AIR RESOURCES BOARD

PUBLIC WORKSHOP

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
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BYRON SHER AUDITORIUM, SECOND FLOOR
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--oOo--
JEANNIE BLAKESLEE: Good morning, everybody. We're just going to get everybody a little more situated and then we'll get started. We'll start in about a minute.

There are some handouts in the back of the room. Feel free to pick them up. There is a PowerPoint presentation and some handouts and copies of the Supplement to the FED.

(Pause in proceedings.)

JEANNIE BLAKESLEE: Okay. Let's get started here.

Good morning and welcome to the workshop for the Supplement to the AB 32 Scoping Plan Functional Equivalent Document. I'm going to refer to the document as the Supplement.

My name is Jeannie Blakeslee. I'm sorry. Before we get started today, I will review some important logistics. Please note the emergency exits to the room and to the right of the room -- the right side of the room. And in the event of a fire alarm, we are required to evacuate the room immediately and go down the stairs and exit the building. When the "all clear" signal is given, we can return to the room and resume our meeting.

Rest rooms are around the corner and to the left of
I want to take this opportunity to introduce our other presenter, Christina Morkner Brown, who is staff counsel with the Office of Legal Affairs; and Edie Chang is with us. She is assistant division chief of the Stationary Source Division.

The purpose of this workshop is to present an overview of the Supplement released on June 13th that provides an expanded analysis of the five project alternatives originally included in the 2008 Scoping Plan FED and for us to receive comments on the Supplement.

Many of you are aware that ARB has a Certified Regulatory Program under CEQA that allows ARB to prepare Functionally Equivalent Documents in lieu of negative declarations or Environmental Impact Reports. We refer to these as FED's.

ARB is undergoing the normal CEQA process that ensures public input and transparency and this workshop provides you with an opportunity to provide verbal comments on the Supplement.

Today's presentation discusses key aspects of the Supplement, the process and the timeline.

Christina will provide a brief background on California's Environmental Quality Act and will provide an overview of the chronology of events dealing with AB 32
Scoping Plan and its environmental analysis.

I will present an overview of the alternatives and the analyses and Christina will wrap up with an overview of ARB's next steps. After that, we will open the workshop for questions and comments at that time.

Okay. Christina?

CHRISTINA MORKNER BROWN: The California Environmental Quality Act is the law that applies to most public agency decisions to carry out or approve projects that could have adverse effects on the environment.

CEQA requires that agencies perform analysis about the environmental effects of the proposed actions, provide the public an opportunity to comment, carefully consider all relevant information and avoid or reduce significant impact when feasible before they take action to approve a project.

ARB is a Certified Regulatory Program under which prepares environmental analyses in accordance with CEQA.

CEQA provides impartial judgement and allows groups, such as ARB, to prepare its environmental analyses as part of its staff report or other documents prepared for regulations, plans and standards.

And instead of preparing a negative declaration or EIR, it is typically prepared under CEQA.

In accordance with CEQA and ARB's regulations, the staff report or other documents must describe anticipated
adverse and beneficial environmental impacts associated
with the proposed action.

When adverse impacts are identified, the analysis must
also identify feasible mitigation measures and alternatives
to the proposed project that could reduce identified
impacts.

The analysis must be circulated to the public and
other agencies for review and comment for 45 days.

This analysis was carried out in 2008 for the Scoping
Plan. AB 32 requires that ARB create a Scoping Plan that
outlines the State's strategy to reduce greenhouse gas
emissions to 1990 levels by 2020.

In June 2008 ARB released a draft Supplement Plan for
public review and comments, followed by workshops.

Later, in October 2008, a proposed Scheduled Plan was
released for public review and comment. An environmental
analysis of that Scoping Plan was included in Appendix J,
Volume 3, of the Plan and was titled AB 32 Functional
Equivalent Document or FED.

The FED analyzed and disclosed the potentially
significant environmental impacts that could result in
implementing the measures considered in the Plan. The FED
also included in the discussion an arranged five
alternatives to the Proposed Scoping Plan. Following a
45-day public review and comment period, the Scoping Plan
and the FED were considered by the Board at a public
hearing in December 2008 and subsequently adopted by the
Board's executive officer in May 2009. Soon after a
lawsuit was filed challenging ARB's adoption of the Scoping
Plan.

In March 2011 a trial court issued a decision that
denied the majority of the claims and held that the
environmental analysis of the Plan was adequate under CEQA
but held that one portion of the FED, the analysis of the
alternatives, did not provide enough detail for informed
decision-making.

ARB has appealed the ruling. Meanwhile, to resolve
any doubt in the matter and in the interest of informed
decision-making and public participation, ARB is revisiting
the alternative analysis and staff is providing a
Supplement with an expanded and more detailed analysis in
accordance with the Court's direction.

