business as  
22 usual practices, such as forest clearcutting instead of  
23 moving towards better more ecologically valuable types of  
24 forest management. But at the same time, the heart of our  
25 comments go to the additionality of this protocol and the

1 concerns that are raised by including forest clearcutting.

2           For that reason, we are asking if you are going  
3 to approve the forest protocol as part of AB 32, do so  
4 without forest clearcutting in there, lest forest  
5 clearcutting become not just the face of AB 32 but of some  
6 of the worst unintended consequences and for  
7 non-additional credits.

8           Thank you very much.

9           MR. MURPHY: Good morning, Madam Chair, Board.

10           My name is Ed Murphy. I was a Chairperson of the  
11 Permanence Committee of the work group that spent almost  
12 two full years meeting every third Friday working on this.

13           I think the simple message I have for you today  
14 is that much of the climate change debate in the world is  
15 from the fact that there is planes of different science.  
16 And I think what you challenged our work group with was to  
17 actually find the science and bring that science forward  
18 in a responsible and accurate and concise way. And we did  
19 that in the protocol.

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

1 credit.

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

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

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

25           Thank you.

1 CHAIRPERSON NICHOLS: Thank you, Mr. Murphy.

2 Are you waiting to talk about forestry?

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

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

7 MR. MURPHY: I handed it to you.

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

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

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

21 (Thereupon a recess was taken.)

22 CHAIRPERSON NICHOLS: We have a lot of witnesses  
23 and a lot of issues to get through and we need to stay in  
24 focus. As I indicated earlier, I think it's important  
25 that we try to finish our work today. We have another big

1 day tomorrow. And so I'm going to ask the Board members  
2 when they feel the desire to get up and get something to  
3 eat, there is food in the back room for the Board. And  
4 they can take a break and listen because we have the sound  
5 piped back into the back room. But we won't formally take  
6 a break. So that means for staff and others I hope you'll  
7 do the same thing as you go along. Just take a brief  
8 break and for the audience as well. We appreciate it.

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

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

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

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

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

25           I'm here today with an offer of five specific

1 recommendations, which were distributed to the Board this  
2 morning, that we feel will help improve implementation and  
3 program efficiency. Several of these are self-explanatory  
4 so I'm going to focus my comments on numbers three and  
5 five.

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

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

25           The South Coast Board has also expressed an



1 interest in potentially running a bulletin board which  
2 would help get parties in the South Coast together and  
3 make it easier for them to comply with the State's Cap and  
4 Trade Program.

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

9           Thank you.

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

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

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

1 make sure that we are getting all the energy efficiency  
2 that we can under this program.

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

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

1 energy efficiency and getting even more. Thank you.

2 CHAIRPERSON NICHOLS: Have you submitted language  
3 with the changes?

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

6 CHAIRPERSON NICHOLS: Thank you.

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

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

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

22 Under AB 32, cities are working to realize a  
23 combined reduction of 15 percent of the state's greenhouse  
24 emissions. San Francisco's own greenhouse gas emission  
25 reduction goals exceed this commitment. But since roughly

1 50 percent of our emissions come from transportation and  
2 50 percent of our emissions comes from energy used in the  
3 community but is not supplied by providers in our  
4 community, we are going to need funding assistance to  
5 transition these large infrastructure to more sustainable  
6 provisions. So it is with this in mind that I urge the  
7 Board to incorporate the following recommendations.

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

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

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

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

1           CHAIRPERSON NICHOLS: Thank you very much.

2           David Wright from the City of Riverside.

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

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

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

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

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

25           I'd like to close with just saying the

1 recommendations have really took a lot of effort to get  
2 here. We really request that little or no modifications  
3 be made at this point to the recommendations that have  
4 taken essentially years to develop.

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

8           CHAIRPERSON NICHOLS: Thank you for your  
9 leadership.

10           Lane Hallenbeck followed by Josh Margolis and  
11 Dave Modisette.

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

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

23           My name is Lane Hallenbeck. And I'm responsible  
24 for the administration of accreditation program at the  
25 American National Standards Institute, a 501(c)(3)

1 not-for-profit organization also known as ANSI.

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

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

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

25           To summarize and conclude, ANSI recommends that

1 ARB should require verification bodies duly accredited by  
2 ISO 14,056 as having suitable processes for assuring the  
3 competence of individuals performing verifications in the  
4 state of California.

5 Thank you very much for your consideration.

6 CHAIRPERSON NICHOLS: Thank you.

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

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

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

24 The first is I would encourage you to eliminate  
25 buyer offset liability. Markets work when buyers know



1 they buy a product that is transacted, that's stamped by  
2 the Air Resources Board and they can rely upon that  
3 without going back and undoing a transaction that occurred  
4 many times before.

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

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

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

19           CHAIRPERSON NICHOLS: Thank you very much.

20           David Modisette.

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

23           I'm Dave Modisette. I'm the Executive Director  
24 of the California Municipal Utilities Association, CMUA.  
25 CMUA includes more than 40 publicly-owned electric

1 utilities in California which provide one electricity to  
2 one-fourth of all Californians. CMUA is very pleased  
3 today to voice our general support for the proposed  
4 regulation. The issues encompassed by the proposed  
5 regulation began in a form that was extremely divisive and  
6 contentious to California utilities.

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

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

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

22           Number three, it recognizes early action.

23           The agreement also recognizes that there are very  
24 large emission reductions that are coming from direct  
25 regulations in the electricity sector, including the 33

1 percent renewable energy standard, implementation of all  
2 cost effective energy efficiency, greenhouse gas limits on  
3 resource procurement, and California Solar Initiative and  
4 others all, of which CMUA supports and is committed to  
5 achieve. The electricity sector will be able to meet  
6 statewide AB 32 goals through the correct regulation  
7 measures alone.

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

14           CHAIRPERSON NICHOLS: Bill Carnahan, please come  
15 forward.

16           MR. CARNAHAN: Thank you, Madam Chair.

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

23           Many times, when we deal with a regulatory  
24 process, we're on the receiving end of the regulations.  
25 We get feel like we get pounded, and we think about the

1 old Simon and Garfunkle tune and we'd rather be a hammer  
2 than a nail. And I can tell you, in this proceeding, we  
3 did not have that feeling. And you should be commended  
4 for that. I think the leadership that Chair Nichols has  
5 provided in getting the parties together allowed us to get  
6 to where we are today.

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

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

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

21           We support giving the staff authority to deal  
22 with the remaining implementation details. And  
23 Californians at this point I think can be just as proud of  
24 the continuing leadership in the greenhouse reduction  
25 measures. We will continue to support and implement the

1 complementary measures in AB 32, energy efficiency and  
2 renewables so they will go a long way to ensuring our  
3 compliance. We will implement whatever procedures you  
4 adopt. However, we must ensure we maintain good  
5 custodians of rate payer dollars and keep rate increases  
6 to a minimum. Thank you.

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

12           Brian Bateman from the Bay Area Air Quality  
13 Management District.

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

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

21           My comments this morning are going to focus on  
22 conflict of interest provisions for verification  
23 activities. And I'm speaking here both with respect to  
24 emissions verification under the mandatory reporting rule  
25 and offsets verification under cap and trade rule.

1           We didn't really see in staff's October proposal  
2 why the air districts were lumped together with other  
3 for-profit companies that provide verification services in  
4 terms of conflict of interest provisions. Of course, air  
5 districts and other regulatory agencies in California are  
6 subject to conflict of interest safeguards, things  
7 including ethics training and financial disclosures. And  
8 we are very glad to see that the staff as part of their  
9 15-day changes is including mandatory -- specific  
10 provisions for the air district in terms of conflict of  
11 interest. And we do ask that that be clarified also in  
12 terms of offset verification. And we have some specific  
13 language in our comment letter that we think would lead to  
14 that end.

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

23           Thank you very much.

24           MR. BLOOM: Thank you, Madam Chairman.

25           My name is John Bloom. I'm speaking on today for

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

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

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

20           About a year ago, the Massachusetts Institute of  
21 Technology established a concrete sustainability program.  
22 Just last week, they released the preliminary information  
23 showing the carbon emission benefits of concrete. And  
24 over the next year, they're going to complete full life  
25 cycle analysis of emissions as well as costs for concrete.

1           While we embrace the long-term goals of climate  
2 change which will inevitably increase demand for our  
3 product, the major issue we face under a cap and trade  
4 program is our extremely high exposure to economic  
5 emission leakage, our extraordinarily high emission  
6 intensity exposure to the industry to compliance costs.  
7 And since cement is a globally fungible competitive  
8 commodity, we did not pass through the cost without losing  
9 market share to other alternatives.

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

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

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

19           CHAIRPERSON NICHOLS: You have a question.

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

22           MR. BLOOM: Well, first of all, a ten percent  
23 benchmark discount across all sectors doesn't take into  
24 account the leakage risk or the ability of each sector to  
25 accomplish that more stringent benchmark.



1           You know, we do know all sectors vary in terms of  
2 leakage risk as well as their capability of meeting the  
3 benchmark. So certainly we would not want to penalize  
4 some sectors that have invested heavily to improve their  
5 energy efficiency versus other sectors that haven't. So  
6 we sort of look at the ten percent as arbitrary and  
7 inequitable and really works against the objectives of  
8 minimizing leakage.

9           CHAIRPERSON NICHOLS: Thank you.

10           Mr. Backlund and then Dennis Allen and Craig  
11 Anderson.

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

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

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

25           Dow has been working with the ARB staff, and we

1 intend to continue working to resolve our issues with the  
2 proposed regulations. We submitted written comments, and  
3 I'd like to highlight some points for further refinement.

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

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

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

21           CHAIRPERSON NICHOLS: We do have your comments in  
22 writing.

23           MR. BACKLUND: Yes, you do.

24           CHAIRPERSON NICHOLS: Thank you.

25           CHAIRPERSON NICHOLS: Dennis Allen, Craig

1 Anderson, Megan Ceronski.

2 MR. ANDERSON: Good afternoon. Thank you very  
3 much for allowing some time for me.

4 My name is Craig Anderson with Solar Turbines.  
5 We're an 85-year-old California manufacturing company with  
6 two large facilities down in the San Diego area. And we  
7 employ 3500 engineers and machinists, and we export about  
8 70 percent of our product equivalent to two billion  
9 dollars outside of the US.

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

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

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

1 established.

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

12           Thank you in advance for your consideration.

13           CHAIRPERSON NICHOLS: Thank you.

14           Question.

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

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

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

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

25           BOARD MEMBER ROBERTS: I guess my question is for

1 staff. How do we benchmark them? And what do we do when  
2 they've got a significant amount of their emissions coming  
3 from research and develop a product that's otherwise used  
4 to save us energy?

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

9 BOARD MEMBER ROBERTS: A fuel choice  
10 benchmarking?

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

15 BOARD MEMBER ROBERTS: Is that unclear to you?

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

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

25 I think we've had some conversation with you and

1 we clearly need to have more conversations and work with  
2 your industry to make sure that you're comfortable with  
3 the approach that we provide in the regulation.

4 MR. ANDERSON: I'd appreciate that.

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

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

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

18 I'm here today on the behalf of the Coalition for  
19 Emission Reduction Projects, or CERP, which is a coalition  
20 of companies that advocate for the use of offsets in the  
21 context of greenhouse mitigation efforts in the  
22 United States. Our membership includes companies that  
23 expect to be regulated under such regulations, including  
24 here in California as well as companies that develop and  
25 invest in offset projects.

1           CERP strongly support's ARB inclusion of an  
2 offsets program in the proposed regulation. Cap and trade  
3 programs only cap the largest sources of emissions, but  
4 there are many smaller emissions sources that can also  
5 make emission reduction, some of them cost effectively, by  
6 crediting emission reductions or sequestration achieved by  
7 uncapped sources. An offsets program allows these smaller  
8 sources to efficiently contribute to achieving  
9 California's emission reduction goals.

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

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

1 technologies that we need to make major emission  
2 reductions in those sectors.

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

12           Thank you very much.

13           BOARD MEMBER BALMES: Thank you.

14           Betsy Reifsnider followed by Mark Parsons.

15           MS. REIFSNIDER: Thank you very much.

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

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

22           First of all, with the defeat of Proposition 23,  
23 Californians have given the Air Board something that most  
24 elected officials and agencies will ever achieve, and that  
25 is a ringing mandate. Californians want you and AB 32 to



1 succeed. So we would ask the Air Board to operate the Cap  
2 and Trade Program in a way that is fair to everyone.

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

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

24           Thank you very much.

25           BOARD MEMBER BALMES: Thank you.

1 Mark Parsons, with Craig Jones to follow.

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

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

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

23 Since Metropolitan does not serve retail electric  
24 customers, it would not receive free allowances to  
25 mitigate these costs. Yet, the cost would be passed along

1 to its member agencies and ultimately to their water  
2 customers.

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

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

15           BOARD MEMBER ROBERTS: Could staff comment on  
16 that?

17           ASSISTANT EXECUTIVE OFFICER KENNEDY: This is  
18 Kevin Kennedy.

19           The way that is been written, it is designed to  
20 cover all electricity imported into California. And the  
21 way that's been covered is the first deliverer of  
22 electricity, which would include marketers, among others,  
23 is responsible for the emissions associated with imported  
24 electricity. So we do believe that it's important that  
25 the electricity they're importing is covered.

1           As they suggested, there may be ways of  
2 addressing their concerns about the cost in terms of  
3 looking at the allocations system. But carving out -- the  
4 changing the definition of marketer would exclude them so  
5 they're no longer considered a deliverer of electricity.  
6 It would simply exclude a portion of electricity consumer  
7 in California from the program.

8           BOARD MEMBER ROBERTS: I don't know just me, but  
9 it sounds like -- I'm not hearing things clearly.  
10 Probably because I have a cold. But I don't know if the  
11 mikes are working well but everybody seems to be in low  
12 gear. And I'm only hearing part of what you're saying.

13           But are there others that are in this position or  
14 are they a unique position where they're bringing  
15 electricity in, but they're a direct user of it. I'm not  
16 talking the power companies.

17           ASSISTANT EXECUTIVE OFFICER KENNEDY: I do  
18 believe there are a few others that are similarly in this  
19 situation where they're importing electricity essentially  
20 for their use within their own system. And I'm sort of  
21 looking to see whether there is other particular examples  
22 that staff knows.

23           I do think they're not quite unique, but it's a  
24 relatively small set of folks. And I do believe they  
25 would all fall within the question of looking at the issue

1 from the question of allocation and whether there is a way  
2 of addressing it in that context.

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

6           ASSISTANT EXECUTIVE OFFICER KENNEDY: Yeah. It's  
7 important to cover the electricity one way or the other.

8           But the question about cost and whether sort of  
9 in this system we set up, we sort of missed an important  
10 category of customers where we need to address the cost is  
11 something that we were prepared to talk to them about and  
12 talk to the others in similar situations.

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

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

18           MR. PARSON: May I make a brief comment?

19           I believe in terms of utilities that purchase  
20 electricity at wholesale, probably Metropolitan and the  
21 Department of Water Resources are probably the only  
22 entities that would really fall within our categories,  
23 because we don't have retail end use electric customers  
24 like the other utilities that import power. I think those  
25 would be the two primary sectors. And I think that the

1 Department of Water Resources is making the same argument  
2 with respect to the allocations. I think you'll hear from  
3 the State Water contractors next on that same issue.

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

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

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

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

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

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

25 If it stands the way it is, what is the increase

1 per household in your area for water? And also do you  
2 have -- your agency have any means of protecting  
3 low-income households from any increase here?

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

11 For Metropolitan, we have 26 member agencies.  
12 It's really kind of difficult to quantify the increase.

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

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

22 BOARD MEMBER ROBERTS: My concerns are, first of  
23 all, water is going out probably faster rate in southern  
24 California and the impacts are across the board. And the  
25 impacts we keep hearing this is neutral on the economy.

1 This is not neutral on the economy. It's not just about  
2 people at the low end who can't afford it. It's those  
3 people making decisions on business and the future whether  
4 they're going to expand to California. And I think we've  
5 got some blanks spots here.

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

8 BOARD MEMBER BALMES: Ms. D'Adamo.

9 BOARD MEMBER D'ADAMO: I have a question.

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

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

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

24 But the agency that you refer to will be effected  
25 through increased costs to the State Water Project.



1 Does that answer your question?

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

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

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

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

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

1 equitable draft regulation.

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

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

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

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

20           BOARD MEMBER BALMES: Thank you.

21           MR. RICHARDS: Good afternoon, Board members.

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

24           Like to thank staff first for all the help they  
25 gave stakeholders throughout this whole process.

1           Kern is a small independent family-owned refiner  
2 with no upstream crude oil or downstream retail  
3 operations.

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

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

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

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

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

23           Kern is a member of the Western Independent  
24 Refiners Association, and we support their comments later  
25 today.

1           One last thing I'd like to say is as a small  
2 refiner in California, we're very familiar with leakage.  
3 There were twelve small refiners in California in the 80s.  
4 And now Kern is the only small refiner producing gasoline  
5 and diesel.

6           Thank you.

7           BOARD MEMBER BALMES: Jeff Cohen.

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

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

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

1 Montreal protocol but remain in widespread use.

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

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

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

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

23           Thank you.

24           BOARD MEMBER BALMES: Thanks for your comments.

25           Elizabeth Hadley to be followed by John Larrea.

1 MS. HADLEY: My name is Elizabeth Hadley. I here  
2 on behalf of the Redding Electric Utility.

3 REU is a publicly owned electric utility that  
4 serves a population of 90,000 people within the city of  
5 Redding. In general, REU is supportive of the direction  
6 the proposed cap and trade regulation has taken. We have  
7 submitted written comments requesting clarifying changes  
8 to the regulation. We have discussed these items with  
9 your staff and feel that many of our concerns have been  
10 addressed in the 15-day proposed changes.

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

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

24 Finally, REU would like to thank ARB staff for  
25 being so open and willing to talk to stakeholders at any

1 given time in an effort to develop a program that can work  
2 for California. Thanks so much.

3 BOARD MEMBER BALMES: Thank you.

4 Mr. Larrea.

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

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

23 But staff has tried to do a one-size-fits-all,  
24 and we understand that. However, they've made certain  
25 assumptions that don't apply to our industry. And as a

1 result of those assumption, we feel it's kind of skewed  
2 the analysis associated with both our emissions  
3 intensities and our designation as a high leakage risk.  
4 To that end, we developed four points. You should have  
5 our handout. If you don't, I'll be glad to give you one  
6 which cover those areas. I've brought two of my members  
7 with me to cover those area. The most significant ones  
8 are leakage and in the benchmark.

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

16           BOARD MEMBER BALMES: Thank you.

17           Since I got your name right, I'd have to admonish  
18 you. The unfinished symphony was written by Schubert, not  
19 Bethovenas.

20           MR. MORTENSEN: You talk about food processing  
21 and farmers, you're not going to sell 13 million tons of  
22 tomatoes at the roadside stand.

23           I'm Jim Mortensen with Del Monte Foods. We've  
24 been in the state for 110 years.

25           Good afternoon. I'd like to elaborate on the



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

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

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

23           Having been regulated for criteria pollutants  
24 under the osmosis of the San Joaquin Valley Air Pollution  
25 Control District, we've improved our efficiencies of our

1 boilers and using many measurements all calculated with  
2 the ASME equations. Staff uses a number of 85 percent for  
3 fuel efficiency for their benchmarks for efficient boiler.  
4 I assume that came from the ASME equation. That's -- I  
5 called BMW. I asked them if I bought a new boiler with a  
6 couple of tricks on it, what kind of efficiency could I  
7 expect and they said 83 percent, maybe 82.

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

11           CHAIRPERSON NICHOLS: Finish your sentence.

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

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

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

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

25           CHAIRPERSON NICHOLS: Marian Balster and Frank

1 Harris and Leilani Kowal.

2 MS. BALSTER: Thank you for the opportunity to  
3 speak today. My name is Marian Balster, Director of  
4 Environmental Management for Olam West Coast.

5 Olam dehydrates onions and garlic and processes  
6 tomatoes. They are commodity ingredients sold to other  
7 manufacturers.

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

12 In the development of the emission intensity  
13 matrix, staff has used a high level of segregation, thus  
14 combining unlike industries into one category. We request  
15 staff to increase the differentiation among our industry  
16 which will result in clearly showing a high leakage rate.  
17 Specifically, the United Nation's Commodity Trades  
18 Statistics Database uses a five digit differentiation as  
19 opposed to ARB's three. The statistics read that U.S.  
20 imports 50 percent more dehydrated onion since 2007.  
21 China's garlic imports alone has risen from 50 million  
22 tons to 130 million. The international imports together  
23 account for 68 percent of the market share. The U.S. and  
24 California market shares eroding due to international cost  
25 advantage.

1 California, specifically onion and garlic  
2 dehydration industry has closed almost 40 percent of its  
3 capacity, eliminating 900 jobs over the past five years in  
4 the area, especially in the San Joaquin Valley. Continued  
5 erosion of our competitive position is a major factor when  
6 we consider operating and moving out of state and to  
7 foreign source productions.

8 Thank you.

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

11 MR. HARRIS: Thank you very much.

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

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

21 SCE commends the ARB on its effort to develop  
22 rules to implement AB 32. We note the leadership  
23 demonstrated by Governor Schwarzenegger and Chair Nichols  
24 has enabled the ARB staff and various stakeholders in the  
25 joint utility group to develop a reasoned approach to

1 allocating allowances in the cap and trade rule that will  
2 allow the state to achieve it's emission target at the  
3 lowest cost to California.

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

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

1 counterparties are going to speak to that as well.

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

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

8           CHAIRPERSON NICHOLS: Thank you very much.  
9 Thanks for sticking with us all this time.

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

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

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

22           We thank the ARB staff for creating a very open  
23 and constructive process that has allowed virtually all  
24 stakeholders who have an interest in this to have their  
25 voices heard. It feels like we've run a four-year

1 marathon, and we still have one year to go before we kick  
2 it off. And even then, we still have nine more years to  
3 implement.

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

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

20 CHAIRPERSON NICHOLS: Thank you.

21 Cindy Parsons, Joy Warren, Casey Creamer.

22 MS. PARSONS: Good afternoon, members of the  
23 Board. My name is Cindy Parsons. I'm with the Los  
24 Angeles Department of Water and Power. And I actually  
25 want to comment on the mandatory reporting regulation.

1           I'm the lead staff responsible for our reporting  
2 and verification. We have met with staff. We did submit  
3 written comments. And I just wanted to highlight a few of  
4 the issues that we would like to see addressed as part of  
5 the 15-day changes process.

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

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

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

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

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



1 fossil greenhouse emissions.

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

7           CHAIRPERSON NICHOLS: Thank you.

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

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

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

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

24           MID continues to have reservations regarding the  
25 impact implementing AB 32 will have on the state's

1 electric rate payer, but we generally believe on the whole  
2 the proposed regulation designs a program that does  
3 balance the many competing perspectives.

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

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

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

22           Thank you.

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

25           MR. CREAMER: Good morning. Casey Creamer with

1 California Cotton Ginners and Growers Associations,  
2 Western Agriculture Processors Associations, and also  
3 speaking on behalf of the Neisi Farmers League today.  
4 Hopefully now my two minutes are not up.

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

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

20           Thirdly, we like to ask the Board to leave open  
21 the item on the dropping of the threshold down to 10,000  
22 metric tons. We were involved in the workshop back in  
23 March. We made comments. Then there was silence for  
24 seven months and the first draft rule was presented. We  
25 think there could be potentially other issues with regards

1 to that. We'd like to ask the Board to leave that open so  
2 we can come back so we can look at it, find out if changes  
3 need to be made, what kind of sources would be brought in.  
4 And at that time, with more information, more stakeholder  
5 input, come back to your Board.

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

15           Thank you very much.

16           CHAIRPERSON NICHOLS: Phil Newell, Patty Krebs.

17           MS. KREBS: Chair Nichols, members of the Board,  
18 I'm Patty Krebs with the Industrial Environmental  
19 Association. We represent manufacturing, technology,  
20 research and development companies, very diverse industry  
21 sectors in southern California. Many of our IA member  
22 companies have strong corporate commitments to reduce  
23 carbon, but I think that the general reaction when this  
24 proposed regulation came out was that it was pretty  
25 overwhelming. There was a lot to take in in a very short

1 amount of time for them to understand the impacts on their  
2 business.

3           Some of the major issue areas that stood out.  
4 First, in the research and development, the proposed  
5 regulation does not adequately address the unique aspects  
6 of R&D operations, particularly those that are closely  
7 tied to manufacturing and production facilities. It's  
8 also very difficult to predict R&D activities several  
9 years in advance.

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

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

21           And in summary, we think that ARB should consider  
22 delaying implementation for the smaller emitters less than  
23 100,000 tons per year until 2015 to allow the regional  
24 markets to develop or the global markets and to become  
25 firmly established and viable.

1           We would just ask you to go slowly and take this  
2 incrementally. Thank you very much.

3           CHAIRPERSON NICHOLS: Frank Caponi, Susan Frank.

4           MR. CAPONI: Good morning, Madam Chair.

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

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

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

17           CARB has taken the unprecedented action of  
18 including these facilities in the Cap and Trade Program.  
19 This is counter to the rest of the world that considers  
20 these facilities as renewable energy sources. Very  
21 simply, this action will bankrupt these facilities and  
22 financially impact already strapped local governments,  
23 because we do not have the ability to pass this cost  
24 along. So we would have to fold. We would have to absorb  
25 the full cost of these allowances.

1           Once again, we cannot pass a cost along because  
2 faced with increases in prices, haulers would take the  
3 waste to a cheaper landfill.

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

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

18           And just in conclusion, I wanted to read an  
19 excerpt from an existing state law. And the state law  
20 addresses these facilities. And what it says is  
21 "construction of resource recovery projects can help  
22 alleviate the environmental and economic problems  
23 associated with MSW disposal, while at the same time  
24 producing additional supply of energy and material and  
25 that such projects, therefore, should be encouraged as a

1 matter of state policy. Bankrupting of these facilities  
2 we don't think is consistent with the state law."

3 Thank you.

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

8 BOARD MEMBER LOVERIDGE: Can I make a quick  
9 comment?

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

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

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



1 existing categories.

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

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

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

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

19           Okay. Mr. Fine.

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

22           The proposed rule and supported documentation,  
23 non-trivial supporting documentation represents the  
24 results of an extensive well-informed stakeholder process  
25 that I and my colleagues are thankful and proud to have

1 been a part of. We thank you for your hospitality and for  
2 considering our comments over the processes that have  
3 taken place and as we go forward.

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

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

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

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

25           With that said, there are certain aspects of the

1 allowance allocations scheme that we feel aren't justified  
2 in the staff documentation, so we are pleased to see that  
3 staff will be revisiting the recategorization of sectors  
4 which is the table 81 which is the table categorizing  
5 trade exposed energy intensive industry.

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

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

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

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

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

25           MR. FINE: We share concerns you've already heard

1 today about not putting biomass with -- the combustion of  
2 biomass within the calculation of compliance obligation,  
3 that it could potentially create a perverse incentive to  
4 use more biomass that isn't net beneficial for our  
5 atmosphere.

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

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

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

21           CHAIRPERSON NICHOLS: I have not seen him name.

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

23           CHAIRPERSON NICHOLS: Okay. Hi, Tim.

24           MR. O'CONNOR: Thank you. And in the interest of  
25 time, I'll just say I would recommend that nobody try to

1 write their comments after they get a cast on their hand,  
2 because it looks considerably like my two-year-old's art  
3 project at this point.

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

14 Secondly, it's very warming to know that the  
15 February 2011 time line for consideration of new protocols  
16 is out there in the staff report. It's in the resolution.  
17 And we look forward to that process. And want to note  
18 that offsets have multiple benefits. Within the program,  
19 they provide an important cost containment feature.  
20 Outside of the program, they provide an opportunity for  
21 investment in the agriculture community, in the rural  
22 community. Those types of projects that are in those  
23 communities have important co-benefits that can both  
24 benefit the air quality, the climate, as well as the soil  
25 and biosphere in the area in which they're developed.

1           The process that is we engage in February of  
2 2011, we really do recommend that we hold some spots open  
3 for projects in the agricultural community. EDF is  
4 working on a number of different protocols, whether it's a  
5 wetland protocols or a nitric acid reduction protocol or a  
6 fertilizer reduction protocol and also a rice methane  
7 reduction protocol, all of these have tremendous  
8 opportunities for California, things that we need to be  
9 focusing on because they're going to have benefits here as  
10 climate as well as in the biosphere.

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

19           CHAIRPERSON NICHOLS: Thank you, Tim.

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

25           Ms. Frank.

1 MS. FRANK: Thank you, Chair Nichols and Board  
2 members.

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

9 I wanted to highlight a letter that was submitted  
10 to you through your public comment online, and I'll bring  
11 some copies over as well. This letter was signed by over  
12 125 CEOs, association leaders, and entrepreneurs from  
13 geographically diverse regions of the state who support  
14 what you're doing here today. And they believe it will  
15 stimulate job creation and yet also keep costs low.

16 The potential impact on business, particularly  
17 small business of this program, has been misrepresented, I  
18 would argue, in the media and elsewhere. And you'll hear  
19 from small business leaders who will make the same case.

20 Not all of those business could be here today,  
21 and I'm thinking you might be happy they stayed home given  
22 the volumes of people speaking to you. But they are busy  
23 providing jobs, hiring people, and doing their part for  
24 the growing clean energy economy.

25 On behalf of the businesses that couldn't be

1 here, I want to thank you for moving forward. I'm leaving  
2 additional copies of the letter.

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

7 Mr. Rosenheim.

8 MR. ROSENHEIM: Hi. My name is Dave Rosenheim.  
9 I'm Chairman of a company called Jambuse, which I think is  
10 a fish out of water in this audience. We're in the  
11 internet music business.

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

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

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

21 Speaking as a twelve-year executive in the  
22 digital media industry, I have personally benefited from  
23 the Vibrant ecosystem of venture capital and technologists  
24 that Silicon Valley is famous more. I think the adoption  
25 of CARB standards help to ensure that California remains a



1 center for innovation, job growth, and wealth creation in  
2 the new clean energy economy.

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

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

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

17           Thank you.

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

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

23           CHAIRPERSON NICHOLS: Thank you.

24           Mr. Bernhardt followed by Danielle Mills.

25           MR. BERNHARDT: Good afternoon. Thank you for

1 the opportunity to address you today on the proposed  
2 regulations.

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

9           We would like to suggest the following  
10 improvements on regulation.

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

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

23           On industrial emissions, the benchmark for  
24 industry emissions should be set at industry best  
25 practices, not at industry average practices. Most

1 efficient facility should get their allowances for free,  
2 while the less efficient ones should have to pay to  
3 purchase their allowances. This will encourage all  
4 facilities to implement industry best practices.

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

10           Thank you very much for considering our  
11 recommendations.

12           CHAIRPERSON NICHOLS: Thank you.

13           Danielle Mills, Robert Lawrence, Kate Beardsley.

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

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

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

1 necessary.

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

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

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

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

1 Thank you.

2 CHAIRPERSON NICHOLS: Thank you.

3 Robert Lawrence, Kate Beardsley, Bruce  
4 McLaughlin.

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

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

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

17 The first issue I think needs to have a harder  
18 look taken at is the allocation of allowances to utilities  
19 and the rebate of auctioned proceeds from other buyers of  
20 allowances back to utility rate based customers. The  
21 reason I think this is a significant issue is that  
22 utilities will be in a position where they can essentially  
23 bid up the price of allowances and rate base the proceeds  
24 or rate base the cost and then will in the end be rebating  
25 the proceeds of the auction back to their customers. That

1 process of auction and rebate to the rate payers does not  
2 make a lot of sense to me, but it's more difficult it  
3 seems to me because other participants who don't get  
4 allowances, industries and importers of electricity and  
5 independent power generators, will be bidding for those  
6 allowances as well. And the proceeds of those auctions  
7 will be going back to the rate payers. So you have cross  
8 industry subsidies which I think have not been properly  
9 considered in the staff's review of the economic impacts  
10 here.

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

19           Thank you.

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

22           Kate Beardsley.

23           MS. BEARDSLEY: Good afternoon. My name is Kate  
24 Beardsley. I'm here speaking on behalf of PG&E. PG&E is  
25 a gas and electric utility serving one in 20 Americans,

1 and we are committed to leadership on climate change.

2 I can't agree more with the analogy to a marathon  
3 that was used before, although it feels more like an Iron  
4 Man or something like that. So we really appreciate all  
5 the work that staff has done and the endurance of the  
6 Board to listen to all these comments.

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

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

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

23 Secondly, electric sector allowance allocation,  
24 we support the proposal to allocate allowances to  
25 utilities for the benefit of our customers. We are

1 generally supportive of the approach using the cost burden  
2 approach that's in Attachment E.

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

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

14           So thank you very much.

15           CHAIRPERSON NICHOLS: Thank you.

16           Bruce McLaughlin, Erin Craig, Randy Friedman.

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

24           And in the interest of time, I have only one  
25 recommendation to present in our testimony, and that sort



1 of comes from the first presentation we heard on public  
2 health benefits of offset projects located in California.  
3 This is my recommendation: That you should direct staff  
4 to consider the elimination of the quantitative usage  
5 limitation for California-based offset projects, most  
6 specifically the projects using forestry, urban forestry,  
7 urban life cycle methane capture protocols. This would  
8 promote the AB 32 goals of achieving the GHG emission  
9 reduction cost effectiveness and providing environmental  
10 benefits to California.

11 And that's it. Thank you very much.

12 CHAIRPERSON NICHOLS: Thank you.

13 Erin Craig, Randal Friedman, John Spangler.

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

21 We are extremely knowledgeable about the ins and  
22 outs of carbon offset projects. Today, we have more  
23 projects listed on the Climate Action Reserve than anyone  
24 else. We have also had more projects issue credits from  
25 the Climate Action Reserve than anyone else.

1           We are very much in support of what you're doing  
2 today and offer these comments to make the regulation as  
3 good as it needs to be to combat climate change, which of  
4 course voluntary actions are insufficient to do.

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

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

18           This can be accomplished with two small  
19 additions to the regulation. The first is to apply an  
20 additionality screen, which is already used by most  
21 voluntary offset programs today to early action projects.  
22 And the second is to allow additional protocols, which I  
23 know you're planning to do. In particular, we support the  
24 landfill methane protocol. That is one of the most  
25 effective offset protocols available.

1           CHAIRPERSON NICHOLS: Thank you.

2           Mr. Friedman and then John Spangler and C.C.  
3 Song.

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

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

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

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

23          DOD concerns unique to this proposal reflects the  
24 discussions around AB 1405 this year which would have  
25 earmarked a substantial portion of the cap and trade

1 revenues to fund a wide range of social-based programs.  
2 While vetoed by the Governor, the discussion at your  
3 legislative report this year made clear that the Board and  
4 the staff's intent to proceed down this road and this was  
5 re-affirmed today in the staff presentation that a  
6 substantial portion of these revenues would be earmarked  
7 for this.

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

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

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

25           CHAIRPERSON NICHOLS: Thank you.

1           MR. SPANGLER: Good afternoon, Madam Chair, Board  
2 members. My name is John Spangler. I'm here today  
3 representing Major General Anthony Jackson, the Commanding  
4 Officer at Marine Corps Installations West. MCI West is  
5 seven installations in the southwest, six of which are in  
6 California.

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

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

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

24           The Cap and Trade Program will initially apply to  
25 one facility in the Marine Corps at 29 Palms. 29 Palms

1 plays an essential role in the training of marines.  
2 Almost all marines that have gone to Iraq and/or will go  
3 to Afghanistan have been trained there. It is home to a  
4 cogen facility generating about 57 percent of the base's  
5 electricity.

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

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

15           Thank you.

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

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

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

24           My name is C.C. Song, and I'm from the  
25 Greenlining Institute. We advocate for California's

1 underserved and low income communities.

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

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

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

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

25           ARB must do more to revise its proposed rules to

1 help consumers lower their energy bill and provide  
2 incentives for small business owners to invest in energy  
3 efficiency and renewable energy technology.

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

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

13           CHAIRPERSON NICHOLS: Thank you.

14           Robert Callahan, Dorothy Rothrock, Colleen  
15 Britton.

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

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

21           Cal Chamber has long maintained a successful Cap  
22 and Trade Program cannot be a California-only unilateral  
23 program and will require a seamless linkage of federal and  
24 international programs. At this point, the only  
25 possibility appears to be the WCI, which can only happen



1 if those participants agree to the program's  
2 implementation and will be ready for a 2012 start date.

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

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

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

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

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

25           Finally, the allowance reserve, we agree it is

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

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

10           CHAIRPERSON NICHOLS: Good plan.

11           MS. ROTHROCK: Good afternoon, Chair and members.

12           My name is Dorothy Rothrock with the California  
13 Manufacturers and Technology Association and also the AB  
14 32 Implementation Group, which is a much broader  
15 organization.

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

20           The two points I want to make quickly is that  
21 we're very disappointed that the benchmarks for all the  
22 industries have not been set yet. It's important for  
23 companies -- crucial for companies to understand what  
24 their compliance responsibilities are going to be far in  
25 advance of when they're actually going to incur those

1 costs. So while the allocation is free in the first  
2 period, the benchmark is only going to provide a limited  
3 amount of allowances, as we heard, based on the efficiency  
4 standard. So there is definitely going to be some cost  
5 incurred right away for these companies. They need to  
6 plan ahead for these extra costs they'll incur.

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

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

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

1 dampen their enthusiasm to invest and grow in California.