This one section of the environmental analysis is the
subject of our discussion today. The Scoping Plan is
referred to in the Supplement as the Proposed Scoping Plan
because the Plan is being fully brought back to the Board
for reconsideration along with the Supplement.

The Scoping Plan is not, however, a new or updated
Plan. It contains the same objectives and framework for
greenhouse gas emission reductions as prepared in 2008.
JEANNIE BLAKESLEE: The Supplement provides a revised environmental analysis that if approved by the Board will replace the alternative section of the 2008 FED.

The five alternatives are the same as those in the 2008 FED, which the Court found to comprise of a reasonable range of the project alternatives.

The purpose of the alternatives analysis is to evaluate whether any project alternative could reduce or eliminate the proposed project's significant effects, while meeting most of the basic project objectives.

The five alternatives are No-Project Alternatives and four action alternatives. The expanded analysis relies on an updated emissions projection in light of current economic forecast including the economic downturn since 2008.

The analysis in the Supplement is programmatic and reflects that the project is the broad plan and not the specific regulation to reduce greenhouse gasses.

I would like to take a moment to provide some content regarding the impact analysis prepared for the Supplement.

The State's guidelines provides direction to agencies with Certified Regulatory Programs and requires the agencies to identify and analyze the effects of foreseeable compliance responses as the basis for environmental impact analysis. The compliance response is an action that if
entered is subject to a regulation would take in order to be in compliance.

The CEQA environmental checklist was used as a basis for determining significance of potential environmental impacts.

Let's move on to the alternatives analysis. The No-Project Alternative is based on existing conditions and what would be reasonably expected to occur in the foreseeable future. It serves as a foundation for comparison on the environmental impacts associated with approving the proposed plan to the effects of not approving the plan.

ARB, however, cannot adopt this alternative because AB 32 requires ARB to prepare and approve the Scoping Plan. The no-project description is updated to reflect current information.

In 2008, 2020 greenhouse gas emissions in California were estimated to be 596 million metric tons of CO$_2$e using the 2002 to 2004 emissions data. And based on the 2006 to 2008 emissions data and the 2010 updated economic analysis that considered the economic downturn and factoring in the pre-2006 target, adjustments of about 80 million metric tons are made. This includes the Pavley Standards and the 20 Percent Renewable Portfolio Standard.

Table 2.3-1 of the Supplement and Table 1 of the
handouts provides a summary. The new BAU greenhouse gas emissions is 507 million metric tons CO₂e in 2020. This is still 16 percent above the 2020 target of 527 million metric tons.

This includes these early action measures and measures that are a separate authority and are already approved by ARB and are already in effect. This gets us to 449 million metric tons.

The rulemakings pursuant to AB 32 is still in process, such as the Cap-and-Trade Regulation and the Advanced Clean Cars, are not taken into account leaving us with a shortfall of approximately 22 million metric tons.

Alternative 2 relies on a Cap-and-Trade Program for achieving the full 22 million metric ton reduction.

The total greenhouse gas emissions decreased in compliance with a cap that declined over time, while covered entities are afforded the flexibility to receive the most cost-effective actions to reduce emissions.

This alternative would reduce greenhouse gasses to the implementation of compliance response that include upgrading equipment, fuel switching, process improvements, the reduction in the operations and the implementation of carbon offset programs. The emissions reduction could be expected to occur in the most cost-effective manner.

The air quality is expected to improve statewide and
many co-benefits would occur with -- I'm sorry -- with an effective market grid in the Greenhouse Gas Reduction Program.

These co-benefits include energy conservation and efficiency, reduce fossil fuel use, reduction of the regional co-pollutants and job performing economic opportunities related to the facility modifications and the development of energy efficiency technologies.

Potential impacts associated with the Cap-and-Trade Alternative includes but are not limited to localized impact and impacts associated with site preparation and construction activities.

Under Alternative 3, ARB would adopt regulations that establish source-specific emission limits or performance standards to achieve the reductions.

ARB staff developed a range of direct regulations to achieve the 22 million metrics tons that include: One, a requirement that electric utilities displace at least 50 percent of their coal-based generation having generations that have no higher emissions than the emissions rate set by CPUC and the CEC for the new long-term energy contracts pursuant to SB 1368.

To provide additional emissions reductions needed to achieve 22 million metric tons, three industrial categories have been identified: Large refineries, cement production
facilities and large oil/gas extraction facilities can be considered.

And the Advanced Clean Car Standards component of the Alternative 3 is based on the proposed currently -- the proposal currently being developed by ARB. And this measure would reduce greenhouse gasses as well as friction pollutants and toxic air contaminates.