2 Thank you.

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

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

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

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

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

24 We do support the regulation. We're operating in  
25 the best of times and the most challenging of times. And

1 we believe that California has opportunities to build the  
2 energy infrastructure in the future, and this regulation  
3 represents one of those opportunities.

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

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

25           We must realize it's very critical that this is

1 one fees of the policy, and we must continue any other  
2 policies the State has for the other 80 percent  
3 reductions.

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

8           Thank you very much.

9           CHAIRPERSON NICHOLS: Okay. Thank you.

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

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

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

22           First, cap and trade should be designed to  
23 encourage the manufacture of products to reward processes  
24 that use the least energy per unit of output. In  
25 refining, the more complex the refinery, the greater the

1 greenhouse gas emissions needed to make a gallon of  
2 transportation fuel. WIRA member refineries are simple  
3 operations that have historically made it more difficult  
4 for them to meet your specifications. Here, however, the  
5 carbon emission WIRA members generate to make  
6 transportation fuels are less than the greenhouse gas  
7 emissions the big oil companies generated to make a gallon  
8 of transportation fuel.

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

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

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

25           And so I again ask you to allow us to work with

1 your staff to continue to implement the cap and trade at  
2 least as to transportation fuels. Thank you.

3 CHAIRPERSON NICHOLS: Okay. Doug Payne

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

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

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

17 Small Business California was an early supporter  
18 of AB 32 legislation prior to its passage. We stated our  
19 support based on our strong preference towards addressing  
20 climate change through planning versus emission reduction  
21 requirements while balancing incentives to encourage  
22 energy savings and investment. California small  
23 businesses will benefit by developing and delivering  
24 emission reduction technology for all markets, including  
25 export.



1           Small Business California has been an active  
2 participant in AB 32 policy development through our  
3 participation in the panel and testifying before CARB.

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

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

13           During ETAAC process, Small Business California  
14 worked with on-bill financing as a major access to capital  
15 through energy savings. While we're pleased to see these  
16 programs are now in place in most California utility  
17 service areas, there is a need for bridge financing for  
18 contractors to be able to afford to wait for payment from  
19 these utilities programs, which currently can stretch out  
20 90 to 120 days.

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

25           CHAIRPERSON NICHOLS: Thanks.

1 All right. John Arensmeyer, and then Tod Delaney  
2 and Norman Plotkin.

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

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

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

25 According to our report, these opportunities fall

1 into four major categories:

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

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

12           Third, incentives for companies to go green. AB  
13 32 will create savings and boost profit margins for new  
14 and existing Main Street small businesses that  
15 successfully are expanding their business models to go  
16 green and employee brand differentiation strategies to  
17 grow their businesses.

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

23           Thank you very much.

24           CHAIRPERSON NICHOLS: Okay. Thank you.

25           Mr. Delaney.

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

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

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

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

22           Our firm has been in existence since 1977, has  
23 been working on GHG emissions since '96. It is our  
24 experience that leads us to suggest to you that it takes  
25 more than simply taking a course and passing a test to

1 become a competent professional and reliable verifier. In  
2 addition to education, training, and hands-on experience,  
3 it takes a deep understanding of the fundamentals of  
4 auditing and verification. A competent verification team  
5 must be comprised of individuals that possess a balance of  
6 quantitative and qualitative skills. These auditors must  
7 rigorously apply the processes that includes strategic  
8 review of GHG management systems, complex planning, and  
9 rigorous data quantifications.

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

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

18           Thank you.

19           CHAIRPERSON NICHOLS: Good.

20           Yes.

21           BOARD MEMBER LOVERIDGE: Sir?

22           CHAIRPERSON NICHOLS: Excuse me, sir. Before you  
23 leave, we have a question.

24           BOARD MEMBER LOVERIDGE: Can I just ask, sir --

25           MR. DELANEY: Can't hear you.

1           BOARD MEMBER LOVERIDGE: Twenty seconds on why --  
2 you said this is way too weak. Frame again why you say  
3 the proposed standards are too weak.

4           MR. DELANEY: In detail is in the comments that  
5 we provided on the 14th. But what it is, we as a verifier  
6 are accredited under the ANSI -- the American National  
7 Standards system and the ISO 1406d(4), require 15 specific  
8 points that we have to meet. Your requirements only  
9 address six of those; and of those six, only require  
10 on-site visit for two of those. For us, any time we go  
11 for a new sector, for a new area, for a new scope, we have  
12 to have an on-site witnessed audit and we have to have the  
13 processes in place for that and also for the competency of  
14 our verifiers.

15           And, quite frankly, when we go through your  
16 program -- we're one of the largest verifiers for CAR and  
17 also for the current ARB program. But when my employees  
18 go through the ARB program, they're not allowed to be a  
19 verifier for at least a year because they have not  
20 completed what we need to do in order to meet the ANSI  
21 requirements. And the ANSI requirements are very similar  
22 to what is taking place in the EU --

23           BOARD MEMBER LOVERIDGE: I understand. Thank  
24 you.

25           MR. DELANEY: Okay. Thank you.

1           CHAIRPERSON NICHOLS: Okay. Norman Plotkin.

2           Are you here?

3           Ruben Jauregui.

4           And you are part of a group of 11, is that  
5 correct, according to the list here.

6           MR. JAUREGUI: Yes. I believe so.

7           CHAIRPERSON NICHOLS: Could we have your entire  
8 group come forward then and present together? I think  
9 that will be more efficient, if that's okay.

10          MR. JAUREGUI: Yes.

11          CHAIRPERSON NICHOLS: Okay. Thank you.

12          MR. JAUREGUI: Some of them are here.

13          CHAIRPERSON: Yeah, this is numbers 85 through 95  
14 on our list here. So it includes a number of different  
15 organizations.

16          Thank you.

17          MR. JAUREGUI: My name is Ruben Jauregui and I'm  
18 here representing the Latino Institute for Corporate  
19 Inclusion. Our mission is to secure the inclusion of  
20 Latinos in the corporate world.

21                 We're very concerned that the cap and trade  
22 program you are considering will make it much more  
23 difficult for small business and entrepreneurs who are  
24 striving to build and maintain businesses here in  
25 California to be successful.

1           Regardless of staff's assertion that cap and  
2 trade's higher energy costs will be a wash, all  
3 indications are that the costs will rise much higher and  
4 faster than will any potential future energy efficiency  
5 savings.

6           We've been following the AB 32 process for  
7 several years now and have observed the common thread that  
8 staff consistently says it's not going to cost anything.  
9 Yet experts like the California Legislative Analysts have  
10 concluded that there will be costs, especially in the near  
11 term, and that those costs are going to have negative  
12 impacts.

13           For example, the LAO found that some businesses  
14 may not be able to afford AB 32's transition costs and  
15 therefore will not be around to enjoy energy savings that  
16 might occur later.

17           In another report earlier this year, the LAO  
18 determined that California-only policies will have an  
19 adverse effect on our state's economy, resulting in lower  
20 business profits; higher prices; and reduced production,  
21 income, and jobs.

22           Cap and trade is one of the largest policy  
23 elements of AB 32. So it stands to reason these findings  
24 would apply. There is a reason most other states and the  
25 federal government have put cap and trade on hold.



1 There's is reason all but one other state in the Western  
2 Climate Initiative have declined to move forward with the  
3 cap and trade.

4 CHAIRPERSON NICHOLS: Thank you, sir.

5 I believe your next is David Lizarraga.

6 MR. LIZARRAGA: Good afternoon. My name is David  
7 Lizarraga, and I'm the President of TELACU Millennium.  
8 And I'm also the immediate past Chairman of the  
9 United States Hispanic Chamber of Commerce.

10 First, I'd like to commend you and your staff on  
11 your efforts with respect to implementing AB 32. This is  
12 a monumental task, and your actions will have far-reaching  
13 impact throughout the California economy. This is  
14 wide-stream care must be taken to ensure that any cap and  
15 trade program you adopt does not have a price tag that  
16 will make California a dire economic -- put California in  
17 a dire economic situation and ultimately doom the policy  
18 to failure.

19 As you know, the federal government has decided  
20 to postpone action on a national cap and trade policy  
21 because the cost to businesses and consumers would be too  
22 high. This seems to be a significant disconnect between  
23 this conclusion and that of your staff, who project that  
24 there will be essentially very little cost.

25 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

1 is increasingly strained. This is not the time to impose  
2 drastically higher energy costs based on an  
3 over-optimistic assumption that it will all work out  
4 over time. Just keep this in mind as you grapple with the  
5 details of this program.

6 Thank you very much for your consideration.

7 CHAIRPERSON NICHOLS: Thank you, Mr. Lizarraga.

8 Mr. Canete and then Mr. Barrera.

9 MR. CANETE: Thank you, Chairman Nichols, CARB  
10 members. Julian Canete, Executive Director of the  
11 California Hispanic Chamber of Commerce.

12 The State Hispanic Chamber supports the goals of  
13 AB 32. But as you know, we have long been concerned about  
14 its cost. In reviewing the proposed cap and trade  
15 regulations, those concerns persist.

16 In particular, CARB has always maintained that in  
17 order to be effective the cap and trade program must be  
18 part of a regional multi-state effort. Yet the regulation  
19 before you does not propose linking to any specific  
20 programs outside California at this time. If widespread  
21 equitable linkage cannot be accomplished, serious  
22 consideration should be given to postponing a cap and  
23 trade regulation.

24 The LAO earlier this year observed that  
25 California's economy will be adversely affected by

1 adopting climate change policies that are not adopted  
2 elsewhere, largely because of higher energy prices which  
3 will occur here. The LAO warned of rising costs for goods  
4 and service due to leakage of economic activity to  
5 locations outside of California where regulatory costs are  
6 lower.

7           Your staff's economic analysis suggests that  
8 small businesses are not likely to face competitive issues  
9 with out-of-state businesses since out-of-state businesses  
10 cannot provide local services like those provided by hair  
11 salons and bakeries. This is incredibly shortsighted and  
12 reveals a lack of understanding of basic economics. While  
13 it is true that out-of-state taco shops, for example, are  
14 unlikely to compete with neighborhood taco shops, those  
15 local taco shops will suffer from increased energy costs  
16 that will be difficult to pass along to their customers.  
17 And they will lose customers whose own businesses have  
18 been competitively damaged by California-only cap and  
19 trade program. That means not only the owners of those  
20 small businesses, which make up the majority of our  
21 membership, will suffer. It also means that they are  
22 likely to have to lay off workers, who in turn will lost  
23 the wages and benefits upon which their families depend.

24           While the proposed regulation and supporting  
25 documentation are voluminous, it appears there is yet much

1 work to be done to identify the true costs of the program  
2 and its impact on small and minority-owned businesses,  
3 consumers, and the state's economy.

4           The California Hispanic Chambers of Commerce  
5 urges you to address these issues before finalizing a cap  
6 and trade policy.

7           Thank you.

8           CHAIRPERSON NICHOLS: Okay. Thank you.

9           Mr. Barrera.

10          MR. BARRERA: Thank you for the opportunity.

11          My name is Andrew Barrera. I'm with the Los  
12 Angeles Metropolitan Hispanic Chamber of Commerce.

13          In the Los Angeles area, we already are feeling  
14 the effects of AB 32. In contrary to the conclusion of  
15 the staff report, it looks like the global warming  
16 regulations like cap and trade are going to be very costly  
17 to small businesses and California families alike.

18          As a regulated entity, our utility, under cap and  
19 trade, the Los Angeles Department of Water and Power is  
20 facing enormous cuts for emission allowances. Now, it  
21 sounded like earlier today that you may have come to some  
22 type of an agreement with them. We've not privy to that.  
23 However, as of yesterday, based on consumption of coal as  
24 a source of energy, we were able to realize that the  
25 economic analysis ranged in increases from 54 to 269

1 percent. Between this and the renewable portfolio  
2 standard, to say that L.A. ratepayers will be hard hit is  
3 under -- is a significant understatement.

4 The premise of the allowance fee is that it will allow  
5 inducements to cause major emitters to switch to lower  
6 Carbon usage and more efficient energy sources.

7           Your staff report also observed that rising  
8 energy prices drives purchases of more expensive but more  
9 efficient devices. Staff's assumption assumes that this  
10 is okay and that there are public initiatives programs  
11 available for small businesses will drive small businesses  
12 to go for these types of investments.

13           However, we would like to say that small  
14 businesses right now are operating in such a narrow margin  
15 that they basically don't have the access to capital or  
16 the resources that many other industries do have. And so  
17 we encourage that a further study be done on the impact of  
18 small businesses.

19 Thank you.

20           CHAIRPERSON NICHOLS: Mr. Ramirez.

21           MR. RAMIREZ: Good afternoon, members of the  
22 Board. My name is Juan Ramirez, and I'm a small business  
23 owner for a company for a real estate company in Los  
24 Angeles. I'm also a member of the California Association  
25 of Realtors.

1           Of all of the sectors impacted by this recession,  
2 construction and real estate have suffered the most. Home  
3 prices are declining still.

4           So I'm having a hard time kind of understanding  
5 how rising energy is not going to affect the economy and  
6 other individuals who are having a hard time. Most people  
7 are living paycheck to paycheck and in some instances  
8 they're living off of unemployment benefits.

9           These folks can't afford higher utility bills.  
10 And they can't afford to make investments in new cars,  
11 refrigerators, or solar roofs, even though that there's  
12 rebates associated to this.

13           From what I see, the staff answer to just about  
14 every concern about the cost is saving energy efficiency.  
15 It seems to me that California's economy is going to get  
16 better but not yet. This is something else that I'm  
17 having a hard time understanding, the timing of this  
18 proposition.

19           As Governor-elect has suggested, the budget  
20 situation is even worse than we've thought, that we're  
21 going to have to make some serious sacrifices.  
22 Thank you very much.

23           CHAIRPERSON NICHOLS: Thank you.

24           Willie Galvan.

25           Is he here?

1           Helen Galvan.

2           MR. GALVAN: Good afternoon, Madam Chair and  
3 Board. My name is Willie Galvan. I'm here for the sake  
4 of the matter of the American GI Forum of California, a  
5 veterans family organization.

6           Our organization is dedicated of meeting the  
7 needs of incoming and improving -- the incoming veterans  
8 and improving the lives of those who are returning heroes  
9 and all Californians.

10           In this desperate economic times our top priority  
11 must be to protect jobs and veterans facing additional  
12 burdens after being released from the services. Our  
13 California -- being imposed in California. And while we  
14 applaud the goals of your cap and trade proposal, we're  
15 concerned that this policy may indeed put jobs and family  
16 projects budget at risk.

17           All indications are that this cap and trade  
18 program will drive energy costs up for businesses for  
19 families. When businesses have to pay higher energy  
20 costs, they have less money available for payroll; and  
21 that means a reduction in jobs and in the critically  
22 important benefits like health care that go with them.

23           This is very, very serious for all Californians  
24 but especially for our veterans, who already suffer from  
25 disproportionately high unemployment. They face special



1 challenges in civilian market. Their military skills do  
2 not always translate directly to civilian jobs. And while  
3 the government, the VA, does all it can, there are not  
4 enough resources to give our veterans the support and  
5 training they need to transition to civilian life.

6           In California, those resources will become even  
7 more strained as local governments and nonprofits alike  
8 suffer from cap and trade higher energy costs and the  
9 reduced tax revenues that will result as the economic  
10 activity is reduced.

11           The staff's assumption that cap and trade would  
12 not cost anything is not supported by credible facts.  
13 Therefore, proceeding further, more work is necessary to  
14 ensure we avoid unintended consequences that can make it  
15 even harder for our veterans and families and other  
16 Californians. Please consider this when deliberating your  
17 next step in this case.

18           Thank you very much.

19           CHAIRPERSON NICHOLS: Okay. Is Helen Galvan  
20 here?

21           MS. GALVAN: Good afternoon. My name is Helen  
22 Galvan. I'm Chairperson of the American GI Forum, Women  
23 of California. Our organization is dedicated to meeting  
24 the needs and improving the lives of Latino and other  
25 veterans.

1           The American GI Forum continues to be a source of  
2 hope and an avenue for involvement for our returning  
3 military heroes and people trying to improve conditions in  
4 their local community.

5           We're very concerned that the higher energy costs  
6 predicted as a result of cap and trade will create severe  
7 hardships for California families and for veterans in  
8 particular. Higher energy costs translate to lost jobs, a  
9 scenario that we can't afford to risk.

10           The challenges facing our veterans are even  
11 greater than those that face our civilians. The U.S.  
12 Bureau of Labor Statistics reports that about 21 percent  
13 of Gulf War veterans serving after August 2001 reported  
14 having a service-connected disability and 21.6 percent of  
15 18- to 24-year-old male veterans for that period were  
16 unemployed as of 2009. With so few jobs to go around,  
17 it's getting harder and harder for veterans like these to  
18 find work. We must not make it even harder than it  
19 already is.

20           I understand the concept of higher energy costs  
21 potentially being offset by energy savings. But we're  
22 talking about people who can't afford to pay their utility  
23 bills as it is and who can't afford to buy new energy  
24 efficient cars and refrigerators.

25           The staff's conclusion that the cap and trade

1 program will not negatively impact jobs and the economy is  
2 frankly not realistic. We hope you will take this into  
3 account before pulling the switch on a plan that has the  
4 potential to hurt those least able to afford it.

5 Thank you.

6 CHAIRPERSON NICHOLS: Thank you.

7 Juan Ramirez.

8 MR. RAMIREZ: Thank you, Madam Chairwoman. It's  
9 Armando Ramirez. And I'm a native Californian, small  
10 business advocate, consumer advocate.

11 And I've heard a lot of different sections of  
12 industry speak today. And one thing that ties us all  
13 together is that we are all consumers. And if we just  
14 take into account that we shop at, let's say, five  
15 businesses apiece, if each one of those businesses costs  
16 do go up, they have no choice in order to continue to  
17 operate but to pass those costs on to you and myself.  
18 Multiply that times however many businesses we frequent,  
19 and you can see that it becomes quite an issue for  
20 families that are living paycheck to paycheck, single  
21 family incomes with children that are trying to save for  
22 college, that are trying to live a traditional wholesome  
23 and productive lifestyle.

24 I thank you for your time. And I do ask that you  
25 consider these ramifications as you go forward.

1 Thank you.

2 CHAIRPERSON NICHOLS: Juan Carlos de la Cruz.

3 MR. De La CRUZ: Good afternoon, Madam Chair,  
4 Board. My name is Juan de la Cruz. I own a small  
5 business. It's a car sales lot in L.A. And I'm also a  
6 member of the Latino Business Association.

7 I came here from southern California today  
8 because I'm extremely worried that the action you're about  
9 to take on cap and trade will have direct and detrimental  
10 impact on my business. The stated purpose of this cap and  
11 trade program is to impose costs that induce people to  
12 invest in newer, more energy efficient devices.

13 When cap and trade forces the cost of fuels and  
14 vehicles to go up, the value of most vehicles will go  
15 down. That means that cars and trucks in California,  
16 currently own and drive will be worth a lot less. My  
17 inventory will be worth less as well.

18 Now, maybe the people on the west side of L.A. or  
19 Silicon Valley can afford to pay higher prices to own and  
20 drive the cars and trucks they prefer or to pay for new  
21 vehicles you want them to buy. But in my neighborhood and  
22 many others like it people can't afford new cars. They  
23 can't afford higher gas prices. Many of them can't even  
24 afford to take the bus nowadays.

25 With the economy as bad as it is, people are

1 already holding on to their old cars longer. Under cap  
2 and trade, they are likely to keep them even longer, which  
3 means no reduction in emissions and a lot less business  
4 for most car lots. We will all suffer.

5           So it's somewhat naive to say that it's okay for  
6 energy prices to go up because people will make smart  
7 investments in new cars and other things and save on  
8 energy in the long run. We're in a major recession and  
9 unemployment is sky high, especially in California. The  
10 people who can't afford those decisions far outnumber the  
11 people who can.

12           What I'd like to know is, what are you going to  
13 do when these assumed investments in energy efficient cars  
14 and other things don't happen and when you're not meeting  
15 your carbon reduction goals? Are you going to make the  
16 energy we use and need every day even more expensive?  
17 Frankly, this plan seems more like punishment than  
18 inducement.

19           Thank you.

20           CHAIRPERSON NICHOLS: Edwin Lombard.

21           MR. LOMBARD: Thank you, Madam Chair and Board  
22 members. My name's Edwin Lombard. I'm with Edwin Lombard  
23 Management. I'm a consultant and advocate for small and  
24 minority-owned businesses.

25           There's no doubt that a lot of work has gone into

1 the crafting of the cap and trade regulation, and you and  
2 your staff are to be commended for your efforts. But  
3 among the stakeholders in my community, there is concern  
4 that there is much yet to be done.

5           Most of the detailed analysis relates to the 500  
6 or so entities such as utilities companies, fuel  
7 producers, manufacturers, and transportation providers  
8 that will be directly subject to the cap, and how  
9 allowances will be allocated and what they will cost. But  
10 very little has been done in the way of analyzing the real  
11 world impact to the end-users and those entities' products  
12 and services.

13           This is of critical interest to small and  
14 minority-owned businesses and communities of color since  
15 they spend a higher percentage of their budgets on energy  
16 and can least afford even small increases in the cost of  
17 utilities and fuels. They will be hard hit when the cost  
18 of food, transportation, clothing and other necessities  
19 goes up as can and trade costs are passed along to them as  
20 the end-users.

21           While there is a discussion to provide assistance  
22 to small businesses and families who can't afford the  
23 utility rate increases, it's unclear how that would work  
24 and who would be eligible, how much help would be  
25 available, et cetera. And there is a strong possibility

1 that ratepayer assistance won't begin to cover the other  
2 costs of everyday living and doing business outside of  
3 electricity and gas bills.

4           Our small businesses are worried that in order to  
5 pay the bills under cap and trade, they'll have to lay off  
6 workers. Families are worried about losing paychecks and  
7 health care benefits at the same time the cost of living  
8 will be going up under cap and trade. Small businesses  
9 and families alike are worried about the cost of higher  
10 education, as some state universities subject to the cap  
11 were forced to raise tuition even higher and to cover  
12 those costs.

13           We strongly urge you to consider these things as  
14 you deliberate today.

15           Thank you.

16           CHAIRPERSON NICHOLS: Steve.

17           MR. GANDOLA: Good afternoon. My name is Steve  
18 Gandola. I'm the President and CEO of the Sacramento  
19 Hispanic Chamber of Commerce, and proud to be a part of  
20 this region that embraces green initiatives and partner  
21 with the mayor in trying to make this the emerald valley.

22           In spite of that, we're very concerned about the  
23 cap and trade and its impact on small business. And the  
24 assumption that it will have little impact on small  
25 business is just not the case.

1           As energy costs increase, our small businesses  
2 are going to get hit in two areas: One is the direct cost  
3 to them for those energy increases in their businesses.  
4 And secondly is the cost of goods and services that they  
5 have to purchase in order to do business.

6           And these small businesses -- I can't emphasize  
7 enough, they are operating on such small margins, barely  
8 in the black right now. And any increases in cost can  
9 quickly send them into the red. And so it's really  
10 critical that we consider this.

11           A lot of attention has been given to the costs of  
12 cap and trade. But the offsetting savings are vague and  
13 don't seem to be commensurate with the increased costs.

14           And then, secondly, troubled with the go-it-alone  
15 approach of California in this and without consideration  
16 to the surrounding states. And I was impressed with Dr.  
17 Hanemann's remarks this morning that there has been  
18 inadequate attention to the leakage with regards to the  
19 surrounding states. And would strongly encourage you to  
20 give more attention to those impacts on our economic  
21 development.

22           Thank you.

23           CHAIRPERSON NICHOLS: Okay. That concludes the  
24 witnesses that are part of this particular group. I just  
25 want to say a word or two to you directly.



1           First of all, I apologize for the absence today  
2 of our small business ombudsman, who was not able to be  
3 with us because she's with her mother, who's undergoing  
4 surgery in Los Angeles. She would normally have been here  
5 and have been available to have some discussion with you  
6 before or during the meeting. But she will be outreaching  
7 to this organization in the days and weeks ahead.

8           We are very aware of the fact that there's a lot  
9 of implementation work to be done and a lot of concerns.  
10 I do want to just address a couple of the issues though.

11           One is that I think it's been repeatedly  
12 demonstrated, and the last witness really reminded me of  
13 this, that when the electric utilities are put in the  
14 position where they are required to save electricity by  
15 dealing with their customers, what they do is they go out  
16 and offer services to actually help their customers save  
17 on energy and save on their bills. That is the purpose of  
18 this program. It's the biggest element of this program.

19           And I was with Mayor Johnson not too long ago at  
20 one of his small business makeovers in a low income --  
21 primarily it was an Asian neighborhood where the local  
22 business improvement district had gone door to door  
23 working with each and every one of the small businesses  
24 that were in that area - and they were not all coffee  
25 shops or hairdressers - to identify what kinds of

1 improvements could be made in their buildings -- and their  
2 buildings and their equipment including water and energy,  
3 which are the primary sources of expenditures for many of  
4 these businesses. And the local utility, which was in  
5 this case SMUD, was there with him and with us to sign up  
6 every willing business owner to put equipment in their  
7 buildings, to actually work with them to not only install  
8 but to finance the installation of new energy saving  
9 equipment, which would then be paid off over time in lower  
10 utility bills. And that is the way that this program is  
11 meant to be implemented.

12           Now, I can't promise you that for each and every  
13 business that's represented by the groups that are here  
14 that what's happening today. This is what we envision  
15 happening in the future. This is what we have to make  
16 happen in the future. But that is the only way that we're  
17 going to achieve the results that we're aiming for with AB  
18 32. Otherwise, there's no point doing this program. And  
19 you know, believe me, we're not interested in just doing  
20 it so we can say on a piece of paper that we, you know,  
21 reduced greenhouse emissions.

22           The purpose of this is to do something that makes  
23 California more competitive, more economically efficient,  
24 and also energy efficient.

25           So we need to continue the conversation. We

1 intend to continue the conversation. I appreciate your  
2 coming and expressing your concerns. And it just  
3 indicates that we've got a lot of work to do to implement  
4 this program successfully. So I want to thank you for  
5 that.

6 I do want to take about a seven-minute break  
7 right now. I think we need a stretch break.

8 Exactly seven? Well, I see 2:22 or so. Anyway,  
9 to come back at 2:30 after people have had a chance to  
10 take a brief comfort break. And we'll resume at 2:30.

11 Thank you.

12 (Thereupon a recess was taken.)

13 CHAIRPERSON NICHOLS: All right. Ladies and  
14 gentlemen, thank you for bearing with us here. I believe  
15 we've actually crossed the halfway mark on our list.  
16 We're doing great.

17 Okay. Ms. Williams.

18 MS. WILLIAMS: Good afternoon, Chairman Nichols  
19 and members of the Board. I'm representing the  
20 International Warehousing and Logistics Association, a  
21 nonprofit trade association representing value-added  
22 warehousing and the logistics industry.

23 IWLA is opposed to placing diesel fuel under a  
24 declining cap. I'm going to go to the end to tell you  
25 what we'd like instead, and then go back and tell you why

1 we're opposed, because I might run out of time.

2 IWLA requests CARB abandon placing transportation  
3 emission under a declining cap. But if you must move  
4 ahead against our counsel, we ask for the following  
5 safeguards to be put in place so that CARB doesn't  
6 inadvertently cause significant damage to California's  
7 economy.

8 We'd like to see -- wait until 2018 to place  
9 diesel fuel under the cap and reopen the discussion prior  
10 to 2015, because we're concerned at that period of the  
11 second compliance period there will be diesel price shock.

12 We'd like to see annual reporting of diesel  
13 prices in California and other port facilities, including  
14 Washington, Texas, British Columbia, and Panama. Those  
15 are our competitors. And we'd like to see expanding  
16 offsets from 8 percent to 25 percent so that warehouses  
17 can engage in distributed energy.

18 Now I'm going to tell you why we're opposed. We  
19 believe going on the current path and placing diesel fuel  
20 under a designing cap in California would do the  
21 following:

22 Number one, create volatile carbon prices that  
23 are recognized only in the California supply chain and  
24 require three PLs to redesign their shipping lanes and  
25 warehouse locations.

1 Repeat the fuel crisis of 1993 and '96 defined by  
2 price shock in the beginning of the second compliance  
3 period.

4 Decrease actual volumes of low carbon fuel sold  
5 and burned in the state while increasing the sales of  
6 diesel fuel from other states and due to the redesign of  
7 the shipping lanes.

8 Become a marketing campaign for the 2014 Panama  
9 Canal opening, creating speculative movement of freight  
10 out of California before the 2015 introduction.

11 Make diesel transportation users the highest cost  
12 sector for compliance in the scoping plan and drive up the  
13 allowance price for utilities and refineries, leading to  
14 increased fuel prices and electricity prices for  
15 warehouses at ports in California.

16 Thank you very much.

17 CHAIRPERSON NICHOLS: Very good Very well done.

18 So we've got the buzzer back. Okay.

19 I kind of like that little bell.

20 BOARD MEMBER LOVERIDGE: Mary, could I --

21 CHAIRPERSON NICHOLS: Yes.

22 BOARD MEMBER LOVERIDGE: Stephanie --

23 CHAIRPERSON NICHOLS: Mayor Loveridge - excuse  
24 me - yes. Stephanie.

25 BOARD MEMBER LOVERIDGE: This is beginning to get

1 some visibility. But just maybe in 30 seconds.

2 Panama Canal's been there for so long, what  
3 difference does -- what's it mean, the opening of -- or  
4 Panama Canal opening?

5 MS. WILLIAMS: If it's 30 seconds, I'm going to  
6 have to read.

7 A \$5.25 billion project is underway that markets  
8 the sales of the option to high priced California  
9 operations. When completed in 2014, the canal's capacity  
10 will be doubled, and the largest container ships in  
11 service today, which only visit L.A. / Long Beach will be  
12 able to transit the canal.

13 As you know, Mayor, most of your constituents are  
14 competing with this. So it's a big worry for especially  
15 your area in Riverside.

16 BOARD MEMBER LOVERIDGE: I guess the two parts  
17 are the economic driver -- the largest economic driver in  
18 southern California. And the Panama Canal is -- the  
19 changes in there are really quite significant in terms of  
20 potential choices of --

21 MS. WILLIAMS: It's one of the biggest threats  
22 that the warehouse and logistics industry has seen. And  
23 it has the capacity to change the shipping lanes towards  
24 the canal to the East Coast.

25 And the other -- second biggest problem is

1 Rupert, which is -- it's a port that you can ship into and  
2 rail out, and it's one day faster. So you get there one  
3 day faster and you can truck it.

4           So it's all about days and retail. And so we  
5 have to keep this competition. We are trade exposed.  
6 There's nothing more trade exposed than international  
7 trade. So unfortunately putting diesel under the cap is a  
8 problem.

9           BOARD MEMBER LOVERIDGE: Thank you.

10          CHAIRPERSON NICHOLS: Okay. Mr. Skvarla.

11          MR. SKVARLA: Hi. My name is Mik Skvarla. I'm  
12 here with the California Council on Environmental and  
13 Economic Balance. Just for time, I'll get directly to our  
14 ten key recommendations for the Board today.

15                 We think that the cap slope should be revised for  
16 backloading. It's going to take some time to get the  
17 offsets and various other emission reductions, on-site or  
18 off-site, on-line. And we think there's a need for  
19 additional time by backloading the cap slope.

20                 Two, we believe there is a need to understrain  
21 certain mechanisms in the market to lower costs of  
22 compliance, such as the holding limits and offset limits.  
23 To that, we have specific recommendations in our letter.

24                 Three, we believe there's a need to establish a  
25 program to monitor the economic health of California.

1           Four, the trade exposure test that takes into  
2 account the global and national cost of commodities that  
3 are produced in California, which, you know, the price of  
4 carbon will not be absorbed and have to be taken directly  
5 by the businesses.

6           Also, we believe that there is a need to  
7 establish a process to backfill the allowance reserve.

8           We also would like to see a work plan with  
9 deadlines for the ARB to complete certain items needed for  
10 compliance. We feel that's very important. And it also  
11 provides a signal to businesses so that they can properly  
12 plan.

13           We also believe that there's a need to adopt  
14 additional offset protocols as quickly as possible.

15           And then along the reporting, we think that  
16 there's a need to revise the enforcement provisions to  
17 align with the federal reporting requirements. Along that  
18 line we also think that you guys should work with EPA to  
19 create equivalent -- make sure the California programs  
20 align with the federal GHG programs as they proceed so  
21 that we're not complying just -- two separate entities for  
22 the same production.

23           Along those lines, we also appreciate linkage as  
24 quickly as possible. We think the robust market is  
25 definitely needed. In that line, we've recommended -- we



1 have a resolution piece on page 2 of our letter that we'd  
2 appreciate if you guys would consider as part of the Board  
3 resolution.

4 Thank you.

5 CHAIRPERSON NICHOLS: Thank you. I do have a  
6 copy of that.

7 Okay. Robert Parkhurst and then Alex Aliferis  
8 and Julie Malinowski-Ball.

9 MR. PARKHURST: Good afternoon, Chairman Nichols  
10 and members of the Board. Thank you for the opportunity  
11 to speak to you today. And also thank you to all the  
12 staff, who've worked so hard to bring us to this historic  
13 point.

14 My name is Robert Parkhurst and I am the Climate  
15 Protection Analysis Manager of PG&E. One of the things I  
16 oversee is the offset procurement of PG&E's Climate Smart  
17 program, the first utility to develop a carbon offset  
18 program in the nation. And to date this program has  
19 contracted for more than 1.1 million metric tons of carbon  
20 offsets. PG&E believes that offsets will help California  
21 advance the goals of AB 32 while containing the overall  
22 cost to the California economy.

23 But I come to you today because I'm concerned  
24 about the supply of offsets based on my experience with  
25 the Climate Smart program. In the first compliance period

1 my estimates are that we will have less than half the  
2 necessary volume that will be allowed. And there are four  
3 different ways that we can work to address that supply.

4           First is to have approval of the four reserve  
5 protocols: Coal mine methane, Nitric acid production,  
6 organic waste diversion, and organic waste composting. I  
7 think the Board should also consider the Article 5 Ozone  
8 Depleting Substance Protocol. I recommend you take a look  
9 at the comments from have Eos Climate. They're very good  
10 on this matter.

11           Second, I recommend that the ARB approve existing  
12 protocols from other bodies, such as the American Carbon  
13 Reserve's fertilizer management protocol, as well as other  
14 protocols mentioned today by organizations such as the  
15 Environmental Defense Fund.

16           Third, recommend that the Board develop  
17 infrastructure necessary for offsets from REDD, Reducing  
18 Emissions From Deforestation and Forest Degradation.  
19 We're encouraged by the MOU that California has with  
20 Chiapus and Acre, Brazil, and encourage the ARB to develop  
21 the working group recommendations outlined in the MOU.  
22 They allow ARB to allow REDD offsets within the first  
23 compliance period.

24           And, fourth, to consider offsets from the capture  
25 of methane from landfills. This is one-time use of

1 offsets between the period of 2005 and 2011 will allow a  
2 necessary volume. And these organizations are doing this  
3 in advance or in absence of regulation.

4 Thank you very much for your time today.

5 CHAIRPERSON NICHOLS: Thank you.

6 Alex Aliferis.

7 Julie Malinowski-Ball.

8 MS. MALINOWSKI-BALL: Thank you, Madam Chair and  
9 members. I'm Julie Malinowski-Ball. I represent the  
10 California Biomass Energy Alliance. This is 33 solid fuel  
11 biomass power producers located across the strait across  
12 19 counties. And I'm sure there's a biomass power plant  
13 in one of your air districts. We are part of the  
14 renewable power industry that uses wood waste and waste  
15 and residues to generate renewable electricity.

16 We actually wish to compliment your treatment of  
17 biomass under section 95852 of the proposed cap and trade  
18 regulation. This section provides a well reasoned and  
19 scientifically defensible listing of biomass fuel sources  
20 that have been shown to have lower emission levels of GHGs  
21 when used for energy production than when disposed of  
22 using conventional means such as landfill disposal and  
23 open burning.

24 Today biomass power production in California  
25 provides approximately twice the GHG benefits of other

1 renewable resources, which all renewable resources  
2 actually share that benefit. But it also reduces emission  
3 from avoiding the more detrimental fates of the fuel,  
4 which is landfill and in open burning. For those of you  
5 that live in the Central Valley, you know that when you  
6 remove an orchard there are very few options for that  
7 farmer to take that. And they can either light that match  
8 or they can send it to a biomass plant.

9           So today's California biomass industry actually  
10 is quite large. It generates 600 megawatts of base-load  
11 renewable power. It doesn't wait for the wind to blow or  
12 the sun to shine. This is 18 percent of our renewable  
13 electricity and 2 percent of the electricity generation  
14 overall.

15           But most importantly actually is this is jobs.  
16 There are over 2000 jobs generated from this industry in  
17 California. These are green jobs. These are exactly the  
18 jobs we're talking about that AB 32's mission is trying to  
19 propose. And we urge the ARB Board to implement a cap and  
20 trade regulation without modification to the sections  
21 pertaining to biomass production and protect this most  
22 important green jobs industry.

23           Thank you.

24           CHAIRPERSON NICHOLS: A question?

25           Excuse me. Just a moment.

1           BOARD MEMBER D'ADAMO: I suppose you've heard of  
2 some of the concerns that have been raised regarding  
3 biomass projects using forest products as opposed to maybe  
4 forest waste. Could you comment on that.

5           MS. MALINOWSKI-BALL: Sure. In fact there's no  
6 facility in California that uses anything other than wood  
7 waste and residues from forest projects. So if a project  
8 goes in and does a fire reduction, fuel reduction  
9 activities, there is a lot of non-merchantable timber left  
10 over from that project, tree tops and limbs. You have to  
11 do something with that. The practice is you either leave  
12 it in the forest, which is not a good thing, it just  
13 creates more fuel in the forest, you chip it up and you  
14 pile it and you burn it; or the other option is you get it  
15 collected and sent to a biomass facility to generate  
16 renewable electricity.

17           So I don't know where that's going on anywhere  
18 else in the United States. But actually California's  
19 probably the best example of how biomass power is done  
20 right.

21           CHAIRPERSON NICHOLS: Okay. Thank you.

22           Austin Ford, followed by Susie Berlin and Bob  
23 Stockton.

24           MR. FORD: How you all doing? Everybody still  
25 awake? I don't know how you endure.

1           My name's Austin Ford. I'm a private citizen up  
2 in Amador County. I do not speak for the Mother Load Tea  
3 Party up in Amador County which I founded, but I don't  
4 speak for it. And I'm relatively new to this process, and  
5 probably just since the Proposition 23 discussion have I  
6 become a little bit more interested in the debate.

7           I had no intention of speaking today, Madam  
8 Chairman. But your opening remarks stirred me when you  
9 said this is -- the reason we're doing this is about  
10 California leadership. On the national and international  
11 front, California leadership is a source of humor. It's  
12 really not taken that seriously anymore. We're very  
13 unique economically and the way we're handling ourselves.

14           Secondly, you mentioned insurance against future  
15 recessions. If a state can create a market for a product  
16 and a service that a private individual would never create  
17 and be successful in that and lift the overall quality of  
18 life and improvement for its citizens, I'd love to see it.  
19 It's never been done. I challenge you to work out some of  
20 these details that we've been talking about and do it.

21           I'm really asking why are we doing this. And  
22 honestly -- four years ago, I think when AB 32 came on the  
23 scene, there was a lot of emotion, a lot of interest, you  
24 know, and science kicking around that justified it. Today  
25 about 30,000 scientists say it doesn't make sense. And in

1 fact, if you look at the carbon issue itself, carbon  
2 dioxide -- I'm going to quote from a paper. "Carbon  
3 dioxide averages 6 percent of the greenhouse effect." If  
4 you multiply that by 3.4 percent of that emitted to the  
5 atmosphere annually that humans can claim responsibility  
6 for, then a whopping 0.2856 percent of global warming is  
7 human related. So I'm not sure I know why we're doing  
8 this.

9           Internationally Kyoto failed, Copenhagen failed.  
10 Most recently Cancun resulted in how you redistribute  
11 capital, not in about CO2 emissions. And I think that's  
12 where the argument has come from. The U.S. Senate would  
13 not deal with it. Our Legislature is killing the EPA  
14 committee for next year.

15           So why now at a time of high unemployment --  
16 extremely high unemployment, a not too rapidly recovering  
17 economy, would we risk killing jobs and -- there was a  
18 group that spoke very articulately about that -- if indeed  
19 we're not trying to redistribute the wealth from those of  
20 us that have it, whether it's through attention to their  
21 medical needs or attention to their energy needs through  
22 the state. That makes no sense to me.

23           CHAIRPERSON NICHOLS: Sir, your time is up.

24           MR. FORD: Thank you very much.

25           Susie Berlin, and then Bob Stockton and Pete

1 Gang.

2 MS. BERLIN: Good afternoon, Chairman Nichols,  
3 members of the Board. My name is Susie Berlin and I  
4 represent the Northern California Powers Agency.

5 NCPA is a joint powers agency comprised of  
6 publicly-owned utilities. NCPA appreciates the efforts of  
7 the staff in putting together the proposed regulations.  
8 And we are pleased to see that many of the concerns that  
9 were raised in our written comments are addressed within  
10 the scope of issues to be covered in the 15-day revisions  
11 and related workshops.

12 I'd like to touch on three points:

13 One, the total allowance allocation of the  
14 electric sector. We're supportive of the 97.7 million  
15 metric tons as a allocation to the electricity sector.  
16 It's that number set forth in Appendix 1 of the  
17 resolution.

18 We're also pleased that the resolution addresses  
19 the need to further review allocation issues that may  
20 arise from electrification of the transportation sector.

21 On the appropriate allocation of allowances to  
22 the electrical distribution utilities, NCPA believes that  
23 the distribution utilities are the best situated to  
24 deliver allowance values directly to retail customers  
25 throughout the state.



1           NCPA is also an active participant in the joint  
2 utilities group and in the discussions with Cal/EPA over  
3 the past weeks on an allocation proposal.

4           And NCPA's supportive of the key principles on  
5 which the preliminary consensus recommendation is based,  
6 covering the distribution utilities cost burden,  
7 recognition of early investments in renewable energy and  
8 cumulative energy efficiency.

9           We support this consensus recommendation  
10 principles as long as there are still 97.7 million metric  
11 ton minimum allocation to the utilities, that the  
12 allowances are freely allocated to the utilities, and that  
13 the value is given to the utilities to be used for the  
14 benefit of their rate payers for AB 32 related programs.

15           We have several concerns with regard to auction  
16 design, and we look forward to the July 11 report that  
17 staff will be giving and the workshops that will be done  
18 between now and July to work through the auction design  
19 mechanics and get those problems worked out.

20           Thank you very much.

21           CHAIRPERSON NICHOLS: Thank you. Glad you'll be  
22 with us for all these activities next year.

23           Bob Stockton, are you here?

24           Mr. Stockton.

25           No.

1           Pete Gang.

2           MR. GANG: Good afternoon, Chairperson Nichols,  
3 Board, staff. My name is Pete Gang. I'm an architect.  
4 I'm here with a group of people from Climate Protection  
5 Campaign from Sonoma County. I am an architect and a  
6 green building educator and a citizen.

7           I want to applaud and acknowledge the scope and  
8 gravity of this monumental undertaking that we are  
9 gathered here to talk about. The California economy is an  
10 enormously complex mechanism, a whole ecosystem, if you  
11 will, that defies understanding. And with this cap and  
12 trade legislation, we are in the process of rewriting the  
13 rules in a way by which that mechanism operates.

14          So it's -- I just want to acknowledge that it's a  
15 large undertaking.

16          And as I'm sitting here, I'm reminded of  
17 something that the author Bill McKidden said in a magazine  
18 article, that the effort to address global climate change  
19 will require an effort commensurate with that required to  
20 put a man on the moon. But he said this time we have to  
21 put everybody on the moon. And to me, one of the  
22 things -- one of the implications is that I think we need  
23 to pay a little bit more attention to all of the citizens  
24 or the residents of California, because I see that there  
25 is vast lack of understanding of these issues.

1           Finally, in my closing time, I wanted to say that  
2 one of the mechanisms that I think would help in  
3 disseminating understanding would be a dividend check that  
4 would be paid to all residents of California to help  
5 redistribute monies that were taken in in the process.

6           Thank you.

7           CHAIRPERSON NICHOLS: So you're thinking that we  
8 would -- I'm sorry. This is a proposal that would  
9 basically take the auction revenues when we got to a full  
10 auction and then would put it back in the form of a  
11 dividend to every --

12          MR. GANG: As much as possible to the residents.

13          CHAIRPERSON NICHOLS: No, that has been a  
14 proposal that has been raised.

15          MR. GANG: And I've heard it get talked about.  
16 Just in a few words, I just wanted to underscore that.

17          Thank you.

18          CHAIRPERSON NICHOLS: Thank you. Thanks for  
19 coming. Like the check. You can leave it here if you  
20 want.

21          Yes, it's very well done. Obviously somebody  
22 with some architectural drawing skill put that one  
23 together.

24          Norman Pederson, and then Jacqueline Kepke and  
25 Julia Bussey.

1           MR. PEDERSON: Good afternoon. I'm Norman  
2 Pederson for Southern California Public Power Authority.

3           My comments are on two topics in the mandatory  
4 reporting regulation.

5           First topic, biogas. The reporting regulation  
6 should be revised to facilitate biomass as a zero-emission  
7 resource. Three subpoints on that.

8           The verification process can and should be  
9 streamlined without impinging on integrity.

10          Next, the undue limitation -- what we see as an  
11 undue limitation to biogas purchased under contracts  
12 executed either prior to 2010 or for expanded biogas  
13 production to be reexamined. And we propose some language  
14 and written comment.

15          Last on biogas, the reporting rules should  
16 recognize that one emission reduction can be obtained by  
17 preventing methane emissions from, say, a landfill into  
18 the atmosphere but a second emission reduction can be  
19 obtained by burning that methane in lieu of a fossil fuel.  
20 Recognizing both emission reductions is not double  
21 counting, and we believe the regulation's re-reformed to  
22 reflect that.

23          Second, duplicative penalty provisions.  
24 Currently, penalties would be imposed under both the cap  
25 and trade regulation and the reporting regulation for

1 effectively the same infraction. Both regulations impose  
2 penalties on a per day per ton basis. Per day penalties  
3 are appropriate under the reporting regulation but without  
4 a per ton multiplier. Per ton penalties are appropriate  
5 under the cap and trade regulation but without a per day  
6 multiplier. You directed your staff to reexamine the sort  
7 of per day per ton multiplier we have here when we were  
8 discussing the RES regulation, and we urge you to do the  
9 same with the cap and trade and reporting regulations.

10           And thank you very much.

11           CHAIRPERSON NICHOLS: Thank you.

12           Jacqueline Kepke.

13           MS. KEPKE: Good afternoon. My name is Jackie  
14 Kepke and I represent the California Wastewater Climate  
15 Change Group. We represent the municipal waste water  
16 facilitates across the state that are managed by cities  
17 and special districts.

18           I want to start by thanking staff for the  
19 credible work that's gone into this, and an unprecedented  
20 accessibility in working with us up until today and  
21 continuing going forward.

22           We strongly support the changes to the language  
23 regarding emissions without a compliance obligation that  
24 are presented in Attachment B to today's resolution.  
25 These changes clarify staff's intent to exclude biogas

1 emissions from cap and trade. And we support that as a  
2 way to beneficially use a digester gas that's produced  
3 around the state.

4           In addition to these changes, we urge the Board  
5 to direct staff to work with the wastewater community to  
6 consider an exemption from the cap for wastewater  
7 facilities. Similar to the Marines plea, we think we're  
8 different. And though our mission is different, we think  
9 enabling you all to flush every day is a pretty critical  
10 activity as well. So our agencies can't control what  
11 comes into our facilitates or the effluent requirements we  
12 need to meet, and those drive our emissions. So we  
13 request that you consider working with us going forward to  
14 consider an exemption.

15           Just finally on mandatory reporting, we urge ARB  
16 to follow through with the theme of consistency with EPA's  
17 regulation as well as with cap and trade and exclude  
18 biomass and biogas-related emissions from the mandatory  
19 reporting program.

20           Thank you.

21           CHAIRPERSON NICHOLS: Okay. Julia Bussey and KC  
22 Bishop.

23           MS. BUSSEY: Thank you. My name's Julia Bussey  
24 and I represent Chevron Corporation. And I'd like to just  
25 note that KC Bishop is listed to follow me and that I'll

1 speak for both of us today.

2           And some of you may know, he --

3           CHAIRPERSON NICHOLS: You mean you got rid of  
4 him, is that what you're saying?

5           MS. BUSSEY: No, no. No, not whatsoever.

6 However, I want to note that actually he should be  
7 following Cynthia Corey, who's scheduled to speak later.  
8 But he will not do that. I'll speak for both of us.

9           So I want to first say that at Chevron we had  
10 worked really closely with the staff and we have found you  
11 to be an excellent -- it has been an excellent experience.  
12 We believe that a really great job has been done here on  
13 developing most of the cap and trade program. And it's  
14 been more than a marathon, I think we can all say.

15           We're also really pleased especially that you're  
16 adopting benchmarking approaches that recognize early  
17 action and energy efficiency. And it's also clear from  
18 the resolution that you plan to address the remaining  
19 concerns that we have outlined in our letter, both on cap  
20 and trade and mandatory reporting.

21           So we just wanted to thank you again for that and  
22 for the accessibility that we have found with the staff  
23 and the Board on this whole matter.

24           Thank you.

25           CHAIRPERSON NICHOLS: Thank you very much.

1           Louis Blumberg, then Rafael Aguilera and Evelyn  
2 Rangel-Medina.

3           MR. BLUMBERG: Thank you, Madam Chair and members  
4 of the Board. I'm Louis Blumberg. I'm Director of the  
5 California Climate Change Team for the Nature Conservancy.  
6 And I'd like to thank you. And I'd like to commend the  
7 staff for their outstanding work on developing this rule.  
8 And it was a pleasure to work with them at all levels.  
9 They're so open and transparent. And I would say when you  
10 look at the rule, we can see something that we had an  
11 input in. We didn't get everything we wanted, but there  
12 is recognition there. And I think that would be true for  
13 many people in this room. They see some of their  
14 priorities in the rule.

15           So thank you again.

16           I want to disagree with one of the earlier  
17 speakers. I just came back from the UN Conference on  
18 Climate Change in Cancun. And people from many countries  
19 at every level of government were asking me, "What is  
20 going on in California? What's next? What do you expect  
21 on forest, on cap and trade?" This is people from the  
22 state, federal level, cities as well.

23           So what you do here is important today and we  
24 want to express our support for the rule. This is a very  
25 important action. We hope you take it. It will



1 proactively address climate change and at the same time,  
2 as others have mentioned, catalyze California's leadership  
3 in the transition to the green economy.

4           There's two quick issues. We did submit two  
5 letters actually. I want to just touch on two issues.

6           First is the distribution of the revenue from the  
7 allowances. We have a letter from 18 groups here that  
8 refers to the criteria laid out by the EAAC Committee. We  
9 would like to see revenue dedicated for nature-based or  
10 ecosystem-based adaptation as well as revenue generated to  
11 local government for transportation and land-use  
12 decisions. Through these actions, through ecosystem-based  
13 adaptation, they can protect our natural resources from  
14 the impacts of climate change, promote human well being  
15 and public health. They often are quicker and cheaper to  
16 effect.

17           And in closing, we also support a strong role for  
18 REDD and urge you to move forward on REDD.

19           Thank you.

20           CHAIRPERSON NICHOLS: Thank you.

21           Rafael.

22           MR. AGUILERA: Good afternoon, CARB Board  
23 members. Rafael Aguilera with the Climate Protection  
24 Campaign today. And I've been involved in the  
25 implementation of AB 32 since the beginning and, you know,

1 it's a big day today.

2           Now, we've been promoting dividends throughout  
3 the process, including the Economic Allocations Advisory  
4 Committee process, where you guys convened some of the  
5 world's greatest economists on this issue. And we're very  
6 pleased at their recommendation to move quickly towards a  
7 full auction and place 75 percent of those revenues  
8 towards making consumers whole through dividends or tax  
9 cuts.

10           And, you know, it brings me to my point, which is  
11 today we don't see that very well reflected in the rules  
12 nor any holistic approach to addressing the regressive  
13 nature of a carbon price that, you know, will be placed on  
14 California.

15           I think it's a missed opportunity to gain wide support  
16 for climate policy.

17           You know, there was a model at the federal level  
18 that had bipartisan support when even the Waxman-Markey  
19 version did not. And I think, you know, California  
20 serving as an example to implement a progressive  
21 economic-sensitive climate policy would have been great.  
22 Today we don't have that.

23           We should have learned the lessons of the EU.  
24 And I don't see any justification for why we have billions  
25 of dollars in basically handouts to already wealthy

1 corporate polluters. So I'd like some justification as to  
2 why the level of -- you know, addressing that concern.

3 I also want to just commend the inclusion of a  
4 recommendation for a community benefits fund or something  
5 like that, which was vetoed by the Governor in AB 1405.  
6 We hope to work with you on that. We need a lot more work  
7 on that particular piece.

8 If you're going to pursue some new conversations  
9 about this, we hope that you'd provide a stronger  
10 recommendation to the PUC on how to provide lump sum per  
11 capita dividend checks as the primary way to return  
12 revenue back to consumers rather than just through  
13 billing.

14 Thank you.

15 CHAIRPERSON NICHOLS: Thank you.

16 Evelyn Rangel-Medina.

17 Yes, there you are.

18 MS. RANGEL-MEDINA: Good afternoon, Board. And I  
19 am number 112. So you've listened to about a hundred  
20 people give testimony. And I thank you for your service.

21 My name is Evelyn Rangel-Medina. I am the Policy  
22 Director for the Green Collar Jobs Campaign at the Ella  
23 Baker Center for Human Rights.

24 And I wanted to take a moment and reference the  
25 first environmentalist to win a Nobel Peace Prize in 2004,

1 Wangari Maathai. She writes, "Today we are faced with a  
2 challenge that calls for a shift in our thinking so that  
3 humanity stops threatening its life supporting systems."  
4 And I think what's evident is that California in taking  
5 this bold step of sucking the carbon out of the economy is  
6 shifting our thinking.

7           However, we are deeply concerned with how the  
8 proposal for this cap and trade program has been weakened  
9 over time. At the Ella Baker Center we've been working on  
10 many fronts to ensure the effective and equitable  
11 implementation of AB 32 through the Legislature, CARB, and  
12 also through the election, as we were instrumental in  
13 stopping the Prop 23 from passing. But we are concerned  
14 with the doubling of offsets, with the giving away of  
15 credits, and with the fact that we won't get sustained  
16 investments back into growing a green economy that  
17 provides pathways out of poverty and that helps our  
18 oncoming small businesses.

19           So we want to continue working in the effective  
20 implementation of AB 32. We're again concerned with the  
21 direction of this cap and trade program and will continue  
22 to be onboard.

23           CHAIRPERSON NICHOLS: Thank you. Thanks for  
24 being here.

25           Justin Oldfield.

1           MR. OLDFIELD: Good afternoon, Madam Chairman,  
2 members of the Board. Justin Oldfield with the California  
3 Cattlemen's Association. I wanted to just make a couple  
4 of quick comments. We've submitted written comments. But  
5 I did want to take the time and thank staff for responding  
6 to comments made by the livestock industry.

7           In quick response to that, I know it was never in  
8 your intention to regulate feed -- emissions from farmers  
9 and ranchers, and we certainly support the proposed 15-day  
10 changes, not only to ensure that emissions from livestock  
11 and manure are not in the mandatory reporting or in the  
12 program as well as the portable engines, the diesel pump  
13 engines.

14           CHAIRPERSON NICHOLS: Thank you.

15           I've just been notified that we have a special  
16 guest. So if you'll bear with us a moment, we're going  
17 to have him arrive.

18           GOVERNOR SCHWARZENEGGER: Sit down, please. Sit  
19 down and relax.

20           I just wanted to come by here and to say thank  
21 you to all of you for the great job that you're doing, and  
22 I'm very proud of you. Air Resources Board is I think the  
23 best in the country and probably the best in the world,  
24 and all because of the members and the dedicated and great  
25 work that all of you are doing, tirelessly working on

1 behalf of the State of California.

2           You know, it's really interesting, because I  
3 campaigned in 2003 about the -- you know, that I wanted to  
4 show California that we can protect both the economy and  
5 the environment. And of course it's a challenge to do  
6 that. There's no two ways about that. But where there's  
7 a will, there's a way. Because in those days they thought  
8 that you can only do one or the other, protect the  
9 environment or protect the economy.

10           And we then finally, you know, passed some really  
11 good legislation and bills and did some great things here  
12 in California environmentally - you know, a million solar  
13 roof and the hydrogen highway that we started building,  
14 low carbon fuel standards.

15           But one of the things that I'm most proud of is  
16 AB 32. And of course AB 32 is controversial. And to some  
17 people they don't like it. Which I also understand  
18 because, hey, I'm married, so I know what that is like  
19 when people, you know, have different opinions. I have  
20 four kids. They all have their own opinions too.

21           So, you know, that's okay. People can have their  
22 different opinions. And this is why it's important to  
23 have discussions about it, and that's why I'm an adamant  
24 believer that our Air Resources Board has to listen to the  
25 people's concern.

1           But one thing we know for sure is that AB 32 was  
2 challenged, you know, by outside oil companies and by  
3 industries, coal mines and different companies that  
4 challenged it, put millions of dollars behind it in the  
5 last election. And it was -- and Proposition 23, which  
6 was meant to take out AB 32, was defeated  
7 overwhelmingly - not by 5 percent, not by 10 percent, but  
8 by 22 percent. So that just shows you --

9           (Applause.)

10           GOVERNOR SCHWARZENEGGER: So it just shows you  
11 that a huge majority of Californians are big believers in  
12 AB 32. And they're big believers, not just because of the  
13 global climate change - because, let's be honest, not  
14 everyone believes in that. There are some people that  
15 believe in it and some people don't. But this is not just  
16 about global climate change. That's one of the reasons  
17 why I believe in it a hundred percent. But it's also  
18 about our health.

19           It is about 19,000 people that die every year  
20 because of pollution-related illnesses. Hundreds of  
21 thousands of people are hospitalized every year because of  
22 the pollution. Every sixth child in the Central Valley  
23 goes to school with an inhaler. We can do much better  
24 than that.

25           Then about foreign oil. I despise the fact that

1 we send one billion dollars a year to foreign places for  
2 our oil and to places that hate us. We sent this money to  
3 people that hate us and that are organizing terrorists and  
4 trying to blow up our country. Those are the kind of  
5 people we send this money to.

6           So why are we relying on foreign oil, when  
7 President Eisenhower already 60 years ago said that if we  
8 go beyond 20 percent of relying on foreign oil, 20 percent  
9 of our oil coming from foreign countries, we have a  
10 national security problem. Well, now we are relying 60  
11 percent on foreign oil -- 60 percent plus.

12           So those are the issues.

13           And of course today, as you know, we have a  
14 worldwide recession. So there's an economic point to this  
15 whole thing. And, that is, that in this economic  
16 recession, in this downturn, the biggest recession since  
17 the Great Depression, the real jobs that we are creating  
18 right now are green jobs. I mean since 2006 or so green  
19 jobs have been created ten times faster than in any other  
20 sector. So it's also an economic plus. We have been  
21 approving one solar plant after the other. What is it  
22 now, 5,700 megawatts this year alone that we have  
23 approved. That's billions of dollars that are being  
24 poured into California just in green technology. And  
25 that's why there's more venture capital coming to the



1 United States. More than half of the entire United States  
2 comes to California. Fifty-seven percent of venture  
3 capital comes to California. So there's great, great  
4 benefits from all of that.

5           And of course we have to be sensitive because it  
6 is an economic downturn. And this Air Resources Board  
7 knows that they have to be sensitive. But we have to  
8 reach our goal by 2020, our reductions of 25 percent. And  
9 we've got to go and have our 33 percent of renewables by  
10 2020. There's no two ways about that. So this is what  
11 makes us the leader.

12           So, yes, California is known that we have a  
13 budget crisis, California is known that it always spends  
14 more money than we take in, and we're known for a lot of  
15 those things. But we're also known for being great  
16 leaders in biotechnology and nano-technology, green  
17 technology and all those kind of things, in our university  
18 system and so many other things.

19           And I'm so proud of this team here, because it's  
20 one thing that the legislators get together and say AB 32  
21 and here's the bill and they give you this document that's  
22 a thousand pages long and all this stuff, and then the  
23 Governor goes out and talks about it and I sign it, and  
24 the bill signing ceremonies and all of those things that  
25 we had. But then someone has to follow through and make

1 it become a reality. And the people you see in front of  
2 you here are the people that make this become a reality.

3 I know the day -- even though we are ten years  
4 away from 2020, but I know the day that we will have a  
5 reduction of 25 percent of greenhouse gases by the year  
6 2020; only because I have such an excellent team here.

7 So thank you very much, all of you, for the great  
8 work that you're doing. And thank you for sitting here  
9 and thank you for participating in this process. That's  
10 what I love about this country, that everyone gets  
11 together, everyone is here. We know that you have some  
12 concerns about it. Express it. Let's talk about it and  
13 all this.

14 But in the meantime, thank you all. Thanks very  
15 much.

16 CHAIRPERSON NICHOLS: Thank you.

17 (Applause)

18 CHAIRPERSON NICHOLS: Well, that's a first, as  
19 far as I know. Really, we couldn't have asked for a  
20 stronger champion than Governor Schwarzenegger has been.  
21 It's been an honor and a privilege - I think I speak for  
22 every one of our Board members - to serve in this roll and  
23 at this time.

24 So thank you all.

25 Mr. Oldfield.

1 MR. OLDFIELD: I don't know how I can follow  
2 that.

3 CHAIRPERSON NICHOLS: What do you want to say?

4 MR. OLDFIELD: You know, we were sitting back  
5 there, and I said, "That's going to happen to me. You  
6 watch." So --

7 (Laughter.)

8 MR. OLDFIELD: Anyways, I just wanted to say we  
9 appreciate your staff --

10 (Laughter.)

11 CHAIRPERSON NICHOLS: Is this a great country or  
12 what.

13 MR. OLDFIELD: It is, it is.

14 We appreciate your staff responding to those  
15 concerns. We certainly encourage you to ensure that those  
16 15-day changes are included.

17 We've listed some other concerns, most notably  
18 the 10,000. We still think that's a little too much of a  
19 reduction, and we still would rather have you guys go to a  
20 20 if you're looking for entities that are right on the  
21 threshold there in terms of the reporting requirement.

22 But that being said, again, you know, we want to  
23 stay engaged in this process and hope that we can maintain  
24 a presence. Even though we're not directly capped, we  
25 certainly have our processors that are capped, and they're

1 an integral part of our industry. We can't make our  
2 products have any value to the consumer if we don't have  
3 our processors. And so we'd like to stay at the table as  
4 well.

5           So thank you very much.

6           CHAIRPERSON NICHOLS: Thank you.

7           Ed Pike, followed by Jasmine Ansar.

8           MR. PIKE: Hi. My name is Ed Pike, and I'm the  
9 California program lead for the International Council on  
10 Clean Transportation. And thank you for the opportunity  
11 to comment today. I'd like to highlight a few of our  
12 written comments on the inclusion of transportation fuels  
13 into the cap and trade system.

14           First, we endorse CARB's approach of setting  
15 aggressive standards for vehicles and fuels, vehicle miles  
16 traveled reductions, supplemented by incentives and price  
17 signals like the cap and trade to reinforce those  
18 important standards.

19           Second of all, we recommend replacing the  
20 proposed exemption for all transportation to ethanol and  
21 biodiesel. And the cap and trade system can reinforce,  
22 for instance, the low carbon fuel standard with the right  
23 price signals for low carbon biofuels. And we think that  
24 fortunately there's time to develop a system by the time  
25 that the physical carbon content of transportation fuels

1 goes into the cap in 2015 with a system that can build on  
2 the accounting and the low carbon fuel standard and  
3 provide some flexibility to fuel providers to again  
4 reinforce the low carbon biofuels under the LCSF.

5           We also want to express support for CARB's  
6 proposal to auction all of the greenhouse gas allowances  
7 for the physical carbon content of transportation fuels  
8 when they go into the cap in 2015. We would endorse more  
9 auctioning for the fuels production and refining in 2012,  
10 which we think would help move away from business as usual  
11 and would provide resources to help shift to cleaner and  
12 more efficient transportation systems.

13           And, lastly, for any free allowances that are  
14 given, we think those benchmarks should be based on the  
15 continuous, most efficient producer and not provide any  
16 additional credits for production processes that have  
17 higher greenhouse gas impacts.

18           Thank you.

19           CHAIRPERSON NICHOLS: Thank you.

20           Jasmine Ansar, followed by Ann Chan and Eric  
21 Chung.

22           MS. ANSAR: My name is Jasmine Ansar and I'm  
23 speaking on behalf of the Union of Concerned Scientists  
24 and also representing the Global Warming Action Coalition.

25           Let me first congratulate the Board and the staff

1 for putting in place this landmark program that will start  
2 the world's most comprehensive cap on global warming  
3 pollution.

4           I want to isolate my remarks and talk about our  
5 support of the use of auctioning as a method of  
6 allocation -- allocating allowances. We recognize the  
7 need to address leakage risk for trade-exposed industries  
8 and strongly support transitional assistance in the form  
9 of some percentage of allocations being distributed for  
10 free.

11           The goal of course is to assist and to provide  
12 compensation to bring California production facilities to  
13 cost parity with competing facilities in non-capped  
14 areas. As EAAC points out our economic dream team and  
15 other research facts, this can be accomplished with a  
16 relatively small percentage of the total allowance value.  
17 One hundred percent seems excessive and risks  
18 overcompensation.

19           We urge and are comforted by the fact that staff  
20 is attempting to build in an adaptive management process  
21 to evaluate and reassess the impact of free allocation and  
22 strongly support the proposals submitted in the economist  
23 letter which we did submit to the Board.

24           Finally, let me just mention, product  
25 benchmarking, we urge the Board to base this on best

1 practices rather are than business-as-usual average  
2 performance for the whole compliance period. Benchmarks  
3 should be dynamic, reflecting the latest technology,  
4 knowledge and practice, and these should be  
5 technology-forcing in recognition of our future emission  
6 reduction goals and where we need to get to.

7 Thank you very much.

8 CHAIRPERSON NICHOLS: Thank you.

9 I called but then didn't recognize Kelley  
10 Nalevia.

11 Is Kelley Nalevia here?

12 Okay. Then we'll go forward. Thanks.

13 MS. CHAN: Hello. My name is Ann Chan. I'm the  
14 Director of the California Program of the Center for Clean  
15 Air Policy, which is a DC-based think tank working on  
16 climate change policy analysis and dialogue convening.

17 Madam Chair, members of the Board and ARB staff,  
18 thank you so much for your hard work and leadership on  
19 this historic regulation, which will help spur clean  
20 technology development, healthy and resilient communities,  
21 and a robust economy in California.

22 I'd like to speak on two different points today.  
23 One is on sectoral crediting and the other is on the use  
24 of allowance value.

25 We're very pleased to see the basic architecture

1 for inclusion of sectoral crediting in the rule today, and  
2 look forward to further elaboration of that program -- or  
3 those provisions as soon as practicable.

4           A point carbon analysis that was released about a  
5 week ago indicates that there will be a shortage of offset  
6 supply in California. And in the first compliance period  
7 that will be about 25 percent. Sectoral crediting and  
8 particularly REDD would go a long way to helping with that  
9 supply issue as well as being a driver for continued  
10 forward action on the global stage, particularly in  
11 preventing tropical deforestation but certainly not  
12 limited to that.

13           And of course, designing a rigorous and socially  
14 responsible program that's tailored to the specific  
15 circumstances of individual developing countries will be  
16 important, and we look forward to working with you on  
17 that.

18           Turning to the second point I'd like to address  
19 today, C CAP joins other organizations here in urging that  
20 specific language be included in the rule's reference the  
21 work of the Economic Allocation Advisory Committee and  
22 specific recommended uses for allowance value, including  
23 investments in infrastructure to support smart growth as  
24 well as adaptation work to ensure health urban communities  
25 and protection of our natural resources.



1 Thank you.

2 CHAIRPERSON NICHOLS: Thank you.

3 Eric Chung, followed by Sharon Banks and Mark  
4 Byron.

5 MR. CHUNG: Good afternoon, Chair Nichols and  
6 members of the Board. My name is Eric Chung. I am the  
7 Director of Environmental Policy and Strategy for  
8 PacifiCore. We are a vertically integrated  
9 multi-jurisdictional utility in six states, including  
10 California.

11 And we're -- we actually only have 47,000  
12 customers in California. But they're all northern  
13 California, and 35 percent of them are eligible for our  
14 low income assistance program. So we work really, really  
15 hard for our California customers even though, you know,  
16 we don't have so many of them.

17 So that's why we're here. And we're appreciative  
18 of being able to participate in the joint utility group  
19 efforts and appreciate your consideration of our written  
20 comments.

21 I'd like to provide two comments on the cap and  
22 trade program. First is, PacifiCorp agrees with the  
23 provisions in the cap and trade program which allow  
24 publicly-owned utilities that are vertically integrated to  
25 directly use their allowances for meeting compliance

1 obligations. PacifiCorp has the same need, as we own much  
2 of the generation that serves our retail load. So we'd  
3 like -- we put in our written comments to include the  
4 multi-jurisdictional utilities in that provision.

5           We also might suggest that ARB revise that  
6 distinction to be not about investor owned versus publicly  
7 owned but one of vertical integration. And PacifiCorp's  
8 more than happy to work with you on that revision.

9           The other point I'd like to raise, I'd like to  
10 encourage ARB to stay the course with an emission-based  
11 cost-burden approach of allocating allowances to the  
12 sector. PacifiCorp's long supported a national program  
13 that was more policy and technology driven than market  
14 driven. So we've expressed prior concerns with cap and  
15 trade as it's been proposed previously. We think this  
16 approach -- the cause for an approach sends the right  
17 message that a program of this kind should in fact be  
18 targeted toward real reduction of emissions, which is an  
19 objective we share.

20           So I think you've got a reasonable compromise  
21 proposed by your staff. We urge you to stay the course.

22           And, you know, in closing, just thank you for all  
23 the efforts, the hard work, the sleepless nights, and we  
24 look forward to finishing up with you on this important  
25 marathon.

1 Thank you very much.

2 CHAIRPERSON NICHOLS: Thank you.

3 Sharon Banks.

4 Are you here?

5 Mark Byron.

6 MR. BYRON: Hello. My name is Mark Byron. I'm  
7 the Director of Asset Management for GWF Power Systems.  
8 Thank you for letting me speak today.

9 GWF is a company headquartered in Pittsburg,  
10 California. We directly and indirectly employ  
11 approximately 145 people, including managers, engineers,  
12 operators, technicians. The company owns and operates  
13 nine power plants, approximately 500 megawatts total, some  
14 which are fueled by the waste fuel petroleum coke and  
15 others by natural gas.

16 Our petroleum coke fleet consists of five 25  
17 megawatt power plants located in Contra Costa and one 25  
18 megawatt power plant in Hanford. And we are developing  
19 projects in the green energy sector as well.

20 Our petroleum coke plants operate under a 30-year  
21 power purchase agreement with PG&E as the counterparty,  
22 and they fall into the staff acknowledged narrow range of  
23 pre-AB 32 long-term contracts that do not allow for the  
24 recovery of the proposed cap and regulations compliance  
25 cost. This is primarily due to the fact that the

1 compliance costs for petroleum coke power are  
2 significantly higher than most other types of qualifying  
3 facilitates, primarily because petroleum coke contains 95  
4 percent carbon and 5 percent hydrogen. These costs were  
5 not anticipated when the contracts were entered into in  
6 the mid-1980s. Therefore, the contracts include no  
7 provision from which RQS could recover disproportionate  
8 costs associated to reduce greenhouse gas.

9           To provide a balance limitation of our  
10 proposed -- of proposed cap and trade regulations and  
11 avoid increasing global greenhouse gas in criteria air  
12 pollutants, ARB should allocate allowances in a manner  
13 that recognizes disproportionate enterprise-threatening  
14 burden that GWF faces relative to most power producers.  
15 GWF's burden is the direct result of our efforts to comply  
16 with federal and state policies and the associated  
17 contractual obligations that we entered into.

18           To accomplish this goal by amending the proposed  
19 cap and trade regulations such that GWF receives  
20 allowances for its greenhouse gas emissions associated  
21 with its pre-AB 32 power purchase agreements declining  
22 through the 2012-2020 period at the same rate provided for  
23 the cement manufacturing industry.

24           We appreciate you listening to the comments.  
25 Thank you.

1           CHAIRPERSON NICHOLS: Thank you.

2           Kristin Eberhard already testified. So we go to  
3 Erin Rogers.

4           No? Sorry.

5           MR. JACKSON: Christine took my spot. So  
6 hopefully I can get her back and take her spot.

7           CHAIRPERSON NICHOLS: All right.

8           MR. JACKSON: My name is Alex Jackson and I'm  
9 with the Natural Resources Defense Council.

10           And I'd just like to begin by expressing our  
11 general support for the program. We really do think this  
12 is a very solid framework that will enable California to  
13 make good on its pledge to return back to 1990 emissions  
14 levels by 2020; at the same time, following through on the  
15 great economic promise in our clean tech sector that the  
16 Governor so eloquently pointed out.

17           I'm just here to talk about three quick points  
18 that I see in the resolution on the proposed 15-day  
19 changes. And I know it's preliminary, but I just wanted  
20 to address some of those issues at this time.

21           The first addresses the allocation in the  
22 transportation fuel sector starting in 2015. And the  
23 resolution suggests that staff may be reconsidering the  
24 idea to auction a hundred percent of allowances in that  
25 sector. And I'd just like to caution against that. I

1 think, as Professor Hanemann noted, you know, auctioning  
2 should be our first priority allocation method absent some  
3 other evidence that leakage and trade exposure is a risk.  
4 And as CARB has pointed out so many times, and all the  
5 evidence I think available suggests, we don't think that's  
6 going to be a concern in that sector. And I'd like to see  
7 that there is strong evidence that it will be a concern  
8 before we move away from a hundred percent auctioning in  
9 that sector.

10           The second relates to combating leakage for the  
11 cement industry. And the resolution again suggests that  
12 we might be looking towards using some form of border  
13 adjustments to guard against leakage in that sector. And  
14 we're certainly supportive of making sure we have a level  
15 playing field to treat importers and in-state entities  
16 alike. I think the concern -- just to make sure that we  
17 don't use both border adjustments and pre-allowances to  
18 combat leakage in that sector. You can't really have it  
19 both ways.