The standards would update us on several existing programs that reduce pollution from vehicles into a single regulatory framework. This framework includes the Low Emission Vehicle Program, the Greenhouse Gas Reduction Program, often called the Pavley Standards.

ARB plans to integrate the zero-emission vehicle requirements into this new effort.

Zero-emission vehicles includes the battery, electric, fuel cell, plug-in hybrid electric vehicles.

A clean fuel outlet component would also be considered for inclusion into this alternative.

Alternative 3 could potentially meet fundamental objectives reaching the 2020 emissions reduction target. However, there is some risk of leakage to other regulated states that could undermine the benefits of this achievement. This alternative would reduce greenhouse gas emissions with the use of source-specific standards for electricity generation and the industrial sources of
refinery, cement production and oil and gas extraction.

The compliance responses for the resources would be similar to the Cap-and-Trade Program according to each facility's flexibility to meet emissions obligations.

Compliance responses for electricity as industrial sources could include implementing energy efficiency modifications, making fuel changes and other operational improvements. The likely response to coal displacement regulation would be construction of new and expansion of existing combined-cycle natural gas plants.

And the difficulties in getting some new plants constructed and permitted in California, such construction may take some considerable time and could be outside of California.

Compliance responses to the Advanced Clean Car Program would involve improved engine and transmission technologies, vehicle technologies, some mass reduction, electrification and accessory technology and electric drive technologies, including hybrid technology.

The improvements in vehicle technology would result in a greater use of electricity and fuel cell in powered vehicles. And the construction of the alternative fuel stations to serve plug-in hybrid and battery, electric vehicles and fuel cell vehicles would be necessary as well.

Running out of breath there. Within the range of
alternatives, a carbon fee represents an approach for pricing as set by the state. The carbon fee for a state is an example of a charge levied on economic activity that causes a cost to be incurred by the public and state resulting from global warming risk. These costs are sometimes called "externalities."

The carbon fees or tax provides a clear signal of the price that parties would face with greenhouse gas emissions. Setting the cost of carbon emissions on covered energies through a fee or tax does not guarantee a specific emissions outcome because there is neither a regulated cap as in cap-and-trade nor a defined performance standard, as in a direct source-specific regulation.

A carbon fee or tax would be defined administratively by statute and/or the regulation.

If a carbon fee or tax was implemented in California, four key design issues must be addressed. First, the covered sectors must be identified. And for this analysis -- for the analysis purpose, we assume that the sectors potentially subject to the carbon fees or tax would be those slated to be covered under the proposed Cap-and-Trade Regulation. It includes electricity, transportation, fuel, natural gas and large electric industrial sources that emit 25,000 metric tons or more.

The level of the fee would need be to decided. The
state must determine the carbon fee or tax level and whether or how to change it over time.

And the exact quantity of emissions subject to the fee or tax and the point of regulation would also have to be determined.

The sector -- the sectors affected by this alternative would be the same as those included as covered entities in the proposed Cap-and-Trade Regulation.

Compliance responses by affected entities could include fee or tax payment, fee and tax payment but also upgrading equipment, switching to lower intensity carbon fuels, implementing maintenance process changes at existing facilities.

As previously indicated, there would be a potential for businesses leaving and consequently there may be impacts associated with siting, construction and operation of new facilities outside of California.

Since some of the compliance responses are similar to those associated with cap-and-trade, the impacts would be similar as well.

Instead of adopting all of the reduction measures in the Proposed Scoping Plan for set measures oriented to a specific primary strategy, ARB could adopt some of the measures or a different mix of them.

Alternative 5 builds on the No-Project Alternative,
which is Alternative 1, by adding a direct regulation that has been defined as technologically feasible and is expected to be cost-effective, a cap-and-trade approach for large industrial sources and electricity generation, and carbon fees on the transportation, commercial and residential fuel sectors.

This alternative combines the elements of alternatives 2, 3, and 4. And the effects are similar to alternatives 2, 3, and 4 and would be -- as would be the potential environmental impacts.

As previously mentioned, the analysis of the environmental impact of each alternative is based on the anticipated compliance response by the private/public entities. Each of the alternatives has environmental advantages and disadvantages compared to the Proposed Scoping Plan, which are discussed in detail in the subsections devoted to each alternative.

Generally, Alternative 1 is not allowed because ARB must adopt a Scoping Plan and would not meet the objectives.

Alternative 2 and 5 would befall compliance response similar to the Cap-and-Trade Program that would result in similar impacts as the Plan. And Alternative 3 and 4 also have impacts similar to the scoping -- Proposed Scoping Plan but arise from slightly different compliance
responses. And these alternatives don't include the
impacts rising from the use of offsets. These alternatives
also include a higher risk of leakage.