20           And then, finally, I think we'd like to see CARB  
21 apply its adaptive management approach, which it has so  
22 committed itself to towards overseeing the allocations in  
23 other sectors such as the industrial sector, as well in  
24 the electricity sector and for the distribution of the  
25 allowances to utilities. We understand that's a new

1 proposal and we'll evaluate it further. But we hope to  
2 have some more process to ensure that that allocation  
3 works smoothly.

4 Thank you.

5 CHAIRPERSON NICHOLS: Thank you. We degree.

6 Okay. Erin Rogers, then Tim Tutt and Barry  
7 Vesser.

8 MS. ROGERS: Good afternoon. I'm Erin Rogers  
9 from the Union of Concerned Scientists. I just wanted to  
10 congratulate all of you, the staff and the Board and  
11 everybody here in the room, that's been on this long more  
12 than four-year journey to get to this day. I really think  
13 it's an historic day.

14 I was able to go to Cancun for the Global Climate  
15 Summit a few weeks ago. And it really struck me how many  
16 people from countries all over the world are looking at  
17 this program, are looking at California, and deriving hope  
18 from it in an otherwise very bleak landscape out there.  
19 And, you know, what we establish here will send out ripple  
20 effects throughout the U.S. and throughout the world. And  
21 that's why it's so important that we get it right and  
22 that's why we've all been working so hard on it.

23 We think that the proposal that's been put  
24 forward has a lot of really strong points. And in  
25 particular I just want to thank you for putting in the

1 Community Benefits Fund into the 15-day changes, something  
2 that a lot of us have been advocating for, and we  
3 appreciate that.

4 I couldn't leave the podium without saying  
5 something about offsets. We still remain concerned about  
6 the level of offsets in the program. And now that things  
7 have changed a little bit from the scoping plan, there's  
8 actually a bigger bucket of offsets that could be allowed  
9 to be used. And we're just worried that there will be a  
10 lot of political pressure in the coming months and year on  
11 you guys to accept new protocols that may not be as  
12 stringent quality-wise so that we can fill that bucket.  
13 And I just want to make sure that, you know, you guys are  
14 able to put in place a very robust public process for  
15 vetting those protocols and making sure that they're  
16 strict in the future, and to make sure that CARB maintains  
17 a very strong role vis-a-vis the third-party registries in  
18 terms of approving and having the ability to deny in  
19 overseeing the offsets program.

20 Thank you.

21 CHAIRPERSON NICHOLS: Okay. Thanks.

22 Tim Tutt and then Barry Vesser.

23 MR. TUTT: Good afternoon, Madam Chair and  
24 members of the Board. My name is Timothy Tutt  
25 representing the Sacramento Municipal Utility District.



1           Thanks for the opportunity to speak here today.  
2 We appreciate your attention to this central component of  
3 AB 32 and the hard work of the ARB staff on the proposed  
4 regulations.

5           SMUD supports the adoption of the proposed cap  
6 and trade regulation. With progress at the national level  
7 on GHG reductions essentially stalled, we think California  
8 leadership is even more important than it has been in the  
9 past.

10           We'd like to make three quick points today as you  
11 take this historic action and request you direct staff to  
12 continue working with stakeholders on these issues. And  
13 we've provided written comments on these and a variety of  
14 additional technical and policy issues.

15           First, we believe that the regulation should be  
16 altered to treat wrecks and out-of-state renewable  
17 resources as having zero GHG emissions commensurate with  
18 the underlying renewable resources that they represent, in  
19 order to harmonize with the renewable energy standard,  
20 eliminate potential duplication and tracking systems, and  
21 provide support for the voluntary market. We think that  
22 the current treatment of wrecks in the reporting  
23 regulations could lead to hundreds of millions of dollars  
24 in additional costs and threaten the ability of the RES to  
25 deliver GHG reductions as expected. We do not believe

1 this issue has been fully vetted with stakeholders and  
2 urge future consideration as requested in the joint  
3 utility letter that you've received this imposing. We'd  
4 like to see this issue added to the list of issues staff  
5 plans to workshop in 2011 or otherwise explicitly address  
6 some direction to staff for further resolution.

7           Second, we look forward to further work with your  
8 staff on the allocation of allowances among utilities, as  
9 laid out in Appendix 1. In that discussion, we believe  
10 that we should shoot for a structure that is replicable  
11 beyond 2020 and nationally, and one that includes a strong  
12 visible early action component to reduce risks to  
13 California in a national situation.

14           We also believe there should be further  
15 consideration of a transition to a sales-based approach,  
16 similar to the out-based approach that's being used in the  
17 industrial sector.

18           And third and finally, we appreciate the proposed  
19 changes in Appendix B regarding compliance obligations for  
20 the combustion of biogas but would note there are  
21 biogas-biomass issues in the reporting regulations as  
22 mentioned by Norman Pederson earlier this afternoon, ask  
23 that staff be directed to work with stakeholders to  
24 resolve these.

25           Thanks for your attention today.

1           CHAIRPERSON NICHOLS: Okay. Barry Vesser, Joan  
2 Linney, Woody Hastings.

3           MR. VESSER: Good afternoon. Barry Vesser,  
4 Climate Protection Campaign. And we would like to commend  
5 the Board and staff for the tremendous amount of work  
6 represented in the proposed regulations.

7           We have submitted formal comments, but I do have  
8 a couple of points that we would like to underline.

9           Under the proposed regulation, utilities will  
10 receive allowance value for free. The regulation further  
11 requires that this allowance value be used to reduce the  
12 cost of AB 32 policies on their ratepayers and for  
13 ratepayer benefit. We would like to see this language  
14 strengthened and clarified.

15           The Economic Allocation Advisory Committee did a  
16 great job explaining the flaws in the PUC/CUC  
17 recommendation to allocate to utilities. The EAAC  
18 recognized that providing a rebate through utilities, that  
19 is showing up on the line item of your utility bill,  
20 shields consumers from the price signal and discourages  
21 changed behavior. Separating the return of the money from  
22 the utility bill is critical for sending a price signal to  
23 all residential customers. Therefore, we support the  
24 proposed regulation's inclusion of consumer refunds as a  
25 use of allowance value. We believe that the most direct

1 approach to this is a lump-sum transfer, which could be  
2 implemented through a dividend or rebate check. The  
3 customer will still receive the carbon price signal on  
4 their utility bill but would receive a rebate check to  
5 help buffer them from the aggressive impact of increased  
6 electricity prices.

7           And then just a quick comment on dividends. We  
8 do not see dividends, and we don't believe the EAAC did  
9 either, as just another use of allowance value, but rather  
10 as a structural foundation for a fair and effective  
11 policy.

12           AB 32 requires that regulations that your Board  
13 approves, I quote, "ensure low income communities are not  
14 disproportionately impacted." Without a dividend or  
15 rebate, low and middle income citizens will be  
16 disproportionately impacted. So we encourage you to  
17 recommend strongly to the Governor and the Legislature the  
18 inclusions of dividends.

19           Thank you so much for your time and your hard  
20 work.

21           CHAIRPERSON NICHOLS: Thank you.

22           Joan Linney.

23           Joan Linney?

24           Woody Hastings.

25           Kasandra Gough.

1 MS. GOUGH: Good afternoon, Madam Chairman and  
2 members. I appreciate hour seven that you're still  
3 sitting here and that everyone else is still sitting here  
4 and allowing all of us our time.

5 My natural personality is to be a rebel and not  
6 to follow and do as all the others are doing. But today  
7 everybody is saying, "We support, we support you, we  
8 support you." And on behalf of Calpine, we support you as  
9 well.

10 CHAIRPERSON NICHOLS: Thank you.

11 MS. GOUGH: I have to say that.

12 And the other thing I have to say is I thought  
13 that Holly and Virgil and Sam had become my best friends.  
14 But evidently they've been meeting, as you all have, with  
15 everybody else in the room. And we're going to have a  
16 continuing friendship for the next year.

17 And before I get to the substance of my comments,  
18 I just want to say I think that government employees don't  
19 often get complimented enough. And in this case they've  
20 done a superb job and they've been very responsive and  
21 they've always done it with a smile on their face. So I  
22 appreciate that.

23 Calpine is a national leader in advocating for a  
24 low carb and renewable energy resources. We're the  
25 state's largest independent power producer. We're also

1 the state's largest provider of renewable energy from the  
2 geysers from Lake and Sonoma County. We support the  
3 implementation of the cap and trade program and we hope  
4 that CARB will lead the nation in demonstrating that we  
5 can reduce significant harmful emissions as well as  
6 create -- or maintain a healthy economy.

7           We have submitted extensive comments. We find  
8 that most of those issues are addressed in the resolution.  
9 And we look forward to working with you on the 15-day  
10 process.

11           I'd just like to conclude by saying that  
12 certainty is important to regulated entities. So good,  
13 bad, or indifferent, we need certainty. We're making  
14 decisions now for 2012. And so I appreciate the pace by  
15 which CARB staff has moved through this process. And I  
16 also appreciate the commitment to really have the final  
17 bows and whistles on the package in July. That will be  
18 very helpful.

19           Thank you.

20           CHAIRPERSON NICHOLS: Thank you. Take a day off,  
21 you know, Saturday.

22           Gregg Morris, Tim Martinez, Adam Quinn.

23           MR. MORRIS: Chairman, members of the Board, I'm  
24 very pleased to be here today. I'm very upbeat on the  
25 prospect of California passing this cap and trade

1 proposal.

2           I would like to speak to you just briefly today  
3 about the issue of biomass. I know that there have been  
4 several petitioners coming here and arguing for actually  
5 less participation of biomass in this program than we are  
6 going to have. And biomass has been one of our major  
7 renewable energy sources in the state. It's been a real  
8 success story here. We've been leaders. California  
9 really are leaders. And it's under a lot of fire right  
10 now nationally. And I think -- I'd love to see California  
11 maintain its leadership role in this. And I'd like to  
12 share four facts with you today about biomass, and  
13 encourage you not to change the biomass provisions that  
14 you have proposed in your cap and trade.

15           Fact number one, the treatment of biomass that  
16 you have in the law today is fully consistent with the  
17 treatment that the EPA is developing in the tailoring  
18 rule. In fact, the tailoring rule progression to date has  
19 moved closer to California's treatment of biomass, and  
20 we're hoping it will continue to do that.

21           Number two, the rule does not assume carbon  
22 neutrality for all biomass. That has been asserted. It's  
23 not true. It only asserts biomass -- carbon neutrality  
24 for biomass types for which actual carbon neutrality has  
25 been demonstrated in scientific studies. And the use of

1 the fuels that are listed in section 95852.2, each one of  
2 those fuel types in that section does lead to demonstrable  
3 reductions in greenhouse gases when those fuels are used  
4 for energy production rather than disposed of in  
5 conventional means.

6 Whoops!

7 CHAIRPERSON NICHOLS: Sorry. It goes by fast.

8 MR. MORRIS: Let me just close by saying there  
9 really is no incentive in the rules as stated for any kind  
10 of forest deforestation. In fact, the rules only allow  
11 the kind of forest residues that would actually promote  
12 healthy forests in California.

13 Thank you.

14 CHAIRPERSON NICHOLS: Thank you for that.

15 Okay. Tim Martinez, Adam Quinn, Pam Pinkston.

16 MR. MARTINEZ: Thank you, Madam Chair. I'll be  
17 brief since most of the comment were already made by  
18 members from the Latino business community.

19 Tim Martinez representing the San Joaquin County  
20 Hispanic Chamber of Commerce. And I'm also the Central  
21 Region Chair for the California Hispanic Chambers of  
22 Commerce, which encompasses Redding all the way down to  
23 Bakersfield. So the entire San Joaquin Valley.

24 On behalf of both organizations, I would ask that  
25 you consider minority and hispanic small businesses and



1 the impacts of the cap and trade to our communities. We  
2 have many trucking companies that will be directly  
3 impacted at a time when they as well as all of our small  
4 minority businesses are struggling to keep their doors  
5 open.

6 I want to remind you that as small business  
7 grows, so grows our great state. Please keep us in mind  
8 when considering the cap and trade program.

9 Thank you.

10 CHAIRPERSON NICHOLS: Thank you.

11 Adam Quinn, Pam Pinkston, Michael Barr.

12 MR. QUINN: Chairwoman Nichols, Board members.

13 My name's Adam Quinn. I'm here on behalf of the CREDO  
14 Action, which is part of Working Assets.

15 Today I'm going to submit over 10,000 comments to  
16 the Board from our members asking for strong  
17 implementation of AB 32 and stricter cap and trade  
18 enforcement.

19 In November, Californians gave you a mandate by  
20 overwhelmingly rejecting Proposition 23, so much so that  
21 there was more "no" votes on Prop 23 than any other item  
22 on the ballot. Many of the proposals in the draft that  
23 was put together happened before that mandate was given to  
24 you. So I hope that you seize upon this and really take  
25 the strictest enforcement of AB 32 you can do.

1           Specifically, the currently proposed pollution  
2 allowances in the first couple years where they're given  
3 away is a multi-billion dollar transfer of wealth to dirty  
4 industry; and it's something that needs to be addressed  
5 going forward before I think CREDO Action and our members  
6 will think that AB 32 and the Climate Solutions Act is  
7 being implemented to its fullest.

8           In the absence of national climate legislation,  
9 California has stood up and said, "We're ready to lead,"  
10 and we need to start here. Going forward, CREDO Action  
11 will have our members engage this Board and push this  
12 Board to have California being a leader on climate  
13 solution.

14           Thanks.

15           CHAIRPERSON NICHOLS: Okay. Pam Pinkston, are  
16 you here?

17           Yes.

18           And then Mike Barr and Steve Tassarò.

19           MS. PINKSTON: My name is Pam. I'm here  
20 representing the averaged concerned citizen who's  
21 negatively impacted by your AB 32 regulations in virtually  
22 every aspect in my life - food, clothing, utility bills,  
23 gasoline, automobiles, et cetera, et cetera.

24           According to Bloomberg Business Week November  
25 24th of this year, nationally cap and trade is in collapse

1 in other states and in Washington. Every state but New  
2 Mexico that had pledged to be a part of the Western States  
3 Climate Initiative has pulled out, and the northeastern  
4 cap and trade plan has collapsed.

5           Can you spell Climate Gate? Will you continue to  
6 deny the revelations of flawed and often fraudulent  
7 so-called scientific facts about global warming as well as  
8 the additional evidence that has been put forth by  
9 reputable scientists in contradiction to your assertion  
10 that CO2 is a toxic gas and that human beings' activities  
11 are contributing to global warming.

12           Your cap and trade energy tax proposal scheme  
13 will increase gas prices, cost jobs, shut down family  
14 farms, and make food more expensive. This is a choice you  
15 have made to put your ideology agenda and need for power  
16 and control above the needs of the people of the State of  
17 California. And yet you dare to claim that these  
18 Draconian regulations show how much you care about us and  
19 want to protect California citizens against a gas that 1)  
20 makes plants grow faster and stronger and 2) is something  
21 we emit every time we exhale. What are you going to do  
22 next to protect us, institute a per exhalation tax on  
23 human breathing?

24           And you yourselves let the cat out of the bag  
25 about your true intentions as a political body when you

1 recently announced your intention to adopt a regulation  
2 that forbids and punishes citizens for making untrue  
3 statements. And guess who decides what is and is not  
4 true? You. And what happens if you deem my opinion  
5 incorrect? I get penalized. You removed the proposed  
6 regulation from your website and postponed its  
7 consideration, but not before the people watching you saw  
8 the truth in where your intentions really lay.

9 CHAIRPERSON NICHOLS: Thank you. Your time is  
10 up.

11 MS. PINKSTON: And it has nothing whatsoever to  
12 do with our welfare --

13 CHAIRPERSON NICHOLS: Ma'am, your time is up.

14 MS. PINKSTON: -- but is a naked -- you let other  
15 people speak past their time, Madam Chair.

16 CHAIRPERSON NICHOLS: Finish your sentence,  
17 please.

18 MS. PINKSTON: I only have a couple more  
19 sentences.

20 And it has nothing whatsoever to do with our  
21 welfare but is a naked grab for total power and control  
22 over the people and businesses of the State of California  
23 and a Ponzi scheme to make a lot of money on carbon credit  
24 trading.

25 I assert that the only real threat to our

1 environment here in California and throughout our great  
2 nation is the continual emissions of hot CO<sub>2</sub> and BS out of  
3 the mouths of bureaucrats such as yourself.

4 CHAIRPERSON NICHOLS: Got it.

5 MS. PINKSTON: Thank you.

6 CHAIRPERSON NICHOLS: Thank you. Bye.

7 Okay. Now, Mr. Barr, see if you can top that.

8 MR. BARR: Can I go at a different time next  
9 time?

10 Well, I'm here today for the High Desert Power  
11 Plant near Victorville. The plant supplies about 830  
12 megawatts to the California markets. It already emits at  
13 22 percent less greenhouse gases than the 2007 California  
14 Energy Commission performance standard. It should  
15 actually be competitive under the cap and trade program  
16 including the auction component of it. But like other  
17 power generators in the early parts -- in the early years  
18 of your proposed program, we've got a problem. And the  
19 problem is that we can't pass the costs through because  
20 we're locked into a fixed price contract that was entered  
21 into before AB 32 took effect.

22 But after 2012 when that contract expires, we  
23 should be competitive and it should work.  
24 So as the UC professor suggested earlier today, some  
25 generators do need a transition provision for the early

1 years of the program. The staff recognized that need in  
2 the initial staff report and has met with generators who  
3 have a similar problem. We greatly thank Kevin and his  
4 staff for that. It's been very productive. They have  
5 gathered a great deal of information about it. But it's  
6 just not possible to fix it right now.

7           So we support the resolution that delegates this  
8 issue to the Executive Officer for the 15-day process.  
9 And assuming that can work out, like I said, we're  
10 cautiously optimistic that this will work.

11           Thank you.

12           CHAIRPERSON NICHOLS: Cautious optimism is good.

13           MR. BARR: Yeah, I think we're about the same  
14 place you are.

15           CHAIRPERSON NICHOLS: We'll take that.

16           All right. Steven Tassaró and then Ed Myers.

17           MR. TASSARO: Hello. I am Steve Tassaró. I'm an  
18 environmental studies major at Sonoma State University.

19           And I support the auctioning of carbon permits to  
20 the utilities sector. Although as a consequence, it will  
21 make prices of goods and utilities go up. Therefore, I  
22 believe that the government should give 75 percent of the  
23 money gained from these utility permits, as recommended by  
24 the EAAC, as a dividend to low and middle income residents  
25 in the form of a lump sum of money to offset the increase

1 in costs, relieving some of the financial burdens of  
2 citizens, such as veterans you heard testify earlier, who  
3 need it the most. Please make this a strong  
4 recommendation in the regulations to the Governor and  
5 Legislature.

6 Thank you.

7 CHAIRPERSON NICHOLS: Thank you.

8 Some of us old folks up here are marveling at  
9 your ability to read your statement off of your iPhone.

10 Sorry. It's an age thing.

11 Okay. Ed Myers.

12 Is Ed Myers here?

13 All right. John Canfield, and then Sue Lynn and  
14 Anthony Garvin.

15 MR. CANFIELD: Hi. This is John Canfield. And I  
16 am an employee of eBay - I'm part of their green team -  
17 and also a member of the Climate Protection Campaign. But  
18 the views I'm expressing are as an individual citizen.

19 First of all, I want to compliment the Board and  
20 staff for all the work they've done. California is really  
21 in a leadership position here, and I think that all the  
22 hard work is paying off.

23 I want to especially compliment the inclusion of  
24 transportation fuels in the covered area and getting us up  
25 to 85 percent GHG coverage, which is great.

1           There are many people from affected industries  
2 here today providing comments. There are not as many of  
3 the tens of millions of individual citizens who have spent  
4 the day here. And on their behalf, I would like to  
5 express support and urge you to push hard for substantial  
6 dividends distributed monthly to individuals. And this is  
7 really an innovative approach. It's not been done in  
8 other geographies to my knowledge. There is work that  
9 will need to happen to do this. There's kind of an IT  
10 challenge. But we have some great information technology  
11 companies that can help you out with that.

12           I think that it is incumbent on California to  
13 show that type of innovation, because people need to see  
14 themselves getting compensated for higher energy costs.  
15 And a dividend is the best way for them to see that. I  
16 think that having that imbedded in the electric bill, like  
17 the previous speaker mentioned, does not let people  
18 understand the compensation and does not compensate them  
19 fully for all the increased costs that they will be  
20 experiencing.

21           In order to have a substantial dividend, I  
22 strongly urge ARB to reduce the use of allocations and  
23 offsets. I don't think the oil and gas industry needs an  
24 offset, and I encourage you to also not encourage...

25           Thanks.



1           CHAIRPERSON NICHOLS: Okay. Thank you.

2           Sue Lynn.

3           Anthony Garvin.

4           MR. GARVIN: Thank you, Madam Chair and Board  
5 members and staff of CARB. I represent the University of  
6 California, it's all ten campuses and five medical  
7 centers. And while the university generally supports the  
8 historic efforts and historic regulation that the Board  
9 will pass today and implement over the next few years,  
10 we're extremely disappointed that, while industry is given  
11 free allowances, the university and higher education in  
12 general and hospitals -- public hospitals do not receive  
13 free allowances or any financial assistance or transition  
14 assistance under the proposed regulation.

15           The proposed regulation will have a significant  
16 impact upon the university. We have five cogen plants and  
17 one large heat thermal plant that will be captured by the  
18 cap and trade regulations. We estimate that the cost of  
19 purchasing allowances on the auction will range between 7  
20 million and 30 million per year, depending upon the actual  
21 cost of the allowances on the auction.

22           To put it in -- to give you some perspective, the  
23 university and higher education and education in general,  
24 as I'm sure the Board members are aware, is under  
25 significant financial pressure. The amount of state

1 funding of the university has declined dramatically since  
2 1990, by 51 percent of the cost of funding of each  
3 student. In order to compensate for these declines,  
4 dramatic declines in our revenues and state budgets, we've  
5 had to increase tuition and fees by roughly 40 percent  
6 over the last two years. And the cost to comply with the  
7 program by purchasing allowances would of course come out  
8 of general funds and would have to either come out of  
9 tuition and fees or state funding, which is unlikely given  
10 the dire strait of budget situation. So we ask for  
11 transition assistance.

12 Thank you.

13 CHAIRPERSON NICHOLS: Thank you.

14 BOARD MEMBER SPERLING: Madam Chair, I have a  
15 question.

16 CHAIRPERSON NICHOLS: Yes.

17 BOARD MEMBER SPERLING: This is a question for  
18 staff.

19 I noticed in the resolution it refers to that the  
20 Board directs the Executive Officer to review the  
21 treatment of combined heat and power facilitates to ensure  
22 that appropriate incentives are being provided. Was this  
23 for this particular case? Is that -- or does it handle  
24 that?

25 ASSISTANT EXECUTIVE OFFICER KENNEDY: It has the

1 potential to handle that. There's also in the Attachment  
2 B -- one of the things for 15-day changes is taking a look  
3 at the possibility of transition assistance of some form  
4 for those who are left out of the industrial allocation  
5 but are in the narrow scope. And so that was actually  
6 more -- that provision was more targeted towards this  
7 particular problem and others that may be similarly  
8 situated.

9 BOARD MEMBER SPERLING: Where is that,

10 Appendix --

11 ASSISTANT EXECUTIVE OFFICER KENNEDY: I'm  
12 remembering off the top of my head. I think it's on page  
13 8 of Attachment B and it's Item No. 6.

14 CHAIRPERSON NICHOLS: That's pretty good.

15 BOARD MEMBER SPERLING: Thank you.

16 Let's see if I'm which question I answered with  
17 that answer first thing this morning.

18 CHAIRPERSON NICHOLS: We have a few university  
19 affiliates of people up here.

20 Go ahead.

21 BOARD MEMBER BALMES: In the interest of  
22 transparency, in addition to Dr. Sperling and myself, our  
23 Chair is also a faculty member of U.C. But it's not just  
24 U.C. It's the Cal States and it's public hospitals. I  
25 mean given the -- I mean we're all under economic pressure

1 in California now. But given the pressures at higher  
2 education and public hospitals, I think it's nuts to not  
3 do something to help them out.

4 MR. GARVIN: And the staff has indicated that  
5 they're willing to work with us over the next year during  
6 these workshops. And so we're looking forward to that.

7 Thank you.

8 CHAIRPERSON NICHOLS: Thank you.

9 Yeah, I had an opportunity to meet with Mr.  
10 Garvin and some of his colleagues. And one of the things  
11 I think we need to recognize is that, somewhat similar to  
12 the situation of the municipally-owned utilities, they are  
13 actually making significant investments at this moment to  
14 try to make themselves more carbon free. And so we've got  
15 to find a way to encourage that the investments that they  
16 do get to make get targeted where they belong, which is on  
17 reducing their carbon footprint.

18 Okay. Next, Catherine Garoupa White, followed by  
19 Jeanne Merrill and Catherine Rehies-Boyd.

20 MS. SHARPE: Actually I'm not Catherine. She  
21 asked me to speak in her stead. And I'm later on the  
22 list, so we're going to combine our comments together. We  
23 thought we'd save you a little time.

24 CHAIRPERSON NICHOLS: Okay.

25 MS. SHARPE: My name is Sarah Sharpe. I'm the

1 Environmental Health Director for Fresno Metro Ministry.

2 Thank you for having us. It's been a very long day.

3 Fresno Metro Ministry is a multi-faith and  
4 multi-cultural organization dedicated to the creation of a  
5 more respectful, compassionate and inclusive Fresno that  
6 promotes social, economic, and environmental justice.

7 We are encouraged by the swift action California  
8 has taken to address climate change through AB 32. And we  
9 are very involved in protecting this structure -- we were  
10 very involved by opposing Proposition 23. However, from  
11 the beginning we've been very concerned about proposals to  
12 create a cap and trade program.

13 As the Governor just mentioned when he came and  
14 surprised us, Fresno suffers from both extremely high  
15 poverty rates and extremely bad air, and severe health  
16 problems, such as high asthma rates, due to these  
17 problems. We are concerned that pollution trading could  
18 result in increased local pollution of criteria  
19 pollutants. The communities we work with, the  
20 disadvantaged and most vulnerable populations, are very  
21 concerned with increasing pollution and the cumulative  
22 impacts of multiple sources in their small communities.

23 We want to thank you for adding the Community  
24 Benefits Fund in today's staff modifications, because the  
25 San Joaquin Valley will desperately need the assistance to

1 both cope with climate change and achieve local carbon  
2 dioxide reductions that will include co-pollutant benefits  
3 and improve public health in our region.

4           However, we are still concerned with the proposed  
5 use of agricultural offsets. Our understanding was that  
6 the CO2 reductions from agriculture were determined to be  
7 too difficult to verify or quantify to include it in the  
8 cap, yet your proposed draft allows for offsets from these  
9 same sources. How will these emission reductions be  
10 verified or quantified? We're very concerned about that.

11           Also, we believe that the use of offsets should  
12 be geographically confined to within the state and  
13 possibly within the air basin where they originate.

14           I'm also here -- so those comments were on behalf  
15 of Fresno Metro Ministry. And I'm also here on behalf of  
16 CVAQC, Central Valley Air Quality Coalition, which is a  
17 broad coalition and we're just one of the members. So we  
18 have a broad range of -- we have submitted written  
19 comments this morning. We tried to get it in sooner but,  
20 unfortunately, as a coalition, it's harder to do that.

21           But we ask that when you consider this program,  
22 you take precautions to protect the most vulnerable people  
23 in our region. We have three specific areas.

24           First, we want, as I said, to limit offsets from  
25 biomass, dairies, and agriculture until they are

1 verifiable and quantifiable.

2           We want you to set a price on allowances from  
3 industrial sources that will incentivize reductions in CO2  
4 and criteria pollutants.

5           And we want CARB to complete a more comprehensive  
6 analysis of the health impacts of cap and trade program on  
7 the disadvantaged and cumulatively impacted communities  
8 like so many of our small rural communities we have in the  
9 San Joaquin Valley.

10           So thank you.

11           CHAIRPERSON NICHOLS: Thank you.

12           And who else did you say you were speak for? I'm  
13 sorry.

14           MS. SHARPE: I was speaking four Catherine  
15 Garoupa White, who's on the list. And I'm later on the  
16 list, almost at the end today. So I'll cross that off  
17 later - number 165.

18           CHAIRPERSON NICHOLS: Got it. Thank you, thank  
19 you.

20           Okay. Jeanne Merrill.

21           MS. MERRILL: I'm Jeanne Merrill. I'm the Policy  
22 Director with the California Climate and Agriculture  
23 Network. We're a coalition of sustainable agriculture and  
24 farmer member organizations.

25           And California today is leading the country in

1 addressing climate change. However, we're concerned that  
2 the cap and trade regulation as written represents a  
3 missed opportunity in achieving climate solutions in one  
4 of the state's leading economic sectors, agriculture.

5 California agriculture is the most diverse and  
6 productive agricultural system in the United States. A  
7 \$35 billion industry, the state's farms and ranches  
8 produce 400 commodities, supplying nearly 50 percent of  
9 the country's fruits and vegetables.

10 Depending on weather and the availability of  
11 natural resources, especially water, agriculture is also  
12 uniquely vulnerable when it comes to climate change.  
13 Investments in research, technical assistance, and  
14 financial incentives are urgently needed to help meet the  
15 goals of AB 32, reduce greenhouse gas emissions in  
16 agriculture, sequester carbon in our agricultural soils  
17 and woody biomass, and keep farmers on the land.

18 And in 2008 as part of the scoping plan, the Ag  
19 Climate Action Team and the Economic and Technology  
20 Advancement Committee found that through a variety of  
21 practices, California agriculture can reduce greenhouse  
22 gas emissions between 9 and 16 million metric tons of CO<sub>2</sub>  
23 equivalent. The AgCAT and ETAC committees recommended  
24 investing in additional research financial incentives and  
25 technical assistance to meet these emissions reductions.



1           Similarly, the Economic and Allocation Advisory  
2 Committee also recommended a portion of allowance revenue  
3 going towards biological carbon sequestration activities  
4 in agriculture. We can't rely on carbon markets to meet  
5 greenhouse gas emissions reductions in agriculture. The  
6 marketplace lacks adequate funding for technical  
7 assistance and financial incentives and research for  
8 agriculture to meet the challenges of climate change.

9           The cap and trade regulation provides an  
10 opportunity for CARB to make recommendations to the  
11 Legislature about how funding of revenue can be made. And  
12 we strongly encourage you to include in your  
13 recommendations funding for agriculture.

14           And I'll just add in terms of agricultural  
15 offsets, it's our hope that when developing those, that  
16 you consider whole farm systems, rewarding farmers first,  
17 and transparency.

18           Thanks.

19           CHAIRPERSON NICHOLS: Thank you. I expect we'll  
20 be talking further about these issues.

21           All right. Ms. Reheis-Boyd, followed by Eric  
22 Sauer and Tamara Rasberry.

23           MS. REHEIS-BOYD: Good afternoon, Chairwoman  
24 Nichols, members of the Board. Cathy Reheis-Boyd,  
25 President of the Western States Petroleum Association.

1 Thank you for the opportunity to comment today on this  
2 proposed regulation.

3           I do appreciate very much the time and effort  
4 that staff has provided to us. They've definitely  
5 listened to our concerns. We've had too many  
6 conversations. But similar to the low carbon fuel  
7 standard, which we were with you all at your last hearing  
8 in November, I think we've done a good job in working with  
9 your staff on getting some of our issues addressed in the  
10 resolution.

11           We've been active. We've been I think productive  
12 participants in this program. We've worked with the  
13 staff, like I said, on the low carbon fuel standard  
14 resolution. You actually got NRDC, CEERT, and WSPA to  
15 actually agree on provisions at your last hearing, which I  
16 think was pretty monumental.

17           But we do believe there is a consensus. You've  
18 heard it today. There's lots of issues to work on in 2011  
19 and beyond. And we need to design this well, and you all  
20 know that. But in particular, for our industry the energy  
21 system has to be adequate to support the consumer short-  
22 and long-term goals as we transition to this future -- to  
23 this low carbon future. So we need to be smart. We need  
24 to be thoughtful. We need to build a process for review  
25 so they have time to adjust and modify as we go forward.

1           I did submit extensive comments to you yesterday.  
2   So you have those. We touched on things like the  
3   importance of offset and linkage, transportation fuels,  
4   and the cap and trade; the issue of emissions intensity  
5   trade exposure. And the idea of leakage and risk  
6   determinations we've discussed in our comments, designing  
7   a benchmarking scheme that transitions and works to the  
8   future over time. And the issue of linking cap and trade  
9   credits with the low carbon fuel standard I think needs  
10  some additional conversation.

11           Again, the resolution touches on these issues,  
12  and I appreciate staff for doing that.

13           I also note this morning there was provisions for  
14  combined heat and power and CCS, carbon capture and  
15  sequestration. Chairwoman Nichols appointed me to a task  
16  force in the Energy Commission, and we actually adopted  
17  that plan yesterday. And so to have a protocol for CCS is  
18  really important. So I'd like to thank you for that.

19           Just last two quick comments. The idea the  
20  Chairman had for an expert work group in the opening  
21  comments I think is a good one. And your idea to hire an  
22  expert to look at the impact on the state energy markets  
23  is also in the regulations, and I do support that as well.

24           So thank you very much. We look forward to  
25  working with you in 2011.

1 CHAIRPERSON NICHOLS: Okay. Thank you.

2 Eric Sauer.

3 Are you here?

4 Okay. Tamara Rasberry.

5 MS. RASBERRY: Good afternoon. I'm Tamara

6 Rasberry representing the Sempra Energy Utility Companies,

7 Southern California Gas Company, and San Diego Gas and

8 Electric. Thank you for allowing me to comment today.

9 I want to thank the staff for all their hard work  
10 and keeping the line of communication open. I know from  
11 the e-mail I received at 11:00 at night and 6 in the  
12 morning you all are working very hard. So I appreciate  
13 that.

14 I anticipate participating fully in the 15-day  
15 comment period that starts beginning next year. I've  
16 filed comments, but I just want to briefly go over a few  
17 points.

18 Should the Board decide to adopt the regulations  
19 today, we ask that you direct staff to modify the  
20 treatment of natural gas local distribution companies,  
21 LDCs, to reflect that natural gas LDCs are already at 1990  
22 emission levels.

23 We've been working with staff, and appreciate  
24 their work, to address the allowance allocations for  
25 natural gas LDCs. We have a proposal in our comments.

1 But we do want the Board to understand that reductions in  
2 natural gas emissions are best achieved by programmatic  
3 measures like energy efficiency. The proposed regs add  
4 the natural gas sector to cap and trade in 2015. So in  
5 that time we ask that the Board work with stakeholders on  
6 expanding the very limited portfolio of gas supplies,  
7 which include renewable biogases.

8           We also would ask the Board to eliminate the  
9 dichotomy in the allocation of allowances for the state's  
10 electric utilities. The cost of electricity consumed in  
11 the state should equally reflect the real cost of carbon.  
12 Unfortunately the proposed regulation on the use of  
13 allowances -- on the use of allowance revenues for IOUs  
14 and POUs would put IOU customers at a disadvantage.

15           And as stated earlier by SMUD and PG&E and my  
16 colleagues at Edison, if the Board adopts the mandatory  
17 GHG reporting regulation today, we really want the Board  
18 to consider adding language to assign a zero-GHG attribute  
19 to all renewable energy that meets the RPS and RES  
20 requirements as adopted by this Board in September.

21           Thank you.

22           CHAIRPERSON NICHOLS: Thank you.

23           James Brady.

24           Larry Greene.

25           MR. GREENE: Madam Chair, members of the Board.

1 I'm Larry Greene, Air Pollution Control Officer here in  
2 Sacramento. And I'm speaking today for the California Air  
3 Pollution Control Officers' Association.

4 I would certainly like to acknowledge this  
5 historic day and recognize the Board and the staff for  
6 their hard work in the issue of global warming. It's an  
7 issue of national and international importance, and we  
8 have received so much recognition in California for that.

9 Our members strongly support the Board's approval  
10 of this regulation. We have demonstrated our support  
11 through our members' efforts over the past years in  
12 working with local communities, our work with ARB on SB  
13 375 and various scoping plan regulations, our publishing  
14 of three well received documents related to quantifying  
15 global warming emissions, and our work at the national  
16 level with the National Association of Clean Air Agencies.  
17 And we've spent a lot of time with your staff in working  
18 with this over the last years.

19 We believe that our work and programs can be more  
20 fully leveraged by the ARB staff to support their work in  
21 global warming and to better integrate the state program  
22 at the local level.

23 Regarding partnerships, we appreciate and  
24 acknowledge the recent decision of the ARB staff to  
25 resolve differences over perceived conflict of interest

1 with verifying reported greenhouse gas emissions in the  
2 mandatory reporting regulation. This significant  
3 resolution did not extend into the cap and trade  
4 regulation and needs to be incorporated there. We have  
5 provided recommended language in our comment letter to  
6 make the necessary changes there. And we encourage the  
7 Board to direct that those be made.

8           Our comment letter also notes several remaining  
9 issues from the scoping plan process that need resolution.  
10 There's a completion of a joint work plan, consolidation  
11 of a reporting local greenhouse emissions, and the use of  
12 an inter-agency task force to implement the provisions of  
13 the cap and trade program.

14           We also believe air districts can be very helpful  
15 to ARB in verifying offsets and in developing ideas and  
16 structure for offset protocols that ARB would then  
17 approve.

18           We encourage the Board to support integration of  
19 district efforts into CARB's global warming process and to  
20 review progress on this periodically.

21           Thank you very much.

22           CHAIRPERSON NICHOLS: Thank you, Larry. Thanks  
23 for all your leadership at the district level on these  
24 issues too.

25           Okay. Juliette Beck.

1           Juliette Beck?

2           Eric Eisenhammer.

3           MR. EISENHAMMER: Hi. Thank you for the  
4 opportunity to speak to you guys today. I'm representing  
5 the Coalition of Energy Users. We are thousands of  
6 taxpayers and small businesses who are concerned about  
7 this.

8           I talk to small business owners every day that  
9 are concerned that these regulations could put businesses  
10 out of work, people out of work.

11           It's an effort to show leadership. But I'm  
12 concerned that other states have not wanted to participate  
13 in this program. Right now we have only New Mexico. And  
14 Congress as a whole now is a majority that is opposed to  
15 cap and trade.

16           Please look at the hundreds of on-line comments  
17 from regular citizens and business owners who are urging  
18 you to postpone this plan.

19           I know some have posited that with Prop 23 it's a  
20 mandate to go full speed ahead. However, please also  
21 realize that three million Californians voted "yes" on 23  
22 and believe that there's very serious concerns that should  
23 be addressed, that this is not something we can afford  
24 right now with record high unemployment, a \$20 billion  
25 budget deficit, and at a time when the nation as a whole



1 does not wish to go forward with this plan.

2           So thank you for giving me the chance to speak to  
3 you. And I hope you will at least consider postponement  
4 for economic reasons.

5           Thank you.

6           CHAIRPERSON NICHOLS: Thank you.

7           Gary Grimes.

8           I'm sorry. James Hendry.

9           Excuse me, Mr. Hendry. And then Gary Grimes and  
10 Laura Baker.

11           MR. HENDRY: Good afternoon, members. My name is  
12 James Hendry. I'm representing the San Francisco Public  
13 Utilities Commission.

14           At the beginning of this meeting Mary Nichols  
15 identified, you know, what are fundamental design issues  
16 that should and must be addressed by the Board versus the  
17 details that could be allocated to staff.

18           I'm here to argue and address the issue of the  
19 allocation of 10 to \$20 billion in allowances to the  
20 electric utility sector and to argue that this is an issue  
21 that should and must be addressed by the Board. Instead,  
22 the current resolution delegates to the Executive Director  
23 the discretion to bring this issue back to the Board for  
24 consideration, while the ARB staff is proposing use of a  
25 model that has not been fully and publicly vetted.

1           Unlike the allocation of allowances to the  
2 industrial sector, which were part of the initial  
3 statement of reasons in the 45-day comment period, the ISR  
4 contained no allocation mechanism for the utility sector.  
5 Indeed, the first that anybody would have heard about the  
6 proposed allocation would have been when it was released  
7 at today's meeting.

8           CHAIRPERSON NICHOLS: Excuse me, but that's not  
9 true. That's just flat-out not true. There have been  
10 multiple, multiple meetings and workshops with all the  
11 utilities in the state invited. If yours wasn't there and  
12 you didn't know about it, that's unfortunate. But it's  
13 not for lack of opportunity. This issue has been under  
14 discussion. I personally have been involved in some of  
15 those discussions, including conference calls with every  
16 single utility in the state on them. So I just don't know  
17 what you're talking about.

18           MR. HENDRY: I'll follow up with that, if I may.  
19 That was my next --

20           CHAIRPERSON NICHOLS: I think you should.

21           MR. HENDRY: The staff proposal highlights the  
22 intents of numerous discussions that occurred with the  
23 joint utility groups that guides the staff's proposal, as  
24 highlighted by the numerous utility representatives who  
25 were part of the JUG and have testified in support of it.

1           However, none of these meetings were posted in  
2 the ARB website. They were not publicly noticed. And  
3 they were not open to any outside stakeholders, such as  
4 environment groups, affected ratepayer groups, or even the  
5 general public.

6           Even the SF PUC, one of the larger utilities in  
7 the state, did not even hear about the discussions until  
8 staff presented it for consensus approval.

9           The problems inherent in having a consensus  
10 proposal where not all parties were present can be  
11 highlighted by -- seen in the joint proposal. The SF PUC,  
12 despite having the lowest emissions profile of any  
13 electric utility in California, could find itself under  
14 this proposal with having to buy allowances, while the  
15 utilities that have emission profiles a hundred times  
16 worse could find themselves with excess allowances that  
17 they could sell to reduce --

18           CHAIRPERSON NICHOLS: Thank you, but you have  
19 used up your time. You have written testimony, and we  
20 will review it. And we will address this issue as we  
21 proceed with the discussions.

22           Is there a Gary Grimes here?

23           Yes, you are here.

24           How about Laura Baker?

25           Okay, great. You're next, and then Emily Rooney.

1                 Thanks.

2                 MR. GRIMES: Madam Chairwoman and distinguished  
3 Board members. I'm here today representing Paramount  
4 Petroleum, a small independent refiner in southern  
5 California.

6                 We're the poster boy for leakage. We leaked two  
7 weeks ago when we shut down our refinery for economic  
8 reasons. But we're optimistic that we will be back when  
9 economic conditions improve.

10                I will focus on just a very few critical points  
11 today. And I want to dispel a few common misconceptions.  
12 To do this, we'll need a few slides which we'll move  
13 through at warp speed. Hang on.

14                First, we are very different from the major oil  
15 companies that most people are familiar with and who are  
16 competitors. This slide captures most of these  
17 differences.

18                This shows some of the differences graphically.  
19 There are only two small refiners making transportation  
20 fuels in California. The axis are size and complexity and  
21 the circle size represents gasoline-making capacity. We  
22 are ants in a field of elephants.

23                Next slide please.

24   --o0o--

25                MR. GRIMES: Let's talk about leakage. This

1 slide shows the changes in refining capacity since 1988 in  
2 the U.S., the world, and California. You can see that  
3 California is already leaking capacity, and this does not  
4 include our plant.

5 Next slide.

6 --o0o--

7 MR. GRIMES: Well, where will the leakage go?

8 This slide adds China refining capacity.

9 India capacity is growing similarly. Their  
10 latest refinery built for export is now the largest in the  
11 world. It is massive. Almost five times larger than  
12 anything in California. It's one third the size of  
13 Manhattan, and took 100,000 people to build.

14 Next slide please.

15 --o0o--

16 MR. GRIMES: Passed through. A little bit about  
17 us.

18 This notion bears little relation to obvious  
19 realities. Let's look at the reality. Most people have  
20 the mistaken impression that oil refining is a lucrative  
21 industry because of the high cost at the pump.  
22 Unfortunately this price has little to do with refining  
23 profitability. What does is the difference between the  
24 price of products and the cost of raw materials. This  
25 slide shows you the 3, 2, 1 spread, an industry metric

1 commonly used as a reference for the relationship between  
2 cruel oil and product prices.

3           Note, refining profitability dropped  
4 significantly during the 2008 recession and has not  
5 returned. With the spread in 2006 and 7 Paramount was  
6 profitable. And with a lower margin, since it has not  
7 been. Somewhere between is break-even.

8           The high cost of crude oil has been hard on us.

9           Now, if pass through of costs were possible for  
10 us, wouldn't we pass through these increased costs to our  
11 customers instead of shutting down?

12           Last slide.

13   --o0o--

14           MR. GRIMES: The major oil companies that are  
15 integrated do not need to make money on refining. With  
16 the high cost of crude, they can still be very profitable.  
17 Because of the recession, we urge you to consider the  
18 economic health of the industry's companies and especially  
19 the jobs affected in your rulemaking, and consider a form  
20 of hardship relief similar to what the EPA has.

21           We also recommend you consider raising the cap on  
22 offsets for those subject to leakage.

23           One of the goals of AB 32 is energy security.  
24 And it would be ironic if it did just the opposite.

25           Thank you for your consideration.

1           CHAIRPERSON NICHOLS: Laura Baker, Emily Rooney,  
2 Ethan Ravage.

3           MS. BAKER: Good afternoon. I'm Laura Baker.  
4 I'm with the Center on Race, Poverty, and the Environment.  
5           The Center on Race, Poverty, and the Environment  
6 has been a supporter of AB 32 since its inception. We've  
7 participated in the Environmental Justice Advisory  
8 Committee for the scoping plan, and part of Communities  
9 United, a coalition that fought Prop 23 and supported AB  
10 32. And we oppose the cap and trade regulation proposed,  
11 because it will not effectuate the goals of AB 32.

12           While I stand before you today as one person, I'm  
13 in fact speaking for over 800 San Joaquin Valley residents  
14 from 20 different communities, communities in the state's  
15 worst air quality basin that oppose the proposed rule.  
16 I've submitted their comments to you for your  
17 consideration. But you should know that this group is not  
18 here in person because this Board's discriminatory process  
19 at the November 20th, 2008, hearing on the scoping plan.

20           These residents, who are overwhelmingly Latino  
21 and Spanish speaking, were discriminated against then, and  
22 that discrimination has continued in a lack of Spanish  
23 translation equipment provided absent specific advanced  
24 requests. Please see their written comments for details.

25           On a substantive note, the unbridled use of

1 offsets in the proposed rule from out-of-state sources  
2 will mean that jobs and economic benefits resulting  
3 from -- any benefits will not benefit California. As a  
4 result, in no way does this structure maximize  
5 environmental and economic benefits for California as  
6 required by AB 32. For this reason, and those identified  
7 in our written comments, the proposed regulation should  
8 not be adopted.

9 Thank you.

10 CHAIRPERSON NICHOLS: Thank you.

11 Just as a factual matter, is somebody here  
12 prepared to address the issue about translation services  
13 and how we make them available? We've certainly had them  
14 at previous Board hearings that I'm aware of. We've had  
15 translators here.

16 CHIEF COUNSEL PETER: There's going to be one  
17 here tomorrow, for example. But we have had them --

18 CHAIRPERSON NICHOLS: There will be one here  
19 tomorrow. So if you made a request and someone was not  
20 provided, I'd like to have some information in detail  
21 about that, because that is not Board policy and never has  
22 been.

23 Okay. Emily Rooney, and then Ethan Ravage and  
24 then Nicholas Van Aelstyn.

25 MS. ROONEY: Good afternoon, Madam Chairwoman and



1 members of the Board. Thank you for your time today.

2           My name's Emily Rooney. I'm President of  
3 Agricultural Council of California. We're a public policy  
4 association that represents farmer-owned businesses and  
5 cooperatives, many of which cook and process food for all  
6 of our consumption. And for those reasons, many of my  
7 members exceed the 25,000 metric ton threshold and will  
8 have to participate in the cap and trade program.

9           We've submitted written comments, so I'll defer  
10 to those. And we've been working with staff over the last  
11 self months on this regulation, and we look forward to  
12 continuing that process.

13           Our biggest concern with this regulation is  
14 emissions leakage. We are sensitive to low cost  
15 competitors in other parts of this country as well as  
16 across the globe. For example, in the canning peach  
17 industry, we've been overwhelmed with Chinese imports.  
18 Just from July through August of this year Chinese imports  
19 of processed peaches have increased by 45 percent. And  
20 since 2006 those numbers have actually -- the imports have  
21 actually tripled. And China and Mexico are both making  
22 major headway in tomato paste and other tomato products.

23           So displacement of these California products by  
24 countries that have little to no environmental standards  
25 conflict with the fundamental purpose of this regulation.

1           So we'll be working with staff to accurately  
2 reflect the leakage issues with our industry and making  
3 changes with the emissions intensity factor and also the  
4 industry assistance variable.

5           And we do support the language in Resolution  
6 1042, Attachment B, which takes a deeper look at leakage.  
7 And we're hopeful that the periodic review language will  
8 be increased beyond the once a compliance period to maybe  
9 monthly or so to truly evaluate the impacts this  
10 regulation could have on our industry.

11           So thank you very much.

12           CHAIRPERSON NICHOLS: Thank you.

13           Ethan Ravage, and then Nicholas Van Aelstyn and  
14 Sabrina Means.

15           MR. RAVAGE: Madam Chair, the Board, thank you  
16 for having me. I'm Ethan Ravage, the West Coast  
17 representative of IETA, the International Emissions  
18 Trading Association.

19           With 165 member companies, IETA is the largest  
20 trade association representing businesses involved in  
21 carbon markets and controlling carbon emissions. All  
22 major economic sectors are represented, including  
23 companies in electricity, diversified energy,  
24 manufacturing, finance, plus the firms -- the service  
25 firms doing offset origination, verification,

1 certification, brokerage, consulting, and legal work.

2 Pretty much the kitchen sink of carbon trading.

3 IETA is the only voice covering all sectors of  
4 the emissions market, and we operate in all major centers.  
5 IETA has offices in San Francisco, Washington, Brussels,  
6 Geneva, and Toronto.

7 First and foremost, IETA extends its appreciation  
8 for ARB's leadership in developing a cap and trade program  
9 as a principle component of its efforts to reduce  
10 greenhouse gas emissions in the State of California. We  
11 applaud California regulators for their ongoing efforts to  
12 thoughtfully integrate practical market-based mechanisms  
13 that minimize compliance costs while effectively and  
14 efficiently reducing emissions.

15 Second, IETA, with its highly diverse membership,  
16 recognizes that there has been a lot accomplished in the  
17 past year. And we appreciate that there is still much to  
18 do to integrate not only the voices of those who will  
19 trade the market, but the voices of those who will be  
20 subject to compliance obligations and who value certainty  
21 above all.

22 IETA's membership would like to note and be  
23 appreciative of progress in adapting flexible approaches  
24 and would like to stress the importance of the following  
25 three general items:

1           Number one, to avoid the temptation to have  
2 extremely high allocation -- oh, sorry -- auctions at the  
3 onset of the program. And we've made a lot of progress  
4 there.

5           Number two, to, you know, continue to think about  
6 higher quality of offset limits and allowing more  
7 methodologies and standards into the state of play.

8           Number three, considering future linkages to  
9 comparable markets that have broadly symmetrical  
10 regulations.

11           Pursuing these objectives and others will aid in  
12 the creation of a market that maximizes efficiency and  
13 liquidity while achieving its environmental goals.

14           Thank you.

15           CHAIRPERSON NICHOLS: Thank you.

16           Nicholas, and then Sabrina and Bruce Moorhead.

17           MR. VAN AELSTYN: Good afternoon, Madam  
18 Chairwoman, members of the Board, and staff. My name is  
19 Nicho Van Aelstyn. I represent the Carbon Offset  
20 Providers Coalition.

21           First of all, I just wanted to join so many  
22 others in commending the Board and the staff for their  
23 vision, leadership, and plain hard work in getting us to  
24 this point after three and a half long years. It is truly  
25 an historic day. And we support the regulation for all

1 the reasons that the Governor expressed so well.

2 I noticed he went over his three minutes.

3 Anyway --

4 (Laughter.)

5 CHAIRPERSON NICHOLS: You know, we all know who  
6 our boss is.

7 MR. VAN AELSTYN: Unfortunately for all the wrong  
8 reasons, California is in an important leadership  
9 position, not only within the United States but within the  
10 world at large. I was fortunate to be at the COB 16 in  
11 Cancun last week. And I was very proud to be a  
12 Californian there -- to be from California. California  
13 certainly stood out. There was a lot of buzz at the COB  
14 16 for what California was doing and it really is a beacon  
15 to the world.

16 That said, there are -- as staff acknowledged  
17 in its excellent presentation this morning, there is work  
18 to be done yet. And then in that regard, we really  
19 welcome Resolution 1042 with the 15-day matters, and we  
20 look forward to working with staff over the next couple of  
21 months to address in particular those issues that we set  
22 forth in our comments. Two of those I'd just like to call  
23 out here very quickly.

24 The first is the, in our view, the regulation's  
25 current inadequate addressing of early action credit. AB

1 32 mandates that credit be given to voluntary early action  
2 measures. And as presently stated in the regulation, it  
3 is too limited. More protocols need to be recognized.  
4 Very rigorous voluntary protocols do exist and quality  
5 offsets have been generated under them. They should be  
6 recognized. Similarly, additional registries should be  
7 recognized, not only CAR. We love CAR, but it's not the  
8 only one, and others ought to be recognized, and we hope  
9 that the 15-day rule will enable that.

10           Lastly, I would just like to commend particularly  
11 the REDD program and encourage its speedy development  
12 hopefully in the first compliance period. In this action  
13 today, the ARB is not only developing the first  
14 economy-wide cap and trade program in the U.S. but the  
15 very first cap and trade program in the world to recognize  
16 REDD credit, and we salute the Board for that and look  
17 forward to working with you more.

18           Thank you.

19           CHAIRPERSON NICHOLS: Thank you.

20           Sabrina Means, and then Bruce Moorhead and then  
21 Malaki Amen.

22           MS. MEANS: Thank you, Chair and Board members.  
23 My name is Sabrina Means. I'm representing the California  
24 Transit Association.

25           Although technically our association is neutral

1 on the regulation, we do appreciate staff's recommendation  
2 that the regulation includes a community benefits fund  
3 that requires -- well, not requires, but would include  
4 some allocation revenues to go to transit and land-use  
5 planning.

6           You've all heard me before in past Board hearings  
7 that transit will play a crucial role as part of the  
8 state's effort to reduce greenhouse gas emissions. And so  
9 anything that we can do to encourage some of the revenues  
10 to go to transit would be terrific and we look forward to  
11 working with ARB staff and Board to make that happen.

12           Thank you.

13           CHAIRPERSON NICHOLS: Thank you.

14           Bruce Moorhead.

15           MR. MOORHEAD: Good afternoon, Board members.

16 Thanks for the opportunity.

17           I'm speaking as a private citizen. I'm not paid  
18 by any entity.

19           I would like to first state that I have no  
20 quarrel with seeking to improve air and water quality.  
21 Admirable goals.

22           I have a big quarrel with making political and  
23 business decisions for the state and country based on a  
24 scientific lie. The greenhouse theory has been shattered  
25 by scientific analyses and is simply invalid.

1           In December 2008, 650 plus climate scientists  
2 from all corners of the globe made their concerns about  
3 global warming alarmism known on the U.S. Senate floor.

4           In a March 30th, 2009, New York Times ad, 115  
5 climate researchers, scientists, and others essentially  
6 called President Obama a liar for his comments about  
7 anthropogenic global warming.

8           It is astonishing to me how organizations such as  
9 yours and willing accomplices in the news media continue  
10 to talk and proceed as if 99 percent of climatologists  
11 agree with you about anthropogenic global warming, when  
12 surely the majority worldwide sharply disagree with you.  
13 I'm sure your actions are well meant, but they are  
14 misguided.

15           My question to the EPA and CARB is, when do you  
16 stop lying to the American people?

17           Thank you for your time.

18           CHAIRPERSON NICHOLS: All right. Malaki Amen.

19           MR. AMEN: Madam Chairman and members of the  
20 Board, thank you very much. I'm Malaki Amen. California  
21 NAACP is the organization that I am representing, the  
22 nation's largest and oldest civil rights organization. We  
23 thank you for taking on this monumental task to put in  
24 place the necessary regulations for implementation of AB  
25 32 by 2012.



1           Our concern with the regulations is that we're at  
2 a point now where we're looking at formulas determining  
3 how cap and trade will be structured. But we would like  
4 you to strongly consider how this economic transformation  
5 that will get us to greater emissions reductions and will  
6 create jobs at the same time, how all of that will factor  
7 on the green jobs creation picture.

8           We can make all of these changes. But if we  
9 don't ensure that there's equity in the process for low  
10 income communities in the process of transforming our  
11 economic conditions or our economy so that we're less  
12 dependant on fossil fuels and more -- using more renewable  
13 energy sources, we won't have a position of equity in low  
14 income communities.

15           So we're asking you to use the Community Benefits  
16 Fund feature.

17           We're also asking you to consider the localized  
18 impacts so that we're not just blending all other kinds of  
19 sources of emissions with the emissions that are impacting  
20 low income communities.

21           Thank you very much.

22           CHAIRPERSON NICHOLS: Thank you. Appreciate the  
23 involvement of the NAACP on this issue. I know you were  
24 strong advocates for AB 1405 as well.

25           Okay. Brent Newell, are you here?

1           Brent Newell, then Caroline Farrell and Strela  
2 Cervas.

3           MR. NEWELL: Madam Chair, before my time starts,  
4 may I respond to the question you asked Ms. Baker?

5           CHAIRPERSON NICHOLS: Sure.

6           Go ahead. Just stop it. We can restart it.

7           MR. NEWELL: I think the point she was trying to  
8 make is that the agenda item tomorrow automatically is  
9 providing translation without request. And today one has  
10 to make that request.

11          CHAIRPERSON NICHOLS: That's not true.

12          Excuse me. That's not true.

13          MR. NEWELL: That's what it says on the agendas.  
14 The different agendas say that.

15          CHAIRPERSON NICHOLS: We had a request.

16          MR. NEWELL: No, the clerk said that the request  
17 came from the prior rulemaking hearing. So that's --

18          CHAIRPERSON NICHOLS: Excuse me. I'll allow  
19 Ellen Peter, our counsel, to speak for just a minute, and  
20 then you can take this outside.

21          CHIEF COUNSEL PETER: The way we get translation  
22 requests are either the staff has asked for them because  
23 they've been asked in workshops or other issues where it's  
24 come up that they would like a translator. So it's come  
25 to program staff's attention in advance.

1           In previous rulemakings where we had a request on  
2 a similar item, and this is -- tomorrow's is an amendment  
3 of the item --

4           CHAIRPERSON NICHOLS: -- it just carries over.

5           CHIEF COUNSEL PETER: -- it just carries over.

6           And then also on the agenda it says  
7 specifically -- which is issued ten days in advance - and  
8 the same standard language is on every single agenda - "If  
9 you would like a request for either assistance due to  
10 disability or language assistance or anything else, please  
11 contact the clerk."

12           So it can be put on for different manners. For  
13 the one tomorrow it was specifically because there had  
14 been translation services requested in previous  
15 rulemakings on the same topic.

16           CHAIRPERSON NICHOLS: And the point is, if you've  
17 called up and asked for it yesterday --

18           CHIEF COUNSEL PETER: -- we would have given to  
19 you.

20           CHAIRPERSON NICHOLS: -- we would have given you  
21 one.

22           MR. NEWELL: I don't need to call in a request  
23 to --

24           CHAIRPERSON NICHOLS: You don't need to, but  
25 apparently somebody did. Somebody is upset because there

1 wasn't one. It wasn't provided because it hadn't been  
2 provided at a previous meeting. If you objected to that  
3 or thought that that was inappropriate, then you or  
4 whoever else thinks that there should be a translator  
5 should ask. We don't have to -- I don't think it is  
6 required that we should provide translators for every  
7 single hearing that we have. So if anybody had been  
8 informed that there were people coming who wanted  
9 translation service, it would have been provided.

10           Now, let's start the time clock.

11           And you can start your testimony. We're not  
12 going to argue this point.

13           MR. NEWELL: I have two points to make today. We  
14 submitted a letter with detailed comments to which over  
15 800 valley residents joined and ten environmental justice  
16 organization. We also join the detailed comments filed by  
17 Communities for a Better Environment.

18           My first point is that cap and trade will inflict  
19 disparate impacts on low income communities of color in  
20 California. Title 6 of the Civil Rights Act in 1964  
21 prohibits any entity receiving federal funding from  
22 discriminating on the basis of, among other things, race.  
23 We will file a Title 6 complaint once this regulation  
24 becomes final.

25           Number two, there's a court order that's

1 controlling these proceedings. Judge Goldsmith of the  
2 San Francisco Superior Court has ordered that this Board  
3 may not take final action on this regulation until he  
4 issues his ruling in the scoping plan lawsuit.

5 He has further ordered that the Board must  
6 consider his opinion and his decision if his decision  
7 involves a cap and trade component of the scoping plan.

8 In that lawsuit, which is being heard on the  
9 merits on Monday, we've argued four main points about cap  
10 and trade and the scoping plan:

11 The Air Resources Board failed to assess the  
12 maximum technological feasibility and develop cost  
13 effectiveness comparisons between direct reductions and  
14 market mechanisms.

15 Number two is the Air Resources Board failed to  
16 determine whether cap and trade would facilitate the  
17 achievement of the maximum feasible and cost effective  
18 reductions.

19 Number three, the Air Resources Board failed to  
20 consider the performance of other greenhouse gas reduction  
21 programs in other states and nations.

22 And, number four, ARB failed to adequately  
23 analyze alternatives to cap and trade in the functional  
24 equivalent document.

25 CHAIRPERSON NICHOLS: Thank you.

1           All right. I'll ask our General Counsel if we  
2 are prohibited from proceeding to take action today on the  
3 basis of any known order. We're not hearing from you  
4 further on this point.

5           MR. NEWELL: I didn't say that. I said you were  
6 prohibited from finalizing the rule. I didn't say you  
7 were prohibited today from voting.

8           CHIEF COUNSEL PETER: What the Court indicated  
9 was because there's a scoping plan lawsuit that's been  
10 going on for about a year and a half -- and, it's correct,  
11 it has not been resolved. There hasn't been a hearing.  
12 There was a specific request to the Court by the  
13 petitioners in that case to enjoin this hearing. The  
14 Court denied that request for a temporary restraining  
15 order. The Court is aware that the Board meeting's going  
16 on. The resolution that you have before us is totally  
17 appropriate for the Board to vote on. If for some reason  
18 later when the judge rules on the merits, which will be  
19 probably January or February, depending on what the  
20 appropriateness of revisiting that issue, we will do that.  
21 But that is actually on the scoping plan. It does not  
22 address the --

23           CHAIRPERSON NICHOLS: It's not a procedural --

24           CHIEF COUNSEL PETER: No.

25           CHAIRPERSON NICHOLS: -- delay, it's a question

1 on the merits if the court agrees with Mr. Newell that  
2 what we're doing is a violation of whatever laws and  
3 constitutional issues he wants to raise?

4 CHIEF COUNSEL PETER: That's correct. And it's  
5 also -- that lawsuit's on the scoping plan. It's not on  
6 this regulation.

7 CHAIRPERSON NICHOLS: Okay. Caroline Farrell,  
8 and then Strela Cervas and Caitlin Sparks.

9 MS. FARRELL: Good afternoon, Chairman Nichols,  
10 members of the Board. My name is Caroline Farrell. I'm  
11 the Director of the Center on Race, Poverty, and the  
12 Environment. I wanted to touch on two issues, both having  
13 to do with the proposed 15-day modifications -- or the  
14 resolution with the proposed 15-day modifications.

15 First deals with the finding that the cap and  
16 trade regulation is consistent with ARB's environmental  
17 justice policies and will equally benefit residents of any  
18 race, culture, or income level. That's contradicted a  
19 little bit later on in the resolution where it finds that  
20 because of the flexibility imbedded in the cap and trade  
21 program, it's difficult to pinpoint where reductions will  
22 happen and where there might be increases in criteria  
23 pollutants or toxic contaminants. And because of the  
24 siting of many of the industries under the cap, they are  
25 disproportionately sited in low income communities and

1 communities of color.

2           So one of the things that the Environmental  
3 Justice Advisory Committee and several environmental  
4 justice groups have been talking about for a long time has  
5 been being clear about where localized pollution increases  
6 are happening and being sophisticated with that analysis.

7           And I think one of the issues that has been  
8 raised several times is where health impacts are happening  
9 due to the cap and trade regulation. And the health  
10 impact assessment came out just two days before the public  
11 comment period was over. And I think that was the  
12 opposite of what had been hoped for, were that the health  
13 impact assessment would help guide the crafting of the  
14 regulation.

15           I would also add that the way the cap and trade  
16 system is structured in terms of localized pollutions is  
17 that it will be monitored as the program evolves. And  
18 there's some language in here that says that if -- I'll  
19 just finish my sentence -- if unanticipated adverse  
20 environmental impacts are identified that are substantial  
21 enough to interfere with or undermine the achievement of  
22 the objectives for the cap and trade program as defined by  
23 AB 32, that's a little vague in terms of what will  
24 actually trigger changes especially as the program is  
25 implemented in the long term because of the need for



1 certainty. So the chances of adjustment down the course  
2 without some criteria of what that will be are going to be  
3 less likely.

4 Thank you.

5 CHAIRPERSON NICHOLS: Okay. Thank you.

6 Strela Cervas, followed by Caitlin Sparks and  
7 Chuck White.

8 MS. CERVAS: Hello. My name is Strela Cervas and  
9 I'm with the California Environmental Justice Alliance.  
10 We are an alliance of six environmental justice  
11 organizations up and down the State of California. And  
12 I'm here representing numerous communities that could not  
13 be here today who are suffering disproportionately from  
14 our state's pollution and toxic burdens.

15 We were on the executive team of the Communities  
16 United Against Dirty Energy proposition. We fought hard  
17 and spearheaded an aggressive voter mobilization program.  
18 As you well know, we contacted two million voters through  
19 on-the-ground door knocking; phone banking; speaking to  
20 the media, especially Spanish radio and mailings. We  
21 mobilized communities of color to vote. And we did all  
22 this to save AB 32, because AB 32 is supposed to protect  
23 low income communities who are already disproportionately  
24 overburdened with our state's pollution and toxic dumping.  
25 Our fight around AB 32 is not over. We are all

1 responsible in ensuring that AB 32 is implemented  
2 correctly, especially for our communities that are  
3 disproportionately impacted.

4           AB 32 requires that ARB ensure that the  
5 regulations do not disproportionately impacted low income  
6 communities and also consider benefits to the economy, the  
7 environment and public health. If ARB adopts the cap and  
8 trade rule, AB 32 requires ARB to design the program to  
9 prevent an increase in emissions, consider cumulative  
10 impacts, and direct public and private funds to  
11 disadvantaged communities. However, if implemented, this  
12 cap and trade rule -- the cap and trade rule does none of  
13 these.

14           CEJA was a co-sponsor of AB 1405. And you all  
15 know what 1405 did. It would do two things:

16           It would create a community benefits funds. And  
17 I understand that the Community Benefits Fund is already  
18 integrated into the proposal. This is a good step  
19 forward. However, the adoption of a community benefits  
20 fund -- let me just finish my sentence -- should not be in  
21 lieu of conducting an analysis of localized impact. We  
22 recommend no less than 30 percent of total revenues going  
23 towards a community benefits fund and that resources go  
24 towards the most impacted and disadvantaged communities.

25           Thank you.

1 CHAIRPERSON NICHOLS: Okay. Chuck white.

2 No, I'm sorry. Caitlin Sparks was next. I  
3 apologize.

4 Is Caitlin Sparks here?

5 Okay. Then it is Chuck White.

6 MR. WHITE: I'm Chuck White with Waste  
7 Management. I really appreciate the opportunity to be  
8 here on this really historic occasion.

9 Waste Management is the largest provider of  
10 environmental services in the United States and in  
11 California. And we generally support the cap and trade  
12 regulations, and we have worked closely with staff.  
13 They've been responsive to us when we ask questions  
14 regarding a specific meeting. And we look forward to the  
15 15-day changes, which we think may reflect some of our  
16 concerns.

17 Specifically Waste Management has partnered with  
18 Linde, and we've developed one of the lowest carbon fuel  
19 producing facilities at our Altamont landfill, producing  
20 13,000 gallons of renewable LNG per day. It's the lowest  
21 carbon fuel currently being produced on a commercial scale  
22 in California. That's just the tip of the iceberg.

23 And we ask that the Board, when you move forward  
24 with the implementation of these cap and trade  
25 regulations, continue to recognize the greenhouse gas

1 reduction benefits associated with waste-derived energy  
2 and resources. We urge you to continue to recognize  
3 biogas- and biomass-derived fuels as carbon neutral,  
4 particularly those biomass and biogas fuels that are  
5 derived from waste materials.

6           We urge you to rapidly develop additional  
7 protocols for generating greenhouse gas reduction credits  
8 associated with waste diversion, waste to energy, and  
9 waste recycling activities. One example is the low carbon  
10 fuel standard. You've already adopted protocols under low  
11 carbon fuel standard. Make those credits available to  
12 transfer into the cap and trade system as soon as you  
13 possibly can. That will further provide a value for those  
14 kinds of reductions.

15           Finally, our last concern is with waste-to-energy  
16 facilities. There's three waste-to-energy facilities  
17 plants in California. Waste Management doesn't own any of  
18 them. But they are situated such they're only being  
19 evaluated on the fossil fraction of their emissions. And  
20 we urge the Board to take a look at a broader view of  
21 waste to energy and the multiple benefits -- life-cycle  
22 benefits that waste to energy provides by diverting waste  
23 from landfills, providing additional metal recovery, and  
24 providing a useful energy source.

25           And so not only can the three facilitates

1 continue to operate, but future waste-to-energy  
2 facilitates can hopefully go forward.

3           So thank you very much. Continue to think waste  
4 reduction through the greenhouse gas program through  
5 increased biofuels and bioenergy.

6           Thank you.

7           CHAIRPERSON NICHOLS: Thank you.

8           Andy Katz.

9           Bonnie Holmes-Gen.

10           MS. HOLMES-GEN: Good afternoon, Chairman Nichols  
11 and Board members. Bonnie Holmes-Gen with the American  
12 Lung Association in California. And the American Lung  
13 Association did submit written comments on the public  
14 health recommendations together with the Global Warming  
15 Action Coalition and over 20 public health and advocacy  
16 organizations.

17           And the American Lung Association has been very  
18 engaged in the AB 32 implementation process, and we strive  
19 to make public health protection and protecting vulnerable  
20 and disadvantaged communities a key consideration in the  
21 design of the cap and trade program. Therefore, we  
22 greatly appreciate the progress that has been made in  
23 looking more closely at this program through the lens of  
24 public health and building a partnership with the  
25 Department of Public Health. And we appreciate the

1 efforts of your staff and the Department of Public Health  
2 to conduct emissions and public health assessments of  
3 different cap and trade scenarios, and to look more  
4 closely at emission impacts and vulnerabilities in  
5 communities like Wilmington and Richmond.

6           And we realize that this public health assessment  
7 that was done is a first that has been attempted on such a  
8 complex program. We think it's provided helpful  
9 recommendations. And we do want to thank Dr. Balmes for  
10 his efforts to get the ball rolling on this.

11           Three specific recommendations:

12           Number one, to ensure ongoing and consistent  
13 investment in health improvement and GHG reduction in  
14 disadvantaged communities through the Community Benefits  
15 Fund. We appreciate the resolution which calls for a set  
16 aside of revenues, initiation of a public process for  
17 determining funding priorities. And did want to  
18 understand -- I think the intent is that this language  
19 would be in the 15-day changes. But just wanted to  
20 understand that is the intent.

21           And, second of all, we wanted to reinforce the  
22 importance of ongoing assessment of emission impacts and  
23 health surveillance in local communities. And we want to  
24 work with you to get this built into the periodic review  
25 discussed in the -- the periodic regulation review that's

1 discussed in the 15-day changes in Attachment B.

2           And then we continue to look forward to your  
3 continued collaboration with Department of Public Health  
4 and working with your agencies to better understand and  
5 evaluate the public health aspects of cap and trade.

6           Thank you for all your efforts.

7           CHAIRPERSON NICHOLS: Thank you for all your  
8 support.

9           All right. Dan Gies, and then Shankar Prasad and  
10 Nidia Bautista.

11           MR. GIES: Good afternoon, Madam Chair and  
12 members. My name is Dan Gies with the Ag Energy Consumers  
13 Association. We represent approximately 40,000  
14 agricultural businesses and family farms across  
15 California. Most of the work that we do is strictly at  
16 the Public Utilities Commission working on rate making.  
17 And so just the mere fact that we're here illustrates and  
18 underscores the impact that we see of this proposal may  
19 have on our rates down the road.

20           Just want to make a real narrow comment.  
21 Basically we're extremely disappointed with the economic  
22 analysis of the proposal. It's only 20 pages long and  
23 certainly not very robust and not at the level that we're  
24 used to when we look at rate making and impacts that we  
25 look at at the Commission.

1           We're also very skeptical that the impacts on the  
2 price of electricity to consumers is anywhere near as  
3 modest as the economic analysis, as bare as it is,  
4 proposes.

5           Energy prices for the farming community have  
6 risen approximately 40 percent in the last decade.  
7 Largely that was due to poor policymaking through the  
8 deregulation debacle back of the 1990s. And so you can  
9 understand our concern and our hesitancy a little bit  
10 about this potential cost impacts that a proposal just  
11 like this will have without having a robust understanding  
12 behind it.

13           Since deregulation, the cost of the actual  
14 commodity of electricity, where this proposal will have  
15 its main impacts for our members, is a pass-through cost  
16 for the utilities. And at this point we see that the  
17 utilities have a little bit of exposure in terms of the  
18 pass-through costs that they're going to pass on to the  
19 customers. A lot of the risk of this is coming down on  
20 the ratepayers - our family farms, our agri-businesses.  
21 And that's going to come out in the form of higher energy  
22 costs.

23           We're concerned about that, because in the 1980s  
24 when we had a lot of high energy cost and it started going  
25 up, a lot of those agricultural customers moved to diesel



1 and moved off of electricity, which I think is the  
2 opposite direction that we would like to see in the  
3 movement in the spirit of what this proposal offers.

4 We look forward to continue to work with the  
5 Board on this proposal as it moves forward, and assist as  
6 we can to help make this economic analysis more robust.

7 Thank you very much for the opportunity.

8 CHAIRPERSON NICHOLS: Thank you.

9 Shankar, and then Nidia and Robert Hasslebrock.

10 MR. PRASAD: Chairman Nichols and members of the  
11 Board, thanks for the opportunity. I'm Shankar Prasad  
12 from the Coalition for Clean Air.

13 On a personal note, I want to express my  
14 gratitude and appreciation for you, Chairman, and includes  
15 the two doctors on the Board, Roger Welsh, and AB 1405 to  
16 have made the Community Benefits Fund a reality today. It  
17 has been a long fight and thank you for making that.

18 Dr. Bill Friedman, who you may recollect was a  
19 medical member on the Board, nine years back said, "Put  
20 money where your mouth is." And at last. It has taken  
21 nine years for this Board to make that a reality. And  
22 thank you for that.

23 Having said that, I want to offer some comments  
24 to improve where we are.

25 We suggest that the Community Benefits Fund

1 receive funds from all sectors, not just from the direct  
2 auction alone. We also believe that the size of the  
3 Community Benefits Fund should be equal into the elements  
4 value of offsets, at least at a minimum at the floor price  
5 level. When you calculate that, it actually translate to  
6 about \$2 billion over a period of nine years.

7           This will ensure the emission reduction that is  
8 missed by offsets within the state. You have an  
9 opportunity today to increase the size of that fund.  
10 Think about that. And we suggest you give it serious  
11 consideration on that fact.

12           Also, we have concern and want to suggest that  
13 deleting the second sentence on the resolution at the  
14 bottom of page 11 or moving it to a separate resolution,  
15 because it could come for us as a hindrance for the  
16 legislative effort that we want to pursue on this aspect  
17 of it. It applies not only to the Community Benefits  
18 Fund, but it would also apply to the whole revenue  
19 allocation piece.

20           And we are joining with the NRDC in their  
21 comments about the fuel piece that they talked about and  
22 the resolution on page 14.

23           Thank you.

24           CHAIRPERSON NICHOLS: Thank you.

25           Nidia -- yes, you're next.

1           MS. BAUTISTA: Good afternoon, members of the  
2 Board, Chair, staff. Nidia Bautista, Policy Director at  
3 the Coalition For Clean Air. We are a statewide air  
4 quality advocacy organization with offices in Los Angeles,  
5 Fresno, and Sacramento. And we've been a strong supporter  
6 of implementing California's Global Warming solutions Act.

7           We appreciate the opportunity to provide  
8 testimony on the proposed cap and trade regulation. And  
9 we really want to acknowledge the efforts of staff and  
10 Board to get us to this day.

11           You know, obviously today, in terms of the  
12 decisions you make today, we're going to be living with  
13 these for a long time. So it's really important that we  
14 do our best to get it right.

15           And because of our concern with California's high  
16 levels of air pollution, we have been focused and  
17 committed to ensure that the promises in AB 32 to protect  
18 and strengthen California's neighborhoods are fulfilled.  
19 And specifically we want to ensure that, as AB 32  
20 promises, that benefits for implementing our climate  
21 change law are realized locally just as we combat this  
22 global challenge.

23           And I think it was great that, you know, our  
24 current Governor reminded us about what the voters said in  
25 November where they overwhelmingly defeated Prop 23,

1 largely because of their concerns with air pollution. And  
2 so we need to ensure that this regulation and our actions  
3 match what the voters deserve and what Californians  
4 deserve.

5           So to that end, we do urge the Board to direct  
6 staff to make some changes to the proposal both in terms  
7 of limiting the use of offsets, which we don't want to see  
8 the exportation of jobs, technological innovation, as well  
9 as the opportunities to reduce air pollution locally.  
10 Also to commit to a quicker rampdown on the free  
11 allowances, so again so that we're spurring that  
12 innovation here in California.

13           And then as we consistently champion, as Shankar  
14 Prasad just mentioned, you know, on the Community Benefits  
15 Fund.

16           We do appreciate the resolution language that was  
17 submitted today. So thank you for that. From our  
18 perspective, we would like to see that strengthened, again  
19 to ensure that it's 10 percent from all sectors as well as  
20 to allow for, as was noted in both your ISOR and the  
21 initial statement of reasons as well as in the resolution,  
22 that, you know, legislation will still be necessary. And  
23 to that end, we just want to make sure that the process  
24 doesn't hinder our efforts to be successful in those  
25 pursuits.

1           But thank you very much, and appreciate the time.

2           CHAIRPERSON NICHOLS: Okay. Robert Hassebrock,  
3 and then Nick Buxton and Joel Levin.

4           MR. HASSEBROCK: Madam Chair, members of the  
5 Board and staff. Thank you very much for letting me  
6 present. My name's Robert Hassebrock and I'm just here as  
7 a citizen. I'm not with any of my professional  
8 association today.

9           And I'm here mainly to just -- a little different  
10 tack, I think. For me, I listened to a lot of the  
11 comments, and I think I degree most with the statements  
12 from the -- a couple. There was an Austin Ford, there was  
13 the California Hispanic Chamber of Commerce. I thought  
14 his comments were spot on, with the exception he had a  
15 sentence I disagreed with. And he supported the goals of  
16 AB 32. And I just question the goals of AB 32 personally.

17           I don't believe that the goals are based upon  
18 scientific fact. They're based on consensus. Consensus  
19 historically -- the quote I have is "Consensus has been  
20 the first refuge of scoundrels. It's a way to avoid  
21 debate by claiming the matter is already settled and  
22 closed." And I don't believe that's true. A whole lot of  
23 scientific evidence is out there. In fact, we see  
24 monthly, weekly, if not daily things, findings, whether  
25 it's from NASA or other organizations, former IPCT

1 members, et cetera, that are questioning the current  
2 consensus. And in my statements I've provided there's  
3 extensive notes that you can refer to.

4 I believe there's some parallels to historical.  
5 There's -- we had something recently or in the past about  
6 this. It says -- some climate change that was ahead of  
7 us. And the consensus was we should do something. Quotes  
8 were "We should be concerned about the extreme gravity of  
9 this global situation. Governments are refusing to face  
10 facts. New political movement is necessary. We must  
11 embrace this new philosophy of life, whose goals can be  
12 achieved without us destroying the environment." These  
13 quotes aren't recent. These quotes are from 1972, when we  
14 thought we were going into an ice age.

15 The parallels are very similar. The science was  
16 poorly done and they are now. I would like to ask the  
17 Board to reject the proposals from staff, send them back.  
18 Let's get some rigorous science and let's not do anything  
19 that would undermine the livelihoods of California  
20 citizens until we know for sure.

21 Thank you.

22 CHAIRPERSON NICHOLS: Okay. Is Nick Buxton here?

23 Nick Buxton?

24 Joel Levin.

25 And then Anthony Fisher will be the last witness.

1           MR. LEVIN: Good afternoon, Chair Nichols and  
2 members of the Board. My name is Joel Levin. I'm with  
3 the Climate Action Reserve.

4           And on behalf of the Climate Action Reserve Board  
5 of Directors and staff, I want to congratulate you on the  
6 development of the first economy-wide cap and trade  
7 program in the U.S. I certainly think this is a very  
8 historic indication. Your staff have done a tremendous  
9 job and they should be applauded.

10           We fully support and we strongly encourage the  
11 adoption of the regulation today. We've submitted a  
12 letter addressing significant elements to the program.  
13 But I'd like to take this opportunity to just draw your  
14 attention to two key points.

15           First, we support the accreditation of  
16 third-party offset registries to assist with program  
17 implementation. We believe that it is not a good use of  
18 public resources or is it necessary for the ARB to  
19 duplicate or reinvent existing robust registry  
20 architecture such as that which the Climate Action Reserve  
21 has built and operated and proven with real world  
22 experience over the last ten years.

23           However, to maintain high quality standards in  
24 the cap and trade program and to ensure accurate and  
25 consistent guidance to offset projects, the Reserve

1 strongly encourages the Board to impose very strict  
2 competency requirements on such registries and to be  
3 assiduous in its oversight. And we welcome such scrutiny.

4           Second, the Reserve has been honored to have four  
5 of its protocols included in the program, and we urge you  
6 to adopt them as part of the regulation today. As you're  
7 probably aware, our board has also adopted seven other  
8 standardized protocols. We now have nearly 400 projects  
9 in 44 U.S. states under these rules in our system. And we  
10 encourage Board to encourage these additional protocols to  
11 ensure that the cap and trade program has adequate offset  
12 supply from a broad range of sources.

13           So in closing, let me just say that the Reserve  
14 is very proud of our close collaboration with ARB, and  
15 we're honored for the opportunities to contribute to the  
16 cap and trade program and we look forward to serving as a  
17 strong partner in the continued development of the  
18 program.

19           Thank you.

20           CHAIRPERSON NICHOLS: Thank you.

21           Okay. Anthony Fisher, you are the last witness.  
22 Somebody had to do it, and it was you.

23           MR. FISHER: Well, thank you, Madam Chair and  
24 Board members, at least for including me. I am Tony  
25 Fisher of Anrafi Associates LLC, who appreciates the



1 opportunity to briefly comment on this proposed cap and  
2 trade program.

3           Enraphia Associates recommends that CARB revise  
4 its proposal of imposing charges for omissions or  
5 requiring offset use, to apply such appropriate provisions  
6 only to those designated major greenhouse gas business  
7 emitters who have not installed reasonable available  
8 control technology on their existing operations or best  
9 available control technology on their new operations. In  
10 other words, no charges for emissions or requirements for  
11 offset use should be imposed on businesses that are  
12 implementing cost effective reasonable and best  
13 CARB-controlled technologies.

14           The advantage of this approach is that it would  
15 not penalize such designated businesses with added cost  
16 burdens if they have timely installed the appropriate  
17 technologies established by CARB.

18           Thank you.

19           CHAIRPERSON NICHOLS: Thank you.

20           I think it's time now to turn this back to the  
21 staff briefly and then to the Board.

22           We have in front of us the resolution with  
23 appendices that was presented this morning, which I'm sure  
24 people are going to want to look at.

25           This will close the formal hearing.

1           And I will just say that, you know, oftentimes,  
2 in fact, normally I would go up and down the dais here and  
3 ask everybody to read allowed all of their ex parte  
4 communications. Mine alone would take us into the  
5 evening, and I suspect many others are the same. So I'm  
6 going to ask you to file them in writing with the clerk of  
7 the Board. I think you all have -- you know what they are  
8 because you prepared them for this meeting. Just give  
9 them to the Board clerk so we'll have them on file, and  
10 that will solve that problem.

11           But I think it's safe to say that most, if not  
12 all, of the Board members have conducted many meetings  
13 with many different stakeholders covering a wide variety  
14 of different viewpoints. And if there's nothing else  
15 that's been made clear by this meeting, it's that there is  
16 a wide variety of viewpoints on these issues, ranging from  
17 the "don't do anything" to the "you're not doing nearly  
18 enough."

19           There are some people who think that that means  
20 that we must have it just about right because, you know,  
21 there's people on all sides of us. I'm not actually  
22 generally inclined to that viewpoint. I like to try to  
23 think about what's actually the moderate course to take in  
24 a situation like this where we are pushing the envelope as  
25 far as we can go based on what we think the science and

1 the economics and the policy justify, but not so far that  
2 it causes any undue harm. And much of what we're going to  
3 be doing I think over the next few months is really  
4 examining every one of the issues that have been brought  
5 up where people have a claim that we didn't take their  
6 particular situation into account, that we weren't  
7 thinking about their issues when we were designing the  
8 rule, and make sure that we've gone back and really tested  
9 the rule to make sure that we have dealt with them and,  
10 where we haven't, to fix those things.

11           So it's going to be a pretty extensive and  
12 intensive process, I think. But again, except for those  
13 who either reject the whole notion that one should do  
14 anything about global warming, which I think we can safely  
15 say the Board is not going to entertain, really we've not  
16 heard anybody saying that we shouldn't be moving forward.  
17 I think what we have heard is that there are people who  
18 think there's still enough holes or issues with the way  
19 that this is put together that it needs some serious  
20 further attention. And I'm inclined to agree with them.  
21 I think what we've got is a very good start that needs  
22 more work before it's quite ready to hit the road.

23           So with that, I'm going to ask the staff to tick  
24 off the major issues that you heard today and any other  
25 comments that you have before we take it to the Board for

1 further discussion.

2 EXECUTIVE OFFICER GOLDSTONE: Well, the handful  
3 of issues that came up at the higher level are the  
4 waste-to-energy issue, the transition assistance issue for  
5 non-energy producing facilities -- what else was on your  
6 list?

7 ASSISTANT EXECUTIVE OFFICER KENNEDY: Clearly  
8 there's significant work that still needs to be done in  
9 terms of finalizing the industrial allocation benchmarks  
10 and working through the details on the electricity sector  
11 allocation.

12 A number of folks pointed out that the leakage  
13 assessment that staff had done that was underlying some  
14 key parts of the allocation system needs revisiting. We  
15 have gotten some good information since we put out the  
16 proposal with additional value. So that's another area  
17 where we will be continuing to work.

18 Obviously the forestry issue, that protocol is  
19 one that will require significant discussion.

20 There were issues around market readiness and  
21 sort of our ability to be ready to turn the program on by  
22 January 1, 2012.

23 So I think many of the issues that we heard today  
24 were ones that we have been actually in active  
25 conversation with the stakeholders on. We believe we've

1 managed to capture many of them in -- not all of them but  
2 many of them in the resolution that we put before you.

3           CHAIRPERSON NICHOLS: Yes, I see many of them  
4 reflected in the actual language that's in the resolution  
5 and the appendices.

6           EXECUTIVE OFFICER GOLDSTENE: Maybe just one  
7 other item is just reaffirming our commitment to  
8 partnership with the air district.

9           CHAIRPERSON NICHOLS: Yes, right.

10           Well, I think it's time for further discussion on  
11 the part of the Board. Although it took up a lot of our  
12 time today, I think in some ways the forestry discussion  
13 is the simplest because it doesn't -- you know, we either  
14 will adopt the protocol or we won't. There may be some  
15 proposal for how to adopt it, and I'd just as soon deal  
16 with that. And then get into some of the other items as  
17 well.

18           BOARD MEMBER LOVERIDGE: It seems to me before we  
19 talk about the forest protocol, it would be nice to have  
20 an overview of it so we can get some sense of what it  
21 represents. Because we heard bits and pieces from people  
22 who testified, but --

23           CHAIRPERSON NICHOLS: Yes. Fair enough.

24           EXECUTIVE OFFICER GOLDSTENE: Shelby Livingston  
25 could give just a quick high level overview.

1           Okay.  Shelby.

2           MANAGER LIVINGSTON:  Environmental Justice &  
3 Special Projects Section Okay.  Well, the forest protocol  
4 was developed with a multi-stakeholder working group over  
5 a period of a couple of years.  And ARB sat on that work  
6 group as well and gave input to the process.

7           And the protocol addresses all of the  
8 requirements that AB 32 asks for in terms of being real,  
9 additional, permanent, quantifiable, enforceable, and  
10 verifiable reductions.

11           There are three eligible project types under the  
12 protocol.  They include reforestation projects, improved  
13 forest management projects, and avoided conversion  
14 projects.

15           The protocol has a number of environmental  
16 safeguards built into it.  It requires that all projects  
17 utilize what is defined by the protocol as natural forest  
18 management.  These require projects to use native species,  
19 demonstration of sustainable harvesting practices, and  
20 also to conserve structural elements of the forest like  
21 standing and lying deadwood.  These projects can be done  
22 on public and private lands, with the exclusion of federal  
23 lands at this time.

24           I think the biggest concern that we heard come up  
25 obviously today was this clear-cutting issue.  And the way

1 the protocol is structured, I don't know that much of that  
2 type of practice actually could happen on a project.

3           The whole basis of the protocol is an increase in  
4 carbon storage on project lands. So any time you harvest  
5 from a forest project, you have taken carbon off the land.  
6 So it's treated as a deduction from what you started with.  
7 So that deduction has to be replaced with new carbon in  
8 existing trees.

9           In other words, projects are required to either  
10 maintain or increase carbon over the life of the project.  
11 They can't drop below where they start. So any time any  
12 harvest is done, no matter what type of harvest that may  
13 be, whether it's clear-cutting or if it's variable  
14 retention, or just done removing individual trees,  
15 whatever is taken off the project lands has to be replaced  
16 with other carbon from trees in that project area.

17           So to the extent -- you know, the protocol  
18 doesn't say certain harvesting methods cannot be used.  
19 However, it seems that the way the protocol is structured  
20 and the environmental safeguards that are included, that  
21 type of forestry practice would be fairly limited in these  
22 project types.

23           I mean I think that was the main concern. And I  
24 hope that kind of clarifies the protocol in terms of how  
25 it tries to address that issue. And if there's, you know,

1 further questions that I can answer on it, I'd be more  
2 than happy.

3 BOARD MEMBER LOVERIDGE: Could I just follow up?

4 Does this come with the recommendation of the  
5 staff that we should approve this?

6 MANAGER LIVINGSTON: I'm sorry?

7 EXECUTIVE OFFICER GOLDSTENE: Yes, we're  
8 recommending approval.

9 MANAGER LIVINGSTON: Yes.

10 CHAIRPERSON NICHOLS: DeeDee.

11 BOARD MEMBER D'ADAMO: Well, I have a differing  
12 view and would like to make a proposal. I don't know if  
13 this is the appropriate time for that or not. But --

14 CHAIRPERSON NICHOLS: Well, I think we're in the  
15 discussion stage right now. And then we can put formal  
16 amendment language out if people -- if there seems to be a  
17 sense that that would be supported, sure.

18 BOARD MEMBER D'ADAMO: I'll just throw out some  
19 concepts then.

20 CHAIRPERSON NICHOLS: Yes.

21 BOARD MEMBER D'ADAMO: Okay. So I agree with  
22 what staff said, that it would be limited. But I guess  
23 the limitation is that it would only be allowed for 20  
24 acres. And the way -- go ahead.

25 MANAGER LIVINGSTON: Just to clarify that piece.



1 California Forest Practice Acts allow 20 -- up to  
2 40 acres of a clear-cut area. Other states can allow 500  
3 or more acres. So what we did in the protocol -- or what  
4 happened in the protocol is we actually said we're going  
5 to actually restrict it back to California's more strict  
6 standard of only allowing 40 acres of clear-cut in any  
7 particular area. There's some other restrictions around  
8 it. But that was to kind of bring other states closer to  
9 California's more strict standard on clear-cutting.

10 BOARD MEMBER D'ADAMO: All right. And so I've  
11 been out to the forest and I've seen clear-cutting, and it  
12 just makes me real uncomfortable. And looking into this  
13 over the past several months, I wanted to gain a better  
14 understanding. Because I think when the protocol came  
15 before us initially, I was very concerned about it. And  
16 it was my understanding that we got a commitment from  
17 staff that they would come back with maybe a higher  
18 standard than the initial protocol, which was a voluntary  
19 program. And so I had expected to see something more  
20 stringent. In light of the fact that we didn't get  
21 anything more stringent, I would be prepared at some point  
22 to have a proposal that this practice of conversion - so  
23 I'm not talking about any projects that are currently in  
24 the pike under the previous protocol or that which is  
25 outlined in the rule, but any future activities that would

1 convert from a natural diverse forest to an even-aged  
2 stand - that we not allow offsets for those types of  
3 projects.

4           And then I also -- there was quite a bit of  
5 testimony about the issue of soil sequestration, lying  
6 deadwood, and the release of carbon as a result of deep  
7 ripping, some of the practices that I guess don't always  
8 occur with even-aged management. That resonates with me.  
9 But it just doesn't seem that we have enough information  
10 on that. And so I'd be more comfortable with staff  
11 reporting back at a later time on that as to whether or  
12 not that might be an appropriate way to tighten up on the  
13 offset protocol.

14           CHAIRPERSON NICHOLS: Well, I guess my response  
15 to that is that I think that the Board's responsibility  
16 here is to deal with the issue of carbon. And when we  
17 start to then go beyond that and look at other things that  
18 we may agree or disagree with from an environmental  
19 perspective, that we're getting into an area which is not  
20 only beyond our official expertise but is really outside  
21 of our authority at the Air Resources Board.

22           I was and am extremely sympathetic to the views  
23 of people who live in and around the forest and who don't  
24 like the practice of clear-cutting at all and don't like  
25 other management practices on private land as well. But I

1 also believe that we at this moment are not in a position  
2 to exactly craft changes to the protocol that would  
3 accomplish our goals in a way that actually has  
4 credibility from a forestry perspective.

5           I mean the bottom line here is, just to be clear  
6 that -- to be frank about it, you know, there's one major  
7 landowner in the Sierra who's using even-aged management,  
8 as they call it - let's call it clear-cutting - as a  
9 practice, which they believe helps them both harvest more  
10 trees, make money obviously, and also keep their land in  
11 production. And they've spent obviously a huge amount of  
12 money and time justifying that position from a scientific  
13 perspective. Their position, which I believe, is that if  
14 they're not allowed to get offsets for what they're doing,  
15 they'll keep doing what they're doing anyway.

16           The only benefit of getting offsets to them --  
17 carbon offsets is that they would be required to leave  
18 some more trees to grow older to collect more carbon from  
19 them. That's the only thing they would get out of the  
20 protocol that we've got.

21           So the question is, you know, do we punish them  
22 by not letting them do what they're doing now and not get  
23 offsets for it or do we -- because we disapprove of their  
24 overall practices or do we stick to our last -- our  
25 emitting and focus on the issue of growing more carbon in

1 the forests? And I'm not inclined to go further at this  
2 time, although I think we could keep studying the issue.  
3 Maybe we could learn more about it and try to figure out a  
4 more nuanced way to do this. But I just don't think it  
5 makes sense at this point. Obviously we could -- you  
6 know, if it's the will of the Board to do it, we can do  
7 it. But I don't think it's justified.

8 Ms. Berg.

9 BOARD MEMBER BERG: I just had a comment to add  
10 to that. One of our people that testified, Gary Gero from  
11 the Climate Action Reserve, specifically stated that he  
12 did not believe that native forest conversion to managed  
13 forest was eligible under the protocol. And I just  
14 wondered what staff might -- if you have an input to that.

15 MANAGER LIVINGSTON: You know, I'm not sure  
16 that's exactly what he had -- I think he was asked, you  
17 know, whether or not clear-cutting could happen under the  
18 protocol.

19 CHAIRPERSON NICHOLS: The question I think that I  
20 asked him is, are there incentives for clear-cutting?  
21 Does this provide an incentive? And he said no.

22 MANAGER LIVINGSTON: Right, which is correct. It  
23 comes back to the idea that the protocol is structured  
24 such that you only get credits for increasing the carbon  
25 on your land. So anytime you remove carbon from your

1 land, you have to have replaced it with other carbon on  
2 your land. So you have to always maintain or increase the  
3 carbon, which --

4 CHAIRPERSON NICHOLS: Dr. Balmes.

5 BOARD MEMBER BALMES: Sorry to interrupt, Ms.  
6 Berg. But just a question.

7 So if in fact somebody cuts down trees and they  
8 reduce carbon, how good is our accounting system to pick  
9 that up?

10 MANAGER LIVINGSTON: The accounting system is  
11 very robust. I mean that's what we -- the work group  
12 spent, you know, over two years working out.

13 EXECUTIVE OFFICER GOLDSTONE: That's the essence  
14 of the protocol.

15 CHAIRPERSON NICHOLS: That's the point.

16 Okay. Other questions or comments for the staff?

17 Dr. Telles.

18 BOARD MEMBER TELLES: Are the protocols the same  
19 for privately-owned and commercially-owned -- I mean  
20 privately-owned and state-owned land?

21 MANAGER LIVINGSTON: Yes, for the most part the  
22 accounting is the same.

23 BOARD MEMBER TELLES: In that regards, an offset  
24 that's done on state-owned land, does the state get that  
25 revenue? And who do they hire to do the forest

1 management?

2           MANAGER LIVINGSTON: That would be under their  
3 discretion, I mean whoever they have do the management.  
4 But the state is able to undertake a forest project the  
5 same as a private entity.

6           CHAIRPERSON NICHOLS: State Parks, for example,  
7 was engaged in some reforestation efforts on areas that  
8 were burnt over. And they wanted to use offsets -- or to  
9 be able to get the money to do that, because they didn't  
10 have the money in their budget to do it, through use of  
11 offsets. I don't know whether they actually succeeded in  
12 establishing those or not. But that was the kind of --

13           EXECUTIVE OFFICER GOLDSTENE: I know Director  
14 Coleman is still pursuing that. I don't know where they  
15 are.

16           BOARD MEMBER TELLES: I know that, you know, it's  
17 just carbon. But it seems like it's a little more  
18 sensitive issue than that.

19           CHAIRPERSON NICHOLS: Well, forests are a whole  
20 lot more sensitive than power plants, yeah, we all respond  
21 to the --

22           BOARD MEMBER TELLES: And one of the things I  
23 asked, is there any middle ground here or do we need a  
24 little more time to find middle ground? I really don't  
25 know. But when you see those pictures of the forest and

1 people who live up in that area, I think there's an  
2 environmental impact here that still has to be weighed in  
3 this decision. And it's not -- if it was just carbon, it  
4 would be a pretty simple decision.

5 EXECUTIVE OFFICER GOLDSTENE: The protocols are  
6 intended to preserve forests in the -- so overall --

7 CHAIRPERSON NICHOLS: No, more than to preserve  
8 them. To provide an incentive to let them grow older --

9 EXECUTIVE DIRECTOR GOLDSTENE: Right, to stay  
10 longer.

11 CHAIRPERSON NICHOLS: -- to keep trees in the  
12 ground and wood on the ground longer than it would  
13 otherwise. And I think they spent a couple of years  
14 trying to do that. I don't think everybody's satisfied  
15 obviously. There are many people who think it should be  
16 more.

17 EXECUTIVE OFFICER GOLDSTENE: And there is more  
18 work going on, as Mr. Gero from the --

19 CHAIRPERSON NICHOLS: Well, the other issue is --  
20 my colleague over here was sort of reminding me, is the  
21 people who have to manage the land have to manage it not  
22 only for timber production, if they're actually in the  
23 business, but also for fire protection and for wildlife  
24 and water management. They are under -- you know, again  
25 not everybody's satisfied with it, but there is a

1 regulatory regime that covers their ability to do anything  
2 with the trees on their land. So it's a question of  
3 whether we're going to improve on that overall in the  
4 State of California as part of allowing any offsets, or  
5 whether we feel like there's enough benefit to having  
6 these kinds of offsets to push forward even though it's  
7 not as good as we might wish it would be. I mean I think  
8 that's really where it is.

9           And if we could come up with -- you know, I'm  
10 totally enamored with the middle ground idea, if there  
11 were a middle ground that would satisfy anybody. But this  
12 issue appears to be so polarized, that I'm not convinced  
13 that we can come up with anything that's actually going to  
14 advance the ball. I mean we've tried I think leading up  
15 to this hearing. Many people have been through a lot of  
16 different meetings to try to make that happen.

17           Yes, Ron.

18           BOARD MEMBER LOVERIDGE: We could take a vote of  
19 the Board and let --

20           CHAIRPERSON NICHOLS: Yeah, we could do a quick  
21 straw vote on that right now. Sure.

22           BOARD MEMBER BALMES: Well, I appreciated how you  
23 framed the question, because we're talking about whether  
24 it's just carbon or not.

25           How much carbon -- I know I should know this, but



1 if you could restate it. How much carbon would we expect  
2 to be reserved through the implementation of this  
3 protocol? Just to put in perspective.

4           MANAGER LIVINGSTON: Over -- are you asking --

5           BOARD MEMBER BALMES: Over some time period  
6 that's realistic for us to think about, just to frame the  
7 question appropriately, because otherwise we'll be talking  
8 about in the thin air.

9           MS. AGUILA: Yeah, I can give you some -- oh, I'm  
10 sorry, this is Brieanne Aguila -- just some preliminary  
11 numbers. We've heard it's about eight million metric tons  
12 of stored carbon through 2014. So extending out to 2020,  
13 it would be substantially more. As time goes by, you have  
14 more time to implement these projects. Projects will take  
15 quite a while to start. So we'll start seeing more in the  
16 future. But by 2014 it should be somewhere around eight.  
17 We've heard all the way up to 19 million metric tons.

18           CHAIRPERSON NICHOLS: We don't have an inventory  
19 though really?

20           MS. AGUILA: We don't, no. We've received some  
21 data from the Climate Action Reserve and other various  
22 stakeholders that have come to us and talked to us about  
23 what they feel the potential is.

24           CHAIRPERSON NICHOLS: Yes, Ms. D'Adamo.

25           BOARD MEMBER D'ADAMO: Well, it doesn't appear

1 that there's support on the Board for this. I'll just say  
2 that --

3 CHAIRPERSON NICHOLS: I'm not sure that that's  
4 correct. I'm seeing a hand waving down here.

5 Ms. Kennard.

6 BOARD MEMBER KENNARD: Let me just, if I could,  
7 suggest that what's troubling me here now is that we don't  
8 know enough about this forestry protocol and there's a lot  
9 of questions. What I'm concerned about is that we go  
10 forward with the entirety of the resolution and it becomes  
11 tainted by this one issue and becomes very negative. So  
12 the question becomes a legal one: Within the resolution  
13 if we could carve out the forestry protocol for a further  
14 discussion at a different date and yet go forward with the  
15 rest of the resolution. And I'm not sure if that's  
16 possible.

17 CHAIRPERSON NICHOLS: Only -- I mean I'll have to  
18 say I'm only willing to talk about this if there's more  
19 information. And if somebody can be precise about what  
20 kind of information they want, then I'm always willing to  
21 delay to get more information. But I feel like I know  
22 enough to know what I don't know, but what I don't know  
23 isn't going to get answered. I'm not going to get  
24 accurate information in time for us to actually acquire  
25 any usable offsets from this program at the rate that

1 we're going. But maybe I'm wrong. Maybe there's enough  
2 there if we just pass some language that said no projects  
3 that are on land where any clear-cutting is allowed will  
4 qualify under this program.

5 BOARD MEMBER D'ADAMO: Well, what I had said  
6 though was in the future, not --

7 CHAIRPERSON NICHOLS: Yeah.

8 BOARD MEMBER D'ADAMO: -- and to include -- okay.

9 CHAIRPERSON NICHOLS: Yeah, I understood you  
10 weren't going to rule out past offsets that may have been  
11 banked or created under the existing --

12 BOARD MEMBER D'ADAMO: Right. And I think there  
13 might even be some projects that are under development  
14 under the existing protocol.

15 BOARD MEMBER TELLES: I just have a procedural  
16 question.

17 One of our things to do today is approve these  
18 offsets, which in a way could be separate from the overall  
19 regulation. And the way it's laid out, it could be done  
20 that way. And we have approved offsets separately. So I  
21 would just propose that we look at this offset separately  
22 and vote on it separately.

23 CHAIRPERSON NICHOLS: Well, that's fine. That  
24 would certainly be appropriate.

25 Just keep in mind that a very large number of the

1 witnesses who testified expressed grave concern about  
2 whether there would be enough offsets to perform the  
3 function that the offsets are supposed to perform, which  
4 is to increase the supply of carbon that's available for  
5 compliance purposes under the current rules. So if we  
6 knock out one of the measures, you know, we're just --  
7 we're already eliminating one of the ones that we've got.

8           But we can put this aside and do it at the end or  
9 we can do it right now.

10           BOARD MEMBER LOVERIDGE: We have as much  
11 information as we're going to get. I think we should do  
12 it now.

13           CHAIRPERSON NICHOLS: All right. Let's do it now  
14 then.

15           Okay. So the motion would be to amend the main  
16 motion so that in approving the regulation with the  
17 protocols we would be changing the eligibility of forest  
18 protocols to exclude going forward any projects that were  
19 done --

20           MS. STOUT: Madam Chair?

21           CHAIRPERSON NICHOLS: I'm sorry. Somebody --

22           MS. STOUT: Excuse me. Just as a matter of  
23 information.

24           CHAIRPERSON NICHOLS: Yes.

25           MS. STOUT: If you're going to go forward with

1 the forestry protocol separately and then separately the  
2 forestry protocol doesn't receive an affirmative vote, we  
3 would need to come back to the Board with a new notice for  
4 the forestry protocol. Meaning it would be basically --  
5 if my understanding is correct on where we're thinking of  
6 going, if the forestry protocol basically doesn't go  
7 forward today, is somehow rejected, separated, et cetera,  
8 it would be dropped from the program and it would not be  
9 eligible to come in through a 15-day notice subsequently.  
10 Meaning as additional information came in and you wanted  
11 to come back and do it again, it would be subject to a  
12 whole new notice.

13 CHAIRPERSON NICHOLS: I'm not tracking what  
14 you're just saying. Because I thought what we were just  
15 doing -- what I was in the middle of trying to do was to  
16 actually get an up or down vote today on whether the  
17 protocol could move forward --

18 CHIEF COUNSEL PETER: Yes.

19 CHAIRPERSON NICHOLS: -- with the rest of the  
20 program.

21 CHIEF COUNSEL PETER: You have a couple options.  
22 One option is to move ahead with all four together. One  
23 is to move ahead with three and defer one for further  
24 consideration if you wanted to do a 15-day notice if there  
25 was changes to make. The third choice would be to deny

1 the protocol today, and then that would be -- it would be  
2 over. And then the question at that point -- you would  
3 direct the staff not to proceed at all with that  
4 particular protocol. It would be over. And what  
5 Ms. Stout was just alluding to, if you did that one, you'd  
6 have to renotify it with a 45-day notice and start the  
7 process over again because there would be a Board  
8 direction to the Executive Officer to drop the forest  
9 protocol.

10 CHAIRPERSON NICHOLS: All right. Well, then  
11 let's have a separate vote on this.

12 Is it the sense of the Board that you want to  
13 simply not deal with a forestry motion today -- the  
14 forestry protocol today at all and have it come back  
15 another time? Or do you think we can deal with it one way  
16 or another today?

17 Okay. So a "yes" vote or just a show of hands at  
18 the moment says we're not going to talk about this anymore  
19 and we'll bring it back when we're ready to bring it back  
20 again sometime during the 15-day process.

21 BOARD MEMBER SPERLING: "Yes" should be keep it  
22 as it is.

23 CHAIRPERSON NICHOLS: "Yes" should be we're going  
24 to move forward with the discussion, and we might choose  
25 to change it right here on the spot. We have the

1 discretion to do that.

2 Yes.

3 BOARD MEMBER D'ADAMO: I want to just make a  
4 comment since I started all of this.

5 CHAIRPERSON NICHOLS: Yes, okay.

6 BOARD MEMBER D'ADAMO: I feel strongly about the  
7 clear-cutting issue, but not to forsake the whole  
8 protocol. So I would not be in favor of putting the whole  
9 thing over. I think, you know -- we know what we know.  
10 And if there's an interest in making an adjustment just  
11 with respect to the one aspect of the protocol but I  
12 wouldn't be in favor of delaying it. I think it's going  
13 to hold up on oppor -- lots of opportunities for offsets.

14 CHAIRPERSON NICHOLS: Okay. So on Dr. Telles's  
15 suggestion, which was that we separate this out and not  
16 talk about it today, I'm seeing people are not wanting to  
17 do that. They want to move forward with it today.  
18 Everybody seems to be indicating that they'd like to move  
19 forward.

20 Okay. So then we get back to the question of, do  
21 we think we should at this point adopt a change to the  
22 protocol that would disallow clear-cutting projects. And  
23 it's a tough issue, it's a very tough issue. I don't  
24 think anybody wants to be in favor of clear-cutting, not  
25 when you've seen all those pictures.

1           At the same time, you know, we're presented with  
2 a protocol that a lot of people have worked on for a lot  
3 of time and feel pretty strongly about.

4           So there we are.

5           Yes, Supervisor -- an elected official could  
6 maybe weigh in on this issue.

7           BOARD MEMBER YEAGER: Well, you know, what we do  
8 is we turn to staff for clarification.

9           (Laughter.)

10          BOARD MEMBER YEAGER: But I was just wondering --  
11 I mean I'm sort of intrigued by what Ms. D'Adamo was sort  
12 of suggesting as far as not allowing future conversions.  
13 And I was just wondering if you could just sort of respond  
14 to that and how that would change the protocol.

15          MANAGER LIVINGSTON: Well, in terms of the  
16 protocol - and I think Gary Gero had also kind of  
17 commented to this - that we don't really believe the way  
18 the protocol's structured now that it really allows for  
19 much of that, but it doesn't explicitly exclude it. So,  
20 you know, putting in some sort of thing that -- you know,  
21 finding some way to prevent the conversion of natural  
22 forest to simplified even-aged plantations certainly could  
23 be put in, but it would also at the same time limit to  
24 some extent the number of projects that could happen under  
25 the protocol.



1           And, for instance, like we were talking about  
2 before, you know, Mary had brought up, a project really --  
3 when an industrial forester who has these practices  
4 enrolls their lands in a forest project, they're promising  
5 to maintain all of their carbon for a hundred years. So  
6 because we're saying, "Well, we're not going to allow any  
7 of this type of practice," they may say, "Well, I'm just  
8 not going to do a project," and therefore they don't  
9 commit to maintain the carbon that they would have  
10 otherwise.

11           BOARD MEMBER YEAGER: Yeah, that's the tough  
12 issue in this. I mean whether we do or don't do it -- as  
13 the Chairman was saying, forestry practice allows them to  
14 do a certain amount of clear-cutting anyway whether we  
15 include it or not. But I think a lot of it is what signal  
16 we're sending. And obviously we care very much about the  
17 forest and not having the conversion. And as Ms. Kennard  
18 said, we also don't want to have everything that we're  
19 doing just sort of overshadowed by this one small element,  
20 as important as it is to many people. So I think that's  
21 why we're debating.

22           MANAGER LIVINGSTON: One of the other comments  
23 that we've made was, you know, that this isn't just  
24 carbon, you know, with the forests. And I think an  
25 important point to that is that there are elements in the

1 protocol that aren't solely about carbon accounting. And  
2 they were placed there by the work group specifically to  
3 address some of these concerns. And that's the natural --  
4 the requirements for natural forest management and  
5 sustainable harvesting practices. In California we have  
6 these under the Forest Practice Act, but other states may  
7 not be as stringent.

8           So it does go beyond carbon accounting to an  
9 extent to ensure the environmental integrity of these  
10 projects. So that's an important point as well.

11           CHAIRPERSON NICHOLS: And if someone tries to do  
12 a project that would qualify as an offset in California  
13 but they're in Nevada, they would still have to comply  
14 with our standards in order -- so we would be propagating  
15 our higher standards in other places as a result of it.

16           That reminds me, and I just wanted to ask one  
17 legal question. I'm not sure if this was actually what  
18 Ms. Kennard was getting at. But is there sufficient  
19 language in the regulation that we will be adopting and  
20 the resolution that we'll be adopting that makes it clear  
21 that if someone were to legally challenge the forestry  
22 protocol and get it knocked out by a court, that that  
23 would not take down the whole rest of the rule?

24           MS. STOUT: Absolutely. There's the severability  
25 clause.

1           CHAIRPERSON NICHOLS: Okay. So we are  
2 protected -- politically it may taint it, but from a --

3           MS. STOUT: Right.

4           CHAIRPERSON NICHOLS: -- practical perspective it  
5 does. Okay, just to be clear.

6           All right. I'm going to try this just in order  
7 to move us along. Could I see a show of hands on the  
8 number of Board members who would be willing to at this  
9 time, subject to, you know, new information and changes  
10 which we've said are going to happen in other areas as  
11 well, proceed to approve the forestry protocol as it was  
12 presented to us.

13          BOARD MEMBER ROBERTS: Approved as it was  
14 presented?

15          CHAIRPERSON NICHOLS: As it's before us.

16          Seven. I think we've got it.

17          Did anybody else count? I was trying to count.

18          I think that's it then.

19          Okay. Then we'll move on.

20          Other Board members want to specifically present  
21 language to add to or change the resolution?

22          BOARD MEMBER TELLES: Chairman?

23          CHAIRPERSON NICHOLS: Yes.

24          BOARD MEMBER TELLES: Can we talk a little bit  
25 more about offsets, since we're talking about offsets?

1           CHAIRPERSON NICHOLS: Sure, yes. Offsets is one  
2 of the areas.

3           BOARD MEMBER TELLES: But not forestry offsets,  
4 not urban forestry offsets but -- livestock digester  
5 offsets.

6           And the offset -- I've read the offset in there,  
7 and I think it's a great idea. And I tried to get some  
8 information from our dairy industry whether they're going  
9 to be interested in this. And if you notice, nobody in  
10 the dairy industry was here today. And the reason why is,  
11 having talked to some dairy representatives, is that it  
12 doesn't really apply too well here in California. There's  
13 no economic interests for it. And I've talked to some  
14 people on the staff here.

15           And I would encourage that we get all the  
16 agencies together to make this work for California,  
17 because really the purpose of this is to have green jobs  
18 in California. We have the largest dairy industry, not  
19 only in the United States but probably the world,  
20 localized in San Joaquin Valley. And it's a great  
21 opportunity -- I mean I've talked -- a great opportunity  
22 to have, quotes, "green jobs" in the valley. And we could  
23 probably generate 250 to 500 megawatts of energy from  
24 this.

25           But what needs to be done, in talking to these

1 dairy representatives, is a kind of collaboration with the  
2 Public Utilities Commission, the utilities and everybody,  
3 to get a little bit more money into the renewable energy  
4 credits you get from this particular sector. And it's  
5 unfortunate that that wasn't in position right now,  
6 because we're launching an offset that would be of great  
7 benefit to be done here in California, which is going to  
8 be done in Wisconsin, New Hampshire, Vermont, areas where  
9 they don't have the regulations for this, where they have  
10 renewable energy credits which make it more economically  
11 feasible. And I'm just wondering if we can expedite some  
12 kind of movement with all the agencies in California and  
13 the expediting the environmental things that have to be  
14 done to get these projects approved.

15           CHAIRPERSON NICHOLS: I'm going to ask Kevin to  
16 address this one. Kevin is a veteran of these issues from  
17 his past with the Energy Commission.

18           ASSISTANT EXECUTIVE OFFICER KENNEDY: That's  
19 right.

20           And this is an issue that has come up in a  
21 variety of contexts. Until actually you asked it in the  
22 context of the offset protocol, I hadn't heard it in that  
23 particular context. But the question of what sort of  
24 electricity rates can be paid for these sorts of projects  
25 when they're doing that is an issue that we have heard

1 about in terms of how that plays out in terms of the PUC  
2 rate making. It is a set of issues that once you get into  
3 this sort of looking at a variety of environmental and  
4 energy policy issues, the coordination across the agencies  
5 gets to be a bit tricky. But I think it is one that we  
6 could bring to the energy principles group.

7           CHAIRPERSON NICHOLS: We really need to push this  
8 issue forward, not only for the dairies and the biomass  
9 projects that Dr. Telles is pointing out here. But I've  
10 been contacted by people on behalf of water agencies who  
11 want to do projects on their land. It's all about  
12 tariffs. And it's FERC and it's, you know, the PUC. And  
13 it needs some real push behind it. And there's never been  
14 enough real sustained effort to make it happen. But I  
15 think the time has come, maybe because of cap and trade  
16 and the opportunities that are now out there for renewable  
17 projects, that we could get some traction behind us.

18           ASSISTANT EXECUTIVE OFFICER KENNEDY: Yeah. And  
19 I think the work that we've been doing and, Chairman  
20 Nichols, that you've been helping lead with the energy  
21 principles gives us actually a good opening for being able  
22 to work with the PUC and the Energy Commission and sort  
23 of --

24           CHAIRPERSON NICHOLS: Well, it's also totally  
25 consistent with what our incoming governor has been

1 talking about in terms of greater coordination and focus  
2 on green jobs and in the renewable energy area. I don't  
3 know how he's planning to structure that effort either.  
4 You know, he's not even Governor yet.

5           But clearly we have some opportunities to have  
6 some input on this. And I think we should put a proposal  
7 together, at least a plan, you know, something that  
8 indicates how we'd like to see this move forward and work  
9 on it. Because I agree, we can't just let it languish out  
10 there, or we won't get the benefits here in California.

11           ASSISTANT EXECUTIVE OFFICER KENNEDY: Yeah. I  
12 can add it to the agenda for the January energy principles  
13 meeting.

14           CHAIRPERSON NICHOLS: That would be good.

15           Okay. Other -- Yes, Supervisor Roberts.

16           BOARD MEMBER ROBERTS: If I could, there are  
17 three areas that I just want to get into quickly, because  
18 I think there may be -- I'm hopeful there's simple  
19 answers. We've heard from the military, we've hear from  
20 universities, and I've heard from the private sector on  
21 all issues revolving around cogeneration.

22           CHAIRPERSON NICHOLS: Right. Military,  
23 universities. And what was the third you just said?

24           BOARD MEMBER ROBERTS: Universities, private  
25 sector --

1           CHAIRPERSON NICHOLS: -- Oh, that's right.

2           BOARD MEMBER ROBERTS: -- and the military.

3           Let me give you an example. There's one company  
4 that I know of who has invested heavily in a LEED  
5 Certified Gold Campus that is significantly dependant on  
6 cogeneration. They are now -- because they're going to  
7 exceed the threshold of the 2500 MTE, they're being kicked  
8 into a regulatory level. If they cut off their  
9 cogeneration and return to electricity, their emissions  
10 would go up dramatically but they would have no issues  
11 that they would have to deal with.

12           It seems like somehow we've got this thing  
13 backwards. And I'm wondering -- and it seems to involve  
14 cogeneration as a -- looking at it as a negative thing in  
15 a sense in terms of the regulations. And yet it's a net  
16 positive from an emissions standpoint.

17           Have I got this backwards or is there something  
18 we need to do to align ourselves on the right side of this  
19 issue?

20           ASSISTANT EXECUTIVE OFFICER KENNEDY: I think  
21 there's a couple of different issues at play in what  
22 you're talking about. And one is making sure, for  
23 cogeneration in the industrial sector, that as we set up  
24 the allowance allocation system, that we're getting the  
25 incentives right so that the companies that do clean



1 cogeneration will be rewarded for having done that,  
2 compared to companies that don't. And we've been working  
3 to incorporate that into the industrial allocation.

4           There's technical details that need to be worked  
5 through. And I'm not sure whether there's anything that  
6 the staff would add on where we are in that particular set  
7 of issues.

8           But then the other set of issues when you start  
9 talking about public campuses, for example, that have  
10 cogeneration, as we were looking at the overall allocation  
11 system, starting from a point where we wanted to rely  
12 relatively heavily on auction and focus the free  
13 allocation on industries where there was a potential for  
14 leakage, where the manufacturing activity might pick up  
15 and move out of state, that was the real emphasis as we  
16 started designing the allocation system for free  
17 allocation, and it focused on industries where that was an  
18 issue.

19           As we came to terms with how bad the economic  
20 downturn was and what that meant for starting the program  
21 in 2012, we shifted for the first compliance period from  
22 saying we're just going to focus on leakage on the free  
23 allocation, but we're going to provide all industry what  
24 we were calling transition assistance. So even industries  
25 that we considered to be at low risk of leakage, in the

1 first compliance period, 2012 to 2014, we'd give, you  
2 know, a hundred percent of allowances. Or the assistance  
3 factor would be at a hundred percent for that.

4           What we didn't do at that point was then say,  
5 "Are there other entities that weren't captured in the  
6 original industry allocation scheme that also needed that  
7 sort of transition assistance?" And that's the issue that  
8 the University of California has been very effective in  
9 bringing to our attention, making us recognize that that  
10 was an oversight in the way we looked at it.

11           We haven't come up with what the right answer is  
12 for what that transition looks like. But we do want to  
13 avoid the sort of perverse incentives that you're talking  
14 about even there.

15           When you get to 2015 and the distributed use of  
16 natural gas is also covered by the system, there'll still  
17 be an economic advantage to having cogeneration, whether  
18 you are captured as, you know, a point source or just  
19 paying through it in terms of the pass through on the  
20 fuel.

21           But in that first compliance period there is a  
22 real issue. So we're committed to working with the  
23 University of California and others that are similarly  
24 situated, that as we publish the rule wouldn't get any  
25 transition assistance, to figure out -- you know, it may

1 be free allowances, it may be something very similar to  
2 what we did for industry, or it may be another  
3 mechanism -- to make sure that they're not penalized and  
4 that they are also able to start the program with an  
5 appropriate transition. Because, you know, the public  
6 entities also are facing very difficult budget times. And  
7 so, you know, the same sort of concerns we had about  
8 industry the public institutions share. So it's something  
9 we're committed to working through.

10 BOARD MEMBER ROBERTS: So for the private  
11 companies that have made these investments, they're not  
12 going to be penalized, and on a continuing basis we're  
13 going to acknowledge that those are -- they're a net  
14 decrease in emissions by using these systems?

15 ASSISTANT EXECUTIVE OFFICER KENNEDY: Yeah.

16 BOARD MEMBER ROBERTS: And we're going to deal  
17 with the other eight, the public agencies, such as the  
18 university. And I presume the military in a similar -- in  
19 a different way than is currently --

20 ASSISTANT EXECUTIVE OFFICER KENNEDY: Yeah. And  
21 we're looking at a number of options for that. And we'll  
22 be working with UC and others similarly situated to come  
23 up with a good system --

24 BOARD MEMBER ROBERTS: Good. Okay.

25 Let me, if I can -- I'll try to go quickly.

1           The verification issues - we've heard this both  
2 from the air districts and from some private  
3 organizations - are we working to broaden out the  
4 qualifications possibilities, and who's going to be able  
5 to do that? Are we going to involve especially the air  
6 districts in this? And is it possible they're going to  
7 also involve the private sector on these issues?

8           ASSISTANT EXECUTIVE OFFICER KENNEDY: In terms of  
9 the air districts, for verification for reporting, I  
10 believe that the 15-day changes include clear specific  
11 language. And for the similar issue on verification of  
12 offsets, we're going down the same path with the air  
13 districts and sort of setting up the same sort of  
14 consideration of how they're situated as a potential  
15 verifier for offsets. So we would expect the eventual  
16 language that will be included in the cap and trade  
17 regulation for verification of offsets to mirror pretty  
18 closely what's been put out for the reporting  
19 verification.

20           There were other issues raised today in terms of  
21 how we do the certification of verifiers. And I don't  
22 know whether there's anything that we're able to say right  
23 now. We may be able to come back in the morning with a  
24 bit more on that. But it is an issue that's --

25           CHAIRPERSON NICHOLS: We're not coming back in

1 the morning. I do not detect a desire for this to come  
2 back in the morning. I think we want to get this resolved  
3 tonight.

4 ASSISTANT EXECUTIVE OFFICER KENNEDY: Okay. And  
5 the question of how to certify verifiers is actually one  
6 that we feel very confident in the system that we've set  
7 up. We've been having ongoing discussions with other  
8 partners in the Western Climate Initiative who are  
9 thinking about other approaches. So that could be  
10 something that ends up changing down the line. But we  
11 feel like the standards that we've set for certifying  
12 verifiers are very solid at this point.

13 CHAIRPERSON NICHOLS: And that there won't be a  
14 shortage of verifiers?

15 ASSISTANT EXECUTIVE OFFICER KENNEDY: And we do  
16 not expect a shortage of verifiers.

17 BOARD MEMBER ROBERTS: Okay. Then --

18 CHAIRPERSON NICHOLS: I mean that's critical.  
19 There have to be enough out there or this isn't going to  
20 work.

21 Yes, go ahead.

22 BOARD MEMBER ROBERTS: One last area that  
23 concerns me. Earlier I mentioned the research that's  
24 going on and where we have companies that are using --  
25 basically emitting. And as I started thinking about

1 that - and I've thought about this over time now - we have  
2 a lot of them doing basic research, and I'm thinking like  
3 the algae people who are pumping CO2 and, you know,  
4 helping us grow the algae and everything, and I'm certain  
5 releasing into the atmosphere a fair amount of CO2. How  
6 are we going to deal with those? Because it just seems  
7 like -- you know, we keep patting ourselves on the back  
8 and we're California and everything wonderful's going to  
9 happen here. And then we -- the reality is we set up all  
10 these rules to make it difficult and create negative  
11 incentives. And it's real easy to move that research. In  
12 fact we're seeing it happen.

13 CHAIRPERSON NICHOLS: I think most of them just  
14 wouldn't be covered at all. They're just not part of the  
15 system. But I would like to clarify that. I mean there's  
16 limited pool --

17 BOARD MEMBER ROBERTS: That's what I -- I'd like  
18 to hear that.

19 CHAIRPERSON NICHOLS: You'd like to have it,  
20 yeah, stated explicitly.

21 PROGRAM EVALUATION BRANCH CHIEF FRIEDMAN: This  
22 is Judy Friedman.

23 They're not combustion emissions. They're not  
24 covered. They're not part of the program.

25 BOARD MEMBER ROBERTS: They're not what?

1           PROGRAM EVALUATION BRANCH CHIEF FRIEDMAN:

2 They're not combustion --

3           CHAIRPERSON NICHOLS: They're not burning

4 anything, so they're not --

5           BOARD MEMBER ROBERTS: Well, some of them could  
6 be combustion. So solar is clearly combustion emissions.

7           PROGRAM EVALUATION BRANCH CHIEF FRIEDMAN: Well,  
8 at this point we don't know that they pass our threshold.

9           I don't know if anybody else wants to add to  
10 that. But as far as I know, they're not covered.

11          PROGRAM DEVELOPMENT SECTION MANAGER CLIFF: In  
12 the case of solar turbines specifically, I think they do  
13 exceed the threshold. They test their turbines and they  
14 just go over the threshold. They use, as I understand it,  
15 natural gas to test the turbines. And within the  
16 regulation, they're eligible to receive free allowances a  
17 hundred percent of their benchmark in the first three  
18 years. And that benchmark is actually set at natural gas.

19          So because they're burning natural gas and  
20 they're receiving a hundred percent of their allowances,  
21 effectively their emissions, you know, should largely be  
22 covered. We'd have to look at their specific facility to  
23 determine the actual allocation. But that's actually all  
24 specified in the regulation as it stands.

25          BOARD MEMBER ROBERTS: So if it's natural gas,

1 they should receive allowances over the first three years?

2 DR. CLIFF: Well, any fuel would receive  
3 allowances. But the benchmark is set at natural gas. If  
4 they were burning something that's more emitting than  
5 natural gas, they would receive fewer e considers if they  
6 were to burn bio fuel they would receive fewer allowances  
7 relative to their emissions. And if they were to burn,  
8 say, biofuel, they would receive more allowances relative  
9 to their emissions.

10 BOARD MEMBER ROBERTS: So we don't know, they may  
11 or may not depending on -- I don't know their business  
12 well enough.

13 CHAIRPERSON NICHOLS: Yeah, we don't know the  
14 facts at this point.

15 BOARD MEMBER ROBERTS: But their concern was that  
16 they couldn't tell whether -- what level this benchmark is  
17 set, so there's a great deal of uncertainty.

18 DR. CLIFF: Right. And that's specified in the  
19 regulation. And we're more than happy to follow up with  
20 them directly and have more conversations to understand  
21 their specific issue.

22 BOARD MEMBER ROBERTS: Okay. I'd appreciate it  
23 if you do that.

24 CHAIRPERSON NICHOLS: I think that has to happen.

25 BOARD MEMBER ROBERTS: We're obviously getting --



1 you know, this is not -- what did Winston Churchill say,

2 "This is" --

3 CHAIRPERSON NICHOLS: It's the end of the  
4 beginning.

5 BOARD MEMBER ROBERTS: -- "This is the end of the  
6 beginning." And I think it's very apropos, because I  
7 think this -- this is going to take a lot of work, the  
8 complexity in there. I just want to make sure that we  
9 keep a very strong sensitivity to the fact that we -- you  
10 know, we want to encourage innovation, we want things to  
11 happen here in California. And we need to find solutions.  
12 Yes, we want to clean up the emissions. But, you know,  
13 all this commitment to the green economy, I don't want to  
14 see us driving the green economy somewhere else.

15 CHAIRPERSON NICHOLS: Right.

16 Well, it's interesting, the closer you get to the  
17 launch of a real cap and trade program, the more people  
18 decide they'd really rather have regulation, you know.  
19 Because it's a little easier.

20 Mayor Loveridge.

21 BOARD MEMBER LOVERIDGE: Several just very quick  
22 comments, and then I have two things that I'd like to see  
23 if the Board would agree with.

24 And the first is just the Governor's appearance  
25 reminded me that we are really here in many ways because

1 of his strong political leadership he's brought to AB 32  
2 and cap and trade.

3           And I also think, as many of the people spoke,  
4 and I would just, speaking for myself, acknowledge the  
5 Chair of our Board -- I mean this is new policy. I mean  
6 it's not been done. You can't go -- you know, go to a  
7 binder and pull it out. And so I want to acknowledge  
8 really Mary's extraordinary leadership in this.

9           You know, the defeat of 23 really was the -- I  
10 thought that gave a green light to kind of the aspirations  
11 and objectives of AB 32. But now comes to try to take  
12 those aspirations and objectives and make them happen, and  
13 which is, I think as Ron -- I mean extraordinarily  
14 complex, it's extraordinarily difficult, it's also  
15 extraordinarily important what we're doing to -- important  
16 in terms of California's economy and important to green  
17 initiatives and so forth.

18           I also would just like to reinforce what -- I've  
19 been doing a little travel as the National League  
20 President, and you hear a lot both in this country and  
21 others about what we're about ready to vote on today. I  
22 mean the comment the world is forging is sometimes an idle  
23 comment. It is not idle this afternoon.

24           Two quick things: One is something that seems  
25 can strengthen our efforts, and this is the partnership

1 with the CAPCOA and the air districts. It seems to me  
2 we'd be better off together rather than separate. And I  
3 think we talked about the agreement on having the CAPCOA  
4 and the air districts serve as verifiers.

5           But I'd like to make four suggestions very  
6 quickly:

7           One is just the agreement that, to the CAPCOA's  
8 point, that districts should be allowed to verify -- serve  
9 as verifiers to verify offsets provided by districts that  
10 they meet the criteria applicable to other verifiers.

11           Second, that the districts should be able to  
12 develop offset projects which use ARB-approved protocols  
13 and are verified by a third party.

14           And, third, that we should welcome efforts by the  
15 districts to develop additional protocols.

16           And, fourth, that the Board direct the Executive  
17 Officer to establish an advisory Committee with air  
18 districts to facilitate their involvement and  
19 implementation of this regulation and other AB 32  
20 programs. That the Executive Officer could report back in  
21 three months on progress.

22           But the purpose of this is to try to get  
23 cooperation and partnership in place and employ it.

24           CHAIRPERSON NICHOLS: I would second that for  
25 purposes of discussion. But before we talk about it

1 further, I -- I'm afraid we're about to lose a visitor who  
2 just arrived. And I'd like to at least introduce him and  
3 acknowledge significant role that he has played in all of  
4 this, if you're willing to come back down to the front  
5 here.

6           Just in case the other Board members don't know  
7 him, this is Assemblymember Kevin de Leon from Los  
8 Angeles, from my hometown, who has been the acknowledged  
9 leader I think in the Legislature on the issue of using AB  
10 32 revenues for purposes of addressing the concerns about  
11 communities that are disproportionately impacted by  
12 existing air pollution today. He was the author of AB  
13 1405, which was not signed last year. But I know he  
14 continues a very strong interest in this.

15           And I just wanted to welcome you and thank you  
16 for coming over. Even though the public hearing is  
17 officially closed, we will acknowledge that you were here  
18 and thank you for coming over.

19           And also just wanted to say publicly that in the  
20 resolution that we're looking at, that hopefully we'll be  
21 voting on in a few minutes, we have included language  
22 which is intended to create a space for future legislation  
23 that would be much more extensive, understanding that we  
24 don't have right now the ability. And this was what we  
25 worked on with you last year, was an opportunity for the

1 Board and the Cal/EPA to go out and do hearings in the  
2 community to really develop a plan for how the monies  
3 would be spent. We're not prepared to do that right now.

4           But what I think we can do, hopefully it's within  
5 the scope of our authority - at least we're willing to put  
6 ourselves out on the line here - is to say that we believe  
7 that 10 percent of the revenue -- you know, that's not the  
8 end, but that that 10 percent should be allocated for the  
9 purposes described in AB 32 for dealing with the Community  
10 Benefits Fund.

11           So I'm hoping that that's a good start down the  
12 road towards what you were trying to accomplish. And I  
13 want to thank you for all your efforts.

14           ASSEMBLYMEMBER De LEON: Thank you.

15           CHAIRPERSON NICHOLS: Thank you for coming.

16 Bye-bye.

17           Okay. Sorry.

18           So on the air districts issue, the four points  
19 that you're raising are ones that were in the South Coast  
20 letter, I believe.

21           BOARD MEMBER LOVERIDGE: Everything that -- well,  
22 most of them came out of the CAPCOA letter.

23           EXECUTIVE OFFICER GOLDSTONE: They are South  
24 Coast issues mostly, but the CAPCOA members have agreed to  
25 this generally.

1           CHAIRPERSON NICHOLS:  And I would say that -- you  
2 know, I have no hesitation about acknowledging and  
3 committing you and the staff, of course, to work with  
4 CAPCOA as partners on developing new protocols and on  
5 verification.  I mean I think that's a -- that seems like  
6 a natural and it just should happen.

7           The only one of the proposals that I had any  
8 questions about, and it's mainly just because I really  
9 don't understand it, is the idea of districts somehow  
10 being holders of or creators of offsets.  I know the  
11 description was somehow the districts -- well, South Coast  
12 at least as an agency that often acts as a lead on CEQA  
13 projects takes in money from people who need credit, or  
14 sometimes they get money as part of enforcement cases.  
15 And they want to be able to use those on things that would  
16 create offsets under our program.  And I guess I don't  
17 have a problem with the idea that monies that they get  
18 should be used to create offsets.  I mean it's a good idea  
19 that we should be reducing CO2 emissions.

20           Where I have a little bit of a concern is if the  
21 district is in the role both of the collector of the money  
22 and the doer or the owner of the offset.  I do think that  
23 creates at least an appearance of a conflict of interest,  
24 which I think is something that our partners in WCI would  
25 be concerned about at least even if we weren't concerned.

1 I don't know, Kevin, if you want to comment on  
2 that.

3 ASSISTANT EXECUTIVE OFFICER KENNEDY: I would  
4 agree with that. And I think there is also depending on  
5 the exact nature of what they're doing the potential for  
6 problems with additionality. If the money that is being  
7 spent to develop the offset project is a CEQA mitigation,  
8 it is already offsetting some degree of emissions. If you  
9 generated a credit then and tried to sell it to offset  
10 emissions within the cap and trade system, you're  
11 potentially double counting.

12 So I don't think we have ever gotten a clear  
13 sense of exactly how they picture this system working well  
14 enough to understand whether it would work or not. But we  
15 do have concerns about trying to play multiple roles in a  
16 system where we've tried to design it where everyone is  
17 looking over everyone else's shoulder to make sure that  
18 all pieces fall into place.

19 CHAIRPERSON NICHOLS: Let me ask just a  
20 clarification.

21 BOARD MEMBER LOVERIDGE: Let me just subtract out  
22 perhaps what was number two and ask that it be a part of  
23 the consultation and to come back in three months.

24 CHAIRPERSON NICHOLS: That's fine.

25 BOARD MEMBER LOVERIDGE: So we're doing one,

1 three, and four.

2 EXECUTIVE OFFICER GOLDSTENE: Could I ask for  
3 clarification.

4 CHAIRPERSON NICHOLS: Sure.

5 EXECUTIVE OFFICER GOLDSTENE: I think we're on  
6 the same page, but I want to make sure.

7 One I think was allowing them to be verifiers --

8 BOARD MEMBER LOVERIDGE: Right.

9 EXECUTIVE OFFICER GOLDSTENE: -- both for  
10 facilitates and also for offset projects if they chose to  
11 get into that business.

12 And then three or four might have been  
13 establishing some sort of subcommittee of this Board  
14 maybe?

15 BOARD MEMBER LOVERIDGE: Three is to welcome  
16 efforts by district to develop additional protocols. And  
17 four was to set up the committee.

18 EXECUTIVE OFFICER GOLDSTENE: Right. And I have  
19 already had a discussion with Board Member Berg about that  
20 with Larry Greene about some kind of process similar to  
21 what we've been doing on the Moyer program where we at  
22 least have Sandy involved, but any others who would be  
23 interested in participating, as kind of a place to mediate  
24 or discuss.

25 CHAIRPERSON NICHOLS: Okay. So I think we will



1 accept those all. And thank you.

2 Any others?

3 Yes.

4 But that's just -- oh, sorry. One more. I know  
5 you had another issue, which is the waste to energy.

6 BOARD MEMBER LOVERIDGE: This is the waste to  
7 energy where there's the three waste-to-energy  
8 facilitates.

9 I'd like to read a Resolve. I'm proposing it.  
10 It comes from the person who spoke most clearly and  
11 effectively about this.

12 "Be it Further Resolved, that in accordance with  
13 Section 415160 of the Health and Safety Code which  
14 requires that resource recovery projects should be  
15 encouraged as a matter of State policy, the Board directs  
16 the Executive Officer to determine and report back to the  
17 Board a mechanism to satisfy all the risk of emissions  
18 leakage and compliance obligations of existing municipal  
19 waste-to-energy facilities in the proposed cap and trade  
20 program."

21 CHAIRPERSON NICHOLS: I think that's a good  
22 proposal.

23 Yes.

24 BOARD MEMBER D'ADAMO: I thought there was also  
25 an issue with respect to accounting. And I just want to

1 make sure it's captured in -- has staff seen the language?

2 EXECUTIVE OFFICER GOLDSTENE: I don't know if

3 I've seen that language. But it's simply -- it's

4 assessing. It's a commitment to assess the issue.

5 BOARD MEMBER D'ADAMO: I just wanted to make sure

6 that it encompasses accounting the avoided emissions.

7 BOARD MEMBER LOVERIDGE: Yes.

8 CHAIRPERSON NICHOLS: Yeah, it would.

9 BOARD MEMBER LOVERIDGE: Yes.

10 EXECUTIVE OFFICER GOLDSTENE: That would have to

11 be part of the discussion. That's been part of one of the

12 challenges.

13 CHAIRPERSON NICHOLS: Okay. I think you see

14 consensus on that one.

15 Others?

16 Professor Sperling.

17 BOARD MEMBER SPERLING: I have a few items.

18 First of all, I do want to comment that this

19 proceeding is unusual and exceptional in dealing with the

20 cap and trade in the sense that we are here debating, you

21 know, what makes the most sense in a scientific way and an

22 economic way. It's standing in sharp contrast to how the

23 cap and trade in Washington DC happened. And so that's

24 one of -- you know, that's a comment to the staff and to

25 the Board that we have managed to make this as science

1 based and economics based as possible for something so  
2 huge and important as this.

3           But with that comment, a few little ones. And I  
4 think what's great about this process is that we are  
5 focusing on, you know, making it work a little better.  
6 And so far we haven't heard any real structural problems.

7           So some little ones are -- one thing I would like  
8 to communicate to the staff is that we place -- following  
9 up on the offset discussion, that we should encourage the  
10 staff to give a very high priority to developing offsets  
11 and offset protocols. You know, that's not an obvious  
12 outcome of this. And I think we want to emphasize it.  
13 There's a lot of organization out there starting to  
14 develop protocols. And I think we should, you know, make  
15 that a high priority to adopt them eventually.

16           Another item is that, Chairman Nichols mentioned  
17 this idea of midcourse corrections. And I think there  
18 should be -- the staff should -- I would like to see the  
19 staff come up with a process on how we are -- something  
20 written on how we are going to deal with all of these  
21 changes that we're contemplating, not just for, you know,  
22 in the next few months but for the coming years. In other  
23 words, which of them are going to be dealt with by the  
24 Executive Officer and the staff, which are going to go to  
25 the Board? And maybe we can't put that into, you know,

1 really precise terms, but as precise as we can. And I  
2 think that would help and reassure a lot of people and  
3 actually make the whole process, you know, move forward  
4 better if there's a better understanding of that.

5           CHAIRPERSON NICHOLS: I think there's pretty good  
6 language actually on page 15 of the resolution, the Board  
7 directing the Executive Officer to develop regulatory  
8 amendments at least once each compliance period, time to  
9 adjust the program prior to the start of the next  
10 compliance period. And -- I'm not going to read the whole  
11 thing allowed. But it specifically says that the  
12 Executive Officer needs to report to the Board if he  
13 thinks that no rulemaking is needed also.

14           So the concept here is that the rulemaking is  
15 done by the Board. And anything that doesn't require  
16 rulemaking that's within the -- you know, within  
17 implementation could be done at the level of the Executive  
18 Officer, but he still has to report to us on what he's  
19 done within every compliance period.

20           I think this is an area, frankly, where the  
21 regulated community has as much of an interest as the  
22 Board does on assuring that this is going on and that it's  
23 going on in a very transparent way.

24           I will just say, although I wasn't on the private  
25 sector side, I was on the public sector side of this one,

1 having lived through the complete collapse of the  
2 electricity market in California, that was launched with,  
3 you know, a lot of good intentions and with a lot of  
4 political support at the time, I don't think anybody ever  
5 wants to go through anything like that again. And so  
6 setting up a process whereby we are constantly monitoring  
7 and looking at what needs to be done is going to be  
8 absolutely critical to the success of this program. And I  
9 don't think we would have the support to launch it,  
10 frankly, if we haven't convinced people that we're  
11 prepared.

12 EXECUTIVE OFFICER GOLDSTENE: I agree.

13 CHAIRPERSON NICHOLS: But I accept that comment.

14 BOARD MEMBER SPERLING: Wait a minute. I've  
15 got --

16 CHAIRPERSON NICHOLS: Do you have more?

17 BOARD MEMBER SPERLING: -- a couple more, I  
18 think.

19 One more, kind of along the same lines, is there  
20 was discussion about -- well, I guess there's a resolution  
21 item here on page 13 that talks about -- that the Board  
22 directs the Executive Officer to contact with an  
23 independent entity with appropriate expertise that will  
24 monitor and provide public reports on the operation of the  
25 market.

1           And I'd like to add to that with a suggestion,  
2 that in addition to contracting out that analysis, which I  
3 think is a very good idea, also have some kind of advisory  
4 board or advisory committee of experts and -- experts in  
5 these markets that can interpret that, you know, that have  
6 a political sense as well as an economic and financial  
7 sense and can translate that back both to the Board as  
8 well as to industry and the regulated parties. I've heard  
9 that suggestion in a number of places and it resonates  
10 with me, because there's a lot of concern by a lot of  
11 companies that -- you know, they come up with scenarios  
12 about how things could really go awry. And I think the  
13 more we can reassure the market and the industry and the  
14 regulated parties on that I think is a good idea.

15           I know we're talking about all these advisory  
16 committees, but this can be a small one. And so that's my  
17 suggestion on that item.

18           BOARD MEMBER TELLES: Could I add to that and  
19 make it a bigger one?

20           CHAIRPERSON NICHOLS: Yes.

21           BOARD MEMBER TELLES: With all the presentation  
22 today there was no mentioning about the market, you know,  
23 where it's going to be, how it's going to be, how it's  
24 going to be designed, who's going to be the broker, the  
25 transparency of the market, all these issues. And one of

1 the commentators today mentioned that a new market is the  
2 most vulnerable to be manipulated. And I think if you  
3 look at the derivative market, if you read the issue on  
4 the front page of the Wall Street Journal -- I mean of the  
5 New York Times a few days ago on how a sophisticated  
6 market could be manipulated, that we are potentially  
7 vulnerable here to be manipulated. And I just don't see  
8 enough safeguards in the design of the market. You know,  
9 there's no mention of how this is going to actually come  
10 out.

11           And like Professor Sperling is suggesting, I  
12 would suggest a very robust group of people to -- and I'm  
13 sure you're already doing this. I just want to assure  
14 that this is being done, is to design this market so that  
15 it's very protected. And specifically I would want the  
16 transparency to be that the buyer and the seller know the  
17 price - not like that derivative market article that was  
18 mentioned in the New York Times - and there be a  
19 transparency, and also that the brokerage fee be  
20 transparent, and that we don't begin something that could  
21 get out of hand. I'm not sophisticated enough to know how  
22 to do that, but I'm sure you can find people out there  
23 that can design a market that won't be manipulated. And I  
24 think it's very important for the success of this.

25           So it's one step behind his, is to add to that

1 maybe that -- to maybe that it's going to do this - and  
2 I'm sure you're already talking to people - to design a  
3 market that's going to work and to report back to the  
4 Board on all the safeguards that you put into there.

5 CHAIRPERSON NICHOLS: I think that's coming in  
6 July, right? That's what we're going to be ready to do in  
7 July?

8 ASSISTANT EXECUTIVE OFFICER KENNEDY: Yeah. And  
9 that was certainly part of the resolution on page 13 that  
10 talks about reporting back to the Board no later than  
11 July. That's sort of very clear information about what  
12 we're doing to set up the market, what steps have already  
13 been accomplished, what still needs to be done, who we've  
14 been consulting with.

15 In terms of the sorts of issues that you're  
16 raising, a lot of what we've been doing is talking very  
17 closely with our WCI partners, because we want to have a  
18 coordinated market; we've been talking to Hink, that  
19 runs the greenhouse gas rating program in the northeast.  
20 They went through a long process to get their system up  
21 and running. We and they both believe that we'll be able  
22 to sort of avoid some of the time that they took by  
23 learning the lessons that they've learned.

24 So I think there's a lot of opportunity. We are,  
25 you know, reaching out to the right sort of expertise as



1 part of this process overall. So I would agree that we do  
2 need to be doing all of that and --

3 CHAIRPERSON NICHOLS: I would just add a -- I  
4 think you said this, but just to make it absolutely clear.  
5 I think part of the transparency needs to be that there  
6 are names that people who are experts will recognize who  
7 have then consulted and agreed to give us the benefit of  
8 their advise on whether this market has been set up  
9 properly and is working properly. I think that's the real  
10 advantage of a committee.

11 EXECUTIVE OFFICER GOLDSTENE: We had planned on  
12 doing that. We had not planned on establishing a  
13 committee -- a formalized committee. So I want to get  
14 some clarification from --

15 BOARD MEMBER SPERLING: So let me clarify.

16 You know, I don't think we want to dictate  
17 exactly how to do this. But let me suggest that the staff  
18 think about how to assure -- provide some kind of  
19 transparencies. And it's more than transparencies. You  
20 know, it's a concern about how things can go wrong, that  
21 can be manipulated. Stuff happens. And, yes, you know,  
22 the staff has done a great job designing it and probably  
23 will. But, you know, you can't anticipate everything.  
24 And if things go bad, it's like Chairman Nichols was  
25 saying on the electricity deregulation, they can go really

1 bad. And we just want to make sure that we anticipate it,  
2 and any signals that something like that is happening,  
3 that we detect them as quickly as possible.

4 EXECUTIVE OFFICER GOLDSTENE: We will do that,  
5 and we'll keep the Board informed. And that's part of the  
6 July briefing, but we can keep you informed more  
7 frequently too as we're going.

8 We're also -- and we have been -- Ellen Peter's  
9 team has been working with the Attorney General's Office  
10 and the Commodities Future Trading Commission and SEC and  
11 US DOJ and others. So we've been -- we have lots of  
12 people giving us good advise, and that will continue to be  
13 part of our process, as well as getting input -- these  
14 same issues that you're raising here are the exact same  
15 issues our counterparts in the other states and provinces  
16 are also going to be dealing with. And so whatever we do,  
17 it would also probably include our partners as well in  
18 terms of this market oversight and advise.

19 CHAIRPERSON NICHOLS: In the interests of adding  
20 some additional comfort to people who have been talking to  
21 us about what their concerns are about the market, I would  
22 offer some specific language about what could be potential  
23 actions that would be taken if the Board found that there  
24 was a problem, which could include things like taking  
25 corrective action prior to the next auction, adding new

1 allowances or a supply of allowance into the market to  
2 make sure that they were covered, or a temporary  
3 suspension of trading in the market. And then these are  
4 all mechanisms that, you know, I think could -- we may not  
5 want to use them and we may not need to use them, but I  
6 think just knowing that we're considering them and that  
7 they could be out there will make people feel more  
8 comfortable that we're serious about this.

9           So if that's acceptable, I'd like to see that  
10 actually added to the resolution.

11           BOARD MEMBER SPERLING: And I have just one  
12 little thing.

13           And there is one of the resolutions I was just  
14 reading through that I just -- I don't think I -- I'm not  
15 sure if I understand it. It's on page 14 in the middle.  
16 And it says, "The Board directs the Executive Officer to  
17 evaluate the cross-sectoral equity issues related to the  
18 treatment of transportation fuels in the cap and trade  
19 program." And it goes on and on.

20           I think it's referring to electric vehicles. Am  
21 I right? I'm trying to translate this.

22           ASSISTANT EXECUTIVE OFFICER KENNEDY: Yes, you  
23 are right in that. And some of why the language, which I  
24 think I drafted probably yesterday afternoon, is a big  
25 convoluted is I was trying to capture the issue from two

1 different directions at the same time. We're hearing from  
2 the transportation fuel suppliers that as they look at  
3 potential competition with the electricity providers in  
4 the transportation sector, that the fact that we're giving  
5 allowances away for free to the electric distribution  
6 utilities give them an unfair leg up. We're hearing from  
7 the electric utilities concerns that increased  
8 transportation demand is going to mean problems in terms  
9 of whether they're being traded fairly in the  
10 cross-sectoral all issue.

11           So this was intended to capture essentially that  
12 as we see increased electricity use in transportation,  
13 this is a set of issues that we need to think about how it  
14 plays out from all directions. So that was the intent.

15           BOARD MEMBER SPERLING: I like that, and that is  
16 what I thought you were saying. Thank you.

17           That's it.

18           CHAIRPERSON NICHOLS: Okay. Ms. D'Adamo.

19           I guess we're just going to go down the line  
20 here.

21           BOARD MEMBER D'ADAMO: I have two I'd say  
22 questions, not requests, at this point.

23           But NRDC made a suggestion and they said they had  
24 some language regarding use of allowances to return to the  
25 customers for energy conservation programs. And I see the

1 language on, let's see, page 12, Be It Resolved Number 5.

2 And I suppose, you know, the funding could be used for  
3 energy conservation but it's just not explicit enough.

4 Do you have that language? Is this what it was  
5 related to, this provision?

6 ASSISTANT EXECUTIVE OFFICER KENNEDY: I have seen  
7 the language before. I don't have it in front of me at  
8 the moment.

9 And I believe what they are suggesting in terms  
10 of what we have in our draft resolution is being more  
11 specific about what we say there. And, you know, we  
12 certainly could take a look at the NRDC language. And if  
13 the Board is interested in having that be more specific  
14 there, we could borrow from that language.

15 EXECUTIVE OFFICER GOLDSTENE: Again, that's a  
16 PUC -- you're directing us to work with the PUC.

17 BOARD MEMBER D'ADAMO: Right. I don't want to  
18 tie anyone's hands too much, but I'd like the idea of at  
19 least prioritizing.

20 CHAIRPERSON NICHOLS: Right. And I would take  
21 that, but I would also broaden it, because there's a  
22 number of areas where ongoing relationship with the PUC,  
23 this issue about the wreck accounting and how that's going  
24 to be treated, these are not things where we can just sort  
25 of walk away having adopted the regulation. We're going

1 to have to have some pretty intense and ongoing  
2 relationships with the other agencies.

3           BOARD MEMBER BALMES: Just one specific point  
4 while we're talking about the PUC. On the same page 12 it  
5 says, second from the bottom, "Be It Further Resolved that  
6 the Board encourages the CPUC and the POU governing boards  
7 to work with local governments to direct a portion of  
8 allowance value." I think "encourages" is kind of weak  
9 there. I realize we don't have any direct authority. But  
10 I think we should say "strongly advises" or "asks for,"  
11 you know. But acknowledges seems wimpy to me.

12           BOARD MEMBER D'ADAMO: And then I had a couple of  
13 others.

14           CHAIRPERSON NICHOLS: Okay.

15           BOARD MEMBER D'ADAMO: Okay. Louis Blumberg from  
16 Nature Conservancy with respect to auction revenues. And  
17 again, I don't want to like overly commit the funding.  
18 But I did like his idea about including land use and  
19 public transportation projects. I just came from a  
20 meeting with the San Joaquin Valley Policy Council on  
21 implementation of 375. It's going to be a huge challenge.  
22 So I think that might be a nice incentive to help move  
23 along our related goals on SB 375. I don't know where it  
24 fits in nicely. There's the Community Benefits Fund.  
25 And I don't know if that's necessarily the spot.

1           CHAIRPERSON NICHOLS: Well, having taken the  
2 plunge on the Community Benefits Funds, I think we could  
3 add the other uses that the EAAC recommended, which  
4 include SB 375 implementation and urban transportation  
5 and adaption.

6           BOARD MEMBER SPERLING: -- and R&D.

7           CHAIRPERSON NICHOLS: -- and R&D.

8           BOARD MEMBER TELLES: Page 32.

9           CHAIRPERSON NICHOLS: Okay. The language exists,  
10 I think, and it ought to -- I mean without specifying  
11 amounts or, you know, any of that, just to say that the  
12 Board agrees that these are uses that we think that the  
13 auction revenue -- I mean the Legislature ultimately is  
14 going to decide, but we could at least put our imprint on  
15 this.

16           BOARD MEMBER BALMES: That's beyond the 10  
17 percent or is it --

18           CHAIRPERSON NICHOLS: No, beyond. We're spending  
19 people's money here.

20           BOARD MEMBER D'ADAMO: And then I did have just  
21 one question. I was a little unclear on Metropolitan  
22 Water District and the State Water Project. They raised  
23 concerns that it was unclear as to how staff's going to  
24 proceed in that regard.

25           EXECUTIVE OFFICER GOLDSTONE: Hold on just a

1 moment.

2 ASSISTANT EXECUTIVE OFFICER KENNEDY: Yeah, and  
3 we have at this point started the discussion with them in  
4 terms of the analogy that we're using -- you know, for the  
5 electricity system we're looking at the utilities as a  
6 mechanism for returned value to their ratepayers. Is  
7 there a similar mechanism for the water utilities  
8 essentially to be the vehicle for returning value to their  
9 ratepayers so that the allowance value that would be given  
10 to them if we went down that path would look parallel? We  
11 haven't worked out whether the analogy works or if there  
12 is an alternative set up. So we're in the middle of  
13 discussions with them to figure out what the right  
14 approach is to deal with the issues they're raising.

15 CHAIRPERSON NICHOLS: Okay. Is that it?

16 I'm going to save mine till last because  
17 others -- I'm going to give others a chance.

18 Okay. Ms. Berg.

19 BOARD MEMBER BERG: Thank you, Chairman.

20 First of all, I'm very heartened by the fact that  
21 this whole process has been remarkable. If we look over  
22 the two-year process and the angst and the concerns and  
23 the people that just didn't see any way that this was  
24 going to go forward, to the stakeholders meetings that all  
25 of us, but I'll say on my behalf, have had over the last



1 30 days, I don't know, there's something in the water,  
2 because people came back to the party really with issues  
3 that were implementation oriented, not that this couldn't  
4 be done. And that really falls back not only on the  
5 stakeholder involvement but also staff. So great job.

6 I'm also heartened by our Chairman's comments and  
7 the comments of staff that today is the beginning of a new  
8 level of details. I am very concerned that we have a  
9 laundry list longer than Santa's gift list that needs to  
10 be delivered in a short period of time.

11 And so I'm pleased that what I've heard is that  
12 we do have within the regulation the procedures and the  
13 authority to be able to handle not only the concerns we've  
14 heard today but the written concerns that have been turned  
15 in. And so we're all in agreement with that? Because it  
16 is quite a broad list. And I don't want to get in the  
17 weeds here and go down every issue that I heard. I'm  
18 going to trust that we have the ability to go through and  
19 deal with these things.

20 The couple of things I would like to bring up,  
21 and that is the benchmark. We heard quite a bit on the 10  
22 percent. I'd like to hear how -- if we feel that's a  
23 policy issue and needs to be discussed at the Board level  
24 or if that is something that staff will be looking at and  
25 doing further review. And that's for the industrial

1 sector on their allocation. And the benchmarking issues,  
2 both in how we're establishing the benchmarks and the  
3 overall 10 percent. And maybe, are we going to give a  
4 hundred percent for the first period and then look at the  
5 10 percent? If you could just give me some direction on  
6 that, and if you feel that you need Board discussion on  
7 that at this time.

8 ASSISTANT EXECUTIVE OFFICER KENNEDY: The  
9 underlying issue is how -- essentially how stringent to  
10 set the benchmark that we're using for the output-based  
11 allocation. For example, in the European Union the  
12 direction that they're going is to take a look at all of  
13 the facilities within a given industry and setting their  
14 benchmark at the facility that, you know, is better than  
15 90 percent of the other facilities in the industry. So  
16 they've used that as a way of saying, "We want the  
17 benchmark to be particularly efficient."

18 We had started thinking about taking that sort of  
19 approach in California and realized that in terms of data  
20 availability it was probably going to be easier to take an  
21 approach that looked at what was going on within  
22 California facilities, and instead of -- because in some  
23 cases there's not enough industries to sort of say we're  
24 going to, you know, look at who's in the top 10 percent --  
25 use a percentage of the average of the emissions intensity

1 for a given industry. And we've set that at 90 percent in  
2 terms of the proposal that we put forward and the  
3 direction we're intending to do.

4           And that does a couple of things from staff's  
5 perspective. One is because the output-based approach  
6 means that as we get into an economic recovery - and  
7 certainly we hope by the time we get to the end of the  
8 first compliance period in 2014 we have a serious recovery  
9 taking hold, output will be going up, the amount of  
10 allowance that would be given are going up - it gives us  
11 in a sense a little bit of headroom in the overall  
12 allocation, that we don't play out the formulas in a way  
13 that we are trying to give away more allowances than we  
14 have. And so it gives us some reassurance there. But it  
15 also really does reinforce that we're trying with this  
16 system to reward the most efficient of the plans within  
17 California.

18           As we work through the details of the data and  
19 see the spread of what the range of efficiencies are  
20 within different industries, we may realize that we may  
21 need to adjust that a bit. But we're comfortable with the  
22 overall approach. And I think, you know, with that as the  
23 explanation of what we're doing and why we're doing it,  
24 it's -- I think to the Board whether or not that is  
25 something that calls for serious policy discussion amongst

1 you in terms of whether to give more direction or  
2 different direction than the approach that we were taking.

3           BOARD MEMBER BERG: I'm not quite sure yet what  
4 my suggestion would be. But when you look at a three-year  
5 running average for an industry like the cement industry,  
6 that has obviously suffered a tremendous downturn, and  
7 you're looking at 2008 through 2011 at their worst time  
8 and that is going to be their allocated amount, how do we  
9 deal with those types of issues?

10           So I don't know if I have a level of comfort yet.  
11 Do we have enough flexibility? Are we looking at this  
12 enough by industry to be able that you'll bring it back to  
13 us, give us an updated report? There's an awful lot of  
14 unknowns still out there, as we haven't established a lot  
15 of the benchmarks. And so I really wouldn't know where to  
16 take the conversation as far as from a Board discussion,  
17 because we don't have a lot of facts and I guess that's  
18 where my discomfort is.

19           ASSISTANT EXECUTIVE OFFICER KENNEDY: Two things  
20 on that. First on the particular question of, as we put  
21 out the proposal in October we were looking at the -- as  
22 we, you know, played out the formula for how many  
23 allowances a particular facility will get, we were looking  
24 at the running average of three years of -- the three  
25 years most recent data. So as you say, when we give out

1 allowances in 2012, we would be looking at the level of  
2 output in 2008, 9, and 10.

3           We have heard from several industries, and cement  
4 in particular because of the size of the downturn that  
5 they have seen over the last two years, that that's a  
6 particular problem. And in the attachment to the  
7 resolution on page 8, item 3 at the very top, is a  
8 suggestion that staff will take a look at, is it feasible  
9 to essentially true up that allocation? So we might do  
10 the initial allocation for 2012 based on that running  
11 average. But once we have the actual 2012 output data, to  
12 maybe have just given a portion of the allowances away  
13 initially, and then give the final amount so that what  
14 we're actually giving the allocation is based on the  
15 actual 2012 output.

16           And so on that particular technical issue, we do  
17 have the commitment to take a serious look at whether that  
18 is something that we could work into the regulation in the  
19 15-day changes.

20           On the broader issue that there is a lot of  
21 technical detail, and it is going to matter a lot what the  
22 final answer is on what those numbers are. That is,  
23 without question, going to be one of the central things in  
24 what's described in the report that we would need to come  
25 back to the Board by the end of July saying, "Okay, we

1 have checked off the following things on implementation:"  
2 One of those pieces would be either we have the final  
3 numbers - and then we should if we're going to be able to  
4 start on time - or this is the plan going forward for  
5 that.

6           So there is an opportunity for us to report back  
7 to the Board on how those discussions go over the next  
8 six months, what the final answers look like.

9           So I don't know if that gives you the level of  
10 comfort you need or not.

11           BOARD MEMBER BERG: I think it does.

12           Does it also allow for Board input at that time?  
13 Or if you feel that you have found other data that you  
14 want to bring back to the Board, would we be able then to  
15 resume discussion?

16           ASSISTANT EXECUTIVE OFFICER KENNEDY: Yeah. And  
17 if we were starting to see problems, we would probably  
18 want to come back to the Board sooner than the formal July  
19 report and just sort of let you know what's going on.

20           But in the context of 15-day changes, it is  
21 essentially left to the discretion of the Executive  
22 Officer is it necessary to bring any of those changes back  
23 to the Board. And I think as we got towards the July  
24 report, we'd be able to see, "Oh, no, we've worked it out  
25 and it's pretty much" -- you know, we just need to let you

1 know everything's fine, or is there a serious decision  
2 that needs to be made that we do think needs to come back  
3 to the --

4 CHAIRPERSON NICHOLS: And I would encourage all  
5 the Board members, if you see something that you think may  
6 not be getting addressed properly, to flag that quickly so  
7 that we can bring it back.

8 BOARD MEMBER BERG: I think I'm comfortable with  
9 that.

10 Also, this would also include the gap of the  
11 companies that may come into the program from 2008 to  
12 2012 -- oh, I'm sorry -- 2011 as we heard from Dow  
13 Chemical, for example, and what the procedure will be for  
14 those newcomers, so to speak?

15 ASSISTANT EXECUTIVE OFFICER KENNEDY: Yes.

16 BOARD MEMBER BERG: Great.

17 I think I'm comfortable with that, Chair, and can  
18 allow that to stand.

19 The other issue that I did hear was, looking out  
20 to 2015 I think we need to be mindful in bringing in the  
21 transportation fuels and how we're going to handle that.  
22 And the impact on to the price of fuel. And I would  
23 certainly agree with my fellow Board members on the expert  
24 working group, or however we're going to implement that on  
25 the trading aspect, the price and the impact. But I'd

1 also like to encourage a working group that would be more  
2 on the industrial sector that would deal with  
3 implementation issues. I think there's a lot of  
4 misinformation out there. And I think when it's  
5 appropriate, it would be very helpful in the outreach to  
6 be able to do an implementation group which has been very  
7 successful on some of our other very difficult rules. And  
8 I would encourage that. Although I'm not suggesting  
9 anything specifically for a resolution. That's just an  
10 encouragement.

11           So with that, I think I will say that I will stay  
12 involved. I have a laundry list myself. But I do want to  
13 say thank you very much, not only to staff but to  
14 stakeholders. We'll stay close to assure that we can be  
15 helpful in any way that you need us.

16           Thank you.

17           CHAIRPERSON NICHOLS: Thank you very much.

18           Dr. Telles, do you have any additional points?

19           BOARD MEMBER TELLES: Well, first of all, I think  
20 last week everybody was in a -- the people that I talked  
21 to were in a panic about the trade-exposed and  
22 energy-intensive issue in this. And I think in listening  
23 to the staff here and the comments from the public,  
24 that this was going to be a six-month process and there'll  
25 be plenty of time to listen. And specifically the



1 industries in the area that I live in, the food processing  
2 industry, had some points that were kind of new and will  
3 be considered, I'm sure, by staff. But that's probably  
4 just representative of one industry, and I'm sure there's  
5 lots of others. And I feel much more confident that  
6 that's going to happen now, that there's a process for  
7 that going on.

8           Now, having said that, I think the process needs  
9 a lot of monitoring. And there is a provision for  
10 monitoring on page 14, at the bottom there, in the  
11 resolution. And I would add a few other things that  
12 should be monitored.

13           Is everybody there at the bottom of the page?

14           "Monitored and reported back on a yearly basis to  
15 the Board." Things which I would add would be the effect  
16 on small businesses. Some of the small businesses here  
17 suggest that there actually be a special committee to look  
18 at that. But I think maybe the staff could do that.

19           I think also the effect of leakage on California  
20 industries. And I would look at that as not just leakage  
21 of carbon but loss of market share for our industries,  
22 some way to report that back to the Board on a yearly  
23 basis.

24           The effect on low income households. And also  
25 the effect -- or the origin of offsets. I think to have

1 the benefits in California, we have to have as many  
2 offsets in California as possible. I would like to be  
3 able to see some kind of report of where the offsets are  
4 coming from, hoping that we will see a lot of offsets in  
5 California. And if we don't see a whole lot of offsets in  
6 California, that would be potentially a problem.

7 PG&E in their comments mentioned that it was  
8 important to monitor the reserve account. And I think in  
9 case we're getting to some critical low level. They also  
10 suggested that if the reserve account gets to some  
11 critical low level, that the price of these allowances  
12 becomes so high that the process be put on hold for  
13 awhile. But I don't know if that's possible.

14 CHAIRPERSON NICHOLS: Well, I think that was what  
15 I was suggesting in the language that I offered and the  
16 methods that could be used.

17 BOARD MEMBER TELLES: But we should at least be  
18 aware of where the reserve account is.

19 So that goes to monitoring.

20 As far as the general concepts of the program,  
21 the Economic Advisory Committee suggested that there be a  
22 dividend or a rebate. And a lot of the public suggested  
23 that also today. And I'm just wondering why wasn't that  
24 included? It's a question. And I'll come in with why I  
25 think it should be included.

1           CHAIRPERSON NICHOLS: Well maybe I could address  
2 that and just put this out there.

3           We have believed from the beginning that while  
4 ARB had -- this is the legal advise that we've had -- that  
5 while ARB has the option to conduct an auction - and not  
6 everybody agrees with this, by the way, but I think our  
7 attorneys are comfortable with this - that we have the  
8 authority to conduct an auction, we do not have the power  
9 to appropriate the money to direct how the money would be  
10 spent from the auction. So, you know, I guess we've gone  
11 out on a limb by saying what we think should happen with  
12 some of the proceeds.

13           BOARD MEMBER TELLES: I was -- you know, we have  
14 the -- the utilities are getting a free auction and we  
15 kind of tell the utilities how to use that.

16           CHAIRPERSON NICHOLS: I grant you it's a question  
17 of what's within our authority.

18           BOARD MEMBER TELLES: And what's the difference  
19 in telling a utility to use it for this energy saving  
20 thing directed by the PUC versus just giving a rebate back  
21 to the ratepayer?

22           CHAIRPERSON NICHOLS: Well, could I pull lawyer  
23 rank on you? There's a difference between a tax and a  
24 regulation, even though some people are going to say  
25 they're the same thing. And we could go a lot further

1 into this if you want to, but I don't want to do it right  
2 here.

3 BOARD MEMBER TELLES: Can I pull a common sense  
4 rank?

5 The common sense is this is a market -- It's  
6 supposed to be market-based. We're excluding I think the  
7 most important entity from the market, and that's the  
8 citizen from California. And the way we're excluding them  
9 is that they're not getting a rebate to decide how to use  
10 the money from this market.

11 CHAIRPERSON NICHOLS: I don't think we're  
12 excluding them. I just think we're doing the limits of  
13 what we have the authority to do.

14 BOARD MEMBER TELLES: Let me state this a  
15 different way. In page 14 -- or what is it, page -- well,  
16 one of the resolutions there where we direct the Public  
17 Utilities Commission to direct the utilities -- to direct  
18 them to kind of compensate for this --

19 EXECUTIVE OFFICER GOLDSTONE: Is this paragraph 5  
20 on page 12?

21 BOARD MEMBER TELLES: Yeah. And I mean we're  
22 having a public agency tell a public agency telling a  
23 utility how to spend this money. And to me somewhere if  
24 you have three agencies and a public utility involved in  
25 the market, you don't have a market. You know, it's --

1           CHAIRPERSON NICHOLS: This isn't a market like  
2 hog bellies. It's one of the -- it's a market-like  
3 program.

4           BOARD MEMBER TELLES: What I'm saying is let the  
5 citizen in California decide how to use the money from  
6 this rather than have the Public Utilities Commission tell  
7 the public utility or the privately owned utility how to  
8 use the money.

9           CHAIRPERSON NICHOLS: I understand what you're  
10 trying to accomplish. And we could argue about whether  
11 that's the right thing to do economically, legally, or  
12 morally. I'm just saying I don't think we can do it here.  
13 We can talk further about this. But, you know, we could  
14 pass a resolution that said we wished that's what would  
15 happen, that the Legislature would do that. Although I  
16 don't know that we would want to do it right now. But we  
17 can't do it in this regulation.

18           BOARD MEMBER TELLES: Well, I'm a little  
19 confused, because on page 11 where we talk about the  
20 Community Benefits Fund, it sounds like we're directing  
21 the Legislature on how to spend 10 percent of the -- I  
22 know we can't do that, but --

23           CHAIRPERSON NICHOLS: We can't do that. We're  
24 breaking --

25           BOARD MEMBER TELLES: Is the language there

1 wrong?

2 CHAIRPERSON NICHOLS: No, we're just putting it  
3 aside. We're just putting it aside before we turn it over  
4 to them. They can still spend it if they want to. They  
5 could --

6 BOARD MEMBER TELLES: They could spend it any way  
7 they want.

8 CHAIRPERSON NICHOLS: They could do whatever they  
9 wanted to.

10 BOARD MEMBER TELLES: So that little piece of  
11 resolution for the Community Benefits Fund really has  
12 no meaning.

13 CHAIRPERSON NICHOLS: Correct. And we've  
14 acknowledged that. We said that to the community. We  
15 know that if the Legislature wants to come in and override  
16 us on that, they can. And they might. Although I think  
17 that we will -- because we're operating completely within  
18 the language of AB 32, I think we have a strong ground to  
19 stand on there that this is the way that we're  
20 implementing the language that's very clear in AB 32 about  
21 what the Legislature wants to have happen with respect to  
22 impacted communities.

23 I don't think there's anything in the  
24 legislation -- I mean first of all the whole issue of cap  
25 and trade is treated as a maybe, you could do it if you

1 made certain findings. And beyond that there's no  
2 direction as to how it's supposed to work.

3           So, you know, we're inventing this. I mean,  
4 we're just -- you know, we're creating something here  
5 that, frankly, you know, we've adopted or we will have  
6 adopted hopefully by the time we finish with this, you  
7 know, something that we can package up and show to the  
8 world. But there's still going to be quite a bit of  
9 action needed before it actually becomes operational.

10           BOARD MEMBER TELLES: Now, here's the ringer. My  
11 almost noncompromisable position on this is that, when you  
12 read AB 32, one of the important things there is to not  
13 hurt the economy and not to disadvantage any already  
14 disadvantaged community. And no place in this regulation  
15 do we have language strong enough to do that. And I'll  
16 give you a great example.

17           About four months ago I came into my office and  
18 one of the new people I hired was crying. And I said,  
19 "Maria, why are you crying?" And she said, "Well, two  
20 weeks ago they turned off the electricity in my house."  
21 And I said, "They did?"

22           Okay. The Public Utilities Commission and PG&E  
23 didn't protect that person. And I think it's behooving  
24 to -- I mean we need to be in a position to protect that  
25 type of person.

1           And if you look at the Economic Advisory  
2 Committee, page 38, there's a table there that shows you  
3 the disproportionate impact. This is a regressive tax on  
4 the economically disadvantaged community. It's a  
5 regressive tax. It states that in there and it gives a  
6 good example why.

7           I do not think that we can pass something that  
8 doesn't in very strong language protect this particular  
9 group of people. I think it would be -- and maybe we're  
10 not supposed to do moral things. But to me this is a  
11 moral issue that is beyond the issue of greenhouse gas  
12 emissions reductions. This to me is a higher value than  
13 greenhouse gas emissions reductions.

14           I don't know how you're going to deal with this.  
15 But it has to be much stronger than this. I don't think  
16 we're accomplishing what AB 32 wished us to do. There's  
17 not enough protection here for that group.

18           CHAIRPERSON NICHOLS: I don't think we have the  
19 time to debate this. I really don't. And I regret that,  
20 because I don't know what the situation was with the woman  
21 that was working for you or why it was that she couldn't  
22 pay her bill.

23           I live in the utility service area of a utility  
24 which has about half of its customers on lifeline rates  
25 and where people do not get their utilities shut off. I



1 mean there's an emergency fund that exists to make sure  
2 that people don't get their heat and their lights turned  
3 off in winter that people pay into voluntarily. I mean  
4 you really have to be willfully refusing to pay your bill  
5 and unwilling to get help in order to have your  
6 electricity turned off.

7           So I don't know what the story is on this person.  
8 It's sounds like a tragedy. But I just think it's beyond  
9 the scope of what we can talk about right now.

10           We're also about to lose one of our Board  
11 members. And I think everybody here wants an opportunity  
12 to vote on this. We are at the point where, you know,  
13 we're coming down to the last minutes, I think, of  
14 people's ability to stay. And I think it's important that  
15 we give ourselves an opportunity to vote on this measure.

16           So I'm going to have to just stop you on that  
17 one, I think. And I regret the consequences if that is  
18 too difficult for you to accept. But I think it's also  
19 important to realize that there are limits to what we can  
20 resolve before we've actually gone through the details of  
21 implementation here, and there is a lot of implementation  
22 detail. And I think the issue that you're raising is a  
23 legitimate one, for how do we make sure that customers at  
24 the low end are being protected.

25           It's not just the PUC, because 40 percent of the

1 people in the state aren't served by investor-owned  
2 utilities. So it would be something we should look at  
3 doing somehow through the state regulation. And I'll  
4 accept that as an amendment to the regulation, that the  
5 impact on low income people is one of the things that we  
6 need to continue to monitor. I'm just not able to take it  
7 to the next step and specify what the mechanism for  
8 dealing with this is going to be.

9           If you've got other issues that you want to put  
10 in the form of resolution, we've got I think a couple of  
11 minutes and then we're going to lose Lydia Kennard. And  
12 so I'd like to try to wrap this up with the things that we  
13 could actually put in the resolution.

14           BOARD MEMBER BALMES: I have one quick issue, so  
15 hopefully it won't take too long. And it was brought to  
16 my attention by the Coalition For Clean Air, which has  
17 been one of the major supporters of the Community Benefits  
18 Funds.

19           And it was really -- you know, they're very  
20 pleased that we have a Community Benefits Fund resolution.  
21 The second sentence about directing the Executive Officer  
22 to initiate a public process to develop recommendations to  
23 the Legislature and Governor, they're actually concerned  
24 that that's going to impede the Legislature acting quickly  
25 on that. And I just wanted to be reassured that that's

1 not the case.

2           CHAIRPERSON NICHOLS: I think it's not the case.  
3 And I think to do anything different actually makes it  
4 less likely that we have the opportunity to give them some  
5 further -- I mean the legislation that was being  
6 considered before directed us to do exactly the kind of  
7 process that we're saying we're doing now. So in effect  
8 we'd just be getting a jump-start on the legislation as  
9 opposed to precluding it. So I don't think that's an  
10 issue.

11           I have one more that I want to add, which is also  
12 one of the issues that was raised by the environmental  
13 community. It was raised by several people. And that was  
14 a request that we look at the role of biomass under the  
15 cap. It's not there. It's not -- I mean we have the  
16 waste-to-energy issues, which are important. But we have  
17 a lot of biomass in this state, and we haven't thought  
18 about how it gets included or doesn't get included. And  
19 that's one where I'd really like to see the staff initiate  
20 some investigation and report back to the Board. No  
21 specific direction on what to do but to look at that  
22 possibility.

23           BOARD MEMBER BALMES: Well, I was actually going  
24 to bring that up. But in the interest of time, decided  
25 not to. So I strongly endorse that position.

1           CHAIRPERSON NICHOLS: Good. Thank you.

2           BOARD MEMBER SPERLING: Are you asking -- is it  
3 the idea of exempting the biomass from the measurements  
4 or --

5           CHAIRPERSON NICHOLS: Yes. As of now it's  
6 treated as zero for measurement purposes.

7           BOARD MEMBER SPERLING: Okay. So I did give a  
8 lot of thought and time and discussion to that. And I  
9 think that -- obviously a shortcut was taken in doing that  
10 to simplify things. But I think it was a reasonable one,  
11 and so I would -- for the simple reason that, one, on the  
12 transportation side it's already handled through the LCFS,  
13 which is going to be more binding than the cap and trade  
14 in that case; and on the electricity side it's probably  
15 going to be a very minor effect, because most of it's  
16 waste materials to start with. And so, yeah, there'll be  
17 some extra greenhouse gases associated with equipment use.

18           So I would just say I don't -- after paying a lot  
19 of attention and talking to a lot of people, I'd say that  
20 the staff should monitor it especially on the electricity  
21 side. But it's not likely to be a big issue or shouldn't  
22 be a high priority item.

23           CHAIRPERSON NICHOLS: I'd be happy if they gave  
24 me a report that just said what you just said, with a  
25 couple more numbers associated with it, or a citation or

1 two.

2 EXECUTIVE OFFICER GOLDSTENE: We'll work on a  
3 report.

4 CHAIRPERSON NICHOLS: Well, we should look at it.  
5 Just your word is good but not maybe quite good enough.

6 BOARD MEMBER D'ADAMO: I just want to make sure  
7 that - staff would probably do this anyway - but look at  
8 the impacts in the valley, because we have the ag burning  
9 prohibition and a need to redirect that waste, in the  
10 valley especially.

11 CHAIRPERSON NICHOLS: Right. Good point, good  
12 point.

13 EXECUTIVE OFFICER GOLDSTENE: So we could do a  
14 regional analysis.

15 CHAIRPERSON NICHOLS: I think we've done enough.  
16 I think it's time.

17 And I'm also really at the point where I want to  
18 wrap a bow around our decision today, because I think  
19 something extraordinary has been done. And when I came to  
20 the Air Resources Board in July of 2007, it wasn't even  
21 clear that the scoping plan was going to get done. And  
22 since that time we have now acted on every single measure  
23 that was called for in the scoping plan, and done every  
24 single one of them in a timely fashion.

25 It really is an extraordinary piece of work, and

1 obviously the staff has been the one that has done the  
2 bulk of the work. But this Board deserves also to get  
3 itself a lot of credit for the time and effort and energy,  
4 intellectual and other energy that people have put into  
5 becoming experts on the issues that we're dealing with  
6 here today.

7           The cap and trade rule certainly is broader in  
8 its scope and application than any of the other rules that  
9 we've dealt with to date. We know that it is an historic  
10 venture and we know that we will not have gotten  
11 everything right. But we've done everything we could at  
12 this point I think to get it into shape where we can  
13 honestly say that we have a product that we are proud of.

14           And in light of the fact that California did go  
15 through an unprecedented election where there was an  
16 attempt to put the whole program to rest because of the  
17 state of the economy and yet we still are in a situation  
18 where the economy is fragile and where we do need to be  
19 aware of the impacts of everything we're doing, I think  
20 we've made very careful, good judgments about the extent  
21 to which we're following the advice of our advisors that  
22 would have wanted a pure auction versus the advice of I  
23 think most political people which would be to do as little  
24 as possible as slowly as possible, I mean just to make it  
25 very, very cautious and careful. I think we are being

1 cautious and careful, but we're being cautious and careful  
2 within the context of a very bold effort. And it's going  
3 to be something that's going to have to be nurtured and  
4 cared for for a long time to come.

5 But the step that we're about to take is one that  
6 I think we will all look back on and think of as really a  
7 capstone of this administration's work.

8 So I'm going to call for a vote at this point.  
9 And I will ask the Board clerk to call the roll.

10 EXECUTIVE OFFICER GOLDSTENE: Chairman Nichols,  
11 there are two votes, one on cap and trade --

12 CHAIRPERSON NICHOLS: -- and on the mandatory  
13 report -- can't we vote on them both together, the cap and  
14 trade and the mandatory reporting rule?

15 They're two separate resolutions.

16 CHIEF COUNSEL PETER: You could vote on them  
17 both.

18 CHAIRPERSON NICHOLS: Vote on them both.

19 All right. Let's have a motion to approve both  
20 of these resolutions.

21 BOARD MEMBER ROBERTS: So moved.

22 BOARD MEMBER BALMES: Second.

23 CHAIRPERSON NICHOLS: Moved and seconded.

24 All right. Maybe we could do this on a voice  
25 vote. It might be just as easy.

1 BOARD MEMBER TELLES: I don't think we can do it  
2 on a voice vote.

3 CHAIRPERSON NICHOLS: We can't?

4 All right then, we won't.

5 We'll call the roll.

6 BOARD CLERK MORENCY: We're voting on Resolution  
7 No. 1042.

8 Dr. Balmes?

9 CHAIRPERSON NICHOLS: And --

10 BOARD CLERK MORENCY: -- and 10 -- yes, 1043. I  
11 apologize.

12 Dr. Balmes?

13 BOARD MEMBER BALMES: Yes.

14 BOARD CLERK MORENCY: Ms. Berg?

15 BOARD MEMBER BERG: Yes.

16 BOARD CLERK MORENCY: Ms. D'Adamo?

17 BOARD MEMBER D'ADAMO: Aye.

18 BOARD CLERK MORENCY: Ms. Kennard?

19 BOARD MEMBER KENNARD: Yes.

20 BOARD CLERK MORENCY: Mayor Loveridge?

21 BOARD MEMBER LOVERIDGE: Yes.

22 BOARD CLERK MORENCY: Mrs. Riordan?

23 Supervisor Roberts?

24 BOARD MEMBER ROBERTS: Yes.

25 BOARD CLERK MORENCY: Professor Sperling?



1 BOARD MEMBER SPERLING: Yes.

2 BOARD CLERK MORENCY: Dr. Telles?

3 BOARD MEMBER TELLES: No.

4 BOARD CLERK MORENCY: Supervisor Yeager?

5 BOARD MEMBER YEAGER: Yes.

6 BOARD CLERK MORENCY: Chairman Nichols?

7 CHAIRPERSON NICHOLS: Yes.

8 BOARD CLERK MORENCY: And the motion passes eight  
9 to two.

10 CHAIRPERSON NICHOLS: No.

11 BOARD CLERK MORENCY: Excuse me. Nine to one.  
12 Excuse me. I apologize.

13 CHAIRPERSON NICHOLS: That's okay.

14 Well, I have invited the members of the Board and  
15 the staff to come and celebrate after this to have a  
16 little bit of holiday cheer. So hopefully we'll be able  
17 to do that.

18 But before we do that, I know that there's an  
19 indication that press had questions they wanted to ask,  
20 and I was asked to announce that there would be some  
21 availability in the pressroom downstairs in this building  
22 to answer questions.

23 Otherwise, congratulations, and thank you all.

24 Good night.

25 (Thereupon the California Air Resources

1                    Board meeting adjourned at 7:05 p.m.)  
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## 1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand  
3 Reporter of the State of California, and Registered  
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the  
6 foregoing hearing was reported in shorthand by me,  
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the  
8 State of California, and thereafter transcribed into  
9 typewriting.

10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said hearing nor in any  
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 30th day of December, 2010.

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