The handout also includes a comparative matrix that
illustrates the Proposed Scoping Plan from the alternatives
and achievement in the AB 32 objectives. It is included in
the Supplement at Table 2.8.1.

With the exception of the No-Project Alternative, all
of the other alternatives are designed to cover the 22
million metric ton reduction needed to achieve the AB 32
2020 target.

The alternatives 2 and 5 have the highest potential to
meet the AB 32 objectives in the Scoping Plan.

The ability to meet the objectives is lower for
alternatives 3 and 4, primarily because the risk of
leakage.

Christina?

CHRISTINA MORKNER BROWN: As you know, the Supplement
was released for public review and comment for a 45-day
period starting on June 13th.

Following this review period, which ends July 28th,
ARB staff will consider comments received, written comments
received and any comments made today. During this period,
staff will prepare a written response to comments raising
significant environmental issues based on the analysis
contained in the Supplement.

The written responses to comments will be posted on ARB's website prior to the Board hearing presently scheduled for August 24th, 9:00 a.m. in this auditorium.

At the hearing the Board will consider the environmental document, which includes the AB 32 Scoping Plan FED, as modified by the Supplement; and the written response to public comment, which includes both those prepared or comments received on the Supplement and the comments that were received back in 2008 and the written responses that are currently available on-line.

After consideration of the environmental document, the Board may take action to approve the Proposed Scoping Plan.

JEANNIE BLAKESLEE: This concludes today’s presentation.

Please note that we would be happy meet with any of you so we can fully understand your concerns. And now I would like to open this workshop up to you so we can hear your questions.

Now before you get to -- when you get to the microphone, if you would please identify yourself first. Let us know who you represent and whether you are representing a public agency. And I want to thank you all for coming today this morning.

Now we'll open it up to questions.
STEVE MESSNER: Steve Messner with Environ Corporation.

On of the purposes of today's discussion revision was the adjustments made for current conditions. I think it was one of the bullets in the slides.

I had extreme difficulty tracking why adjustments were made. Some measures were reduced to zero. Some were reduced. Some were not.

Is there a detailed documentation on how those economic or feasible adjustments were made from prior approvals?

EDIE CHANG: The measures that were the measures when you look at them, they were adjusted for sort of two main reasons: One was an economic downturn. Measures that related to, for example, you would have fewer energy efficiency benefits. You did not have as much electricity. You didn't have as much economic growth.

The other source that we used was -- for example, for regulations that were adopted, we looked at the staff report and said here is the -- here are the times that were achieved in the rulemaking procedures.

STEVE MESSNER: Let me be clearer. Is there documentation? I mean, there -- we see the result from you go from 10 to 0. Is there documentation on the measures why that specific adjustment was made? In other words, was
it a recession adjustment that was made? And for how much recession adjustment was made? And was it, you know -- pardon me -- an implementation adjustment that was made? How much of an adjustment was made for each measure?

JEANNIE BLAKESLEE: This -- you bring up some important points at this time.

Your questions would require more thought. And are you going to be submitting written comments to this effect?

STEVE MESSNER: I already did.

JEANNIE BLAKESLEE: Great. Thank you for that because at a workshop and speaking off the cuff would be -- we would like to be very thoughtful in our response to that.

You bring up a very good point and thank you.

JAMES NACHBAUR: I'm James Nachbaur, Legislative Analyst.

Two questions. First, I guess for the No-Project Alternative is the baseline you used --

JEANNIE BLAKESLEE: Can you speak into the microphone? Please speak into the microphone and identify yourself.

JAMES NACHBAUR: Yes. James Nachbaur with the Legislative Analyst's Office.

I had two questions. For the No-Project Alternative, does that have the same baseline as the other measures analyses, especially the other measures assumed to be in effect like Low Carbon Fuel Standard? For example, things
like changes in the vehicle fleet, do the baseline for both
of these -- are those consistent?

And then the second question, you said in the slides
that the effect of the carbon tax or fee or cap-and-trade
would be similar in many ways. In Table 2 they seem very
different. It seems in part because in the Cap-and-Trade
Regulations you're making a lot of the decisions to reduce
leakage and risk, for example. Couldn't leakage and risk
also be addressed under direct regulation or carbon tax?

JEANNIE BLAKESLEE: This is one of the questions that
we are going to be looking at in our response to comments.

Have you submitted comments?

JAMES NACHBAUR: No.

JEANNIE BLAKESLEE: Are you going to?

JAMES NACHBAUR: No.

JEANNIE BLAKESLEE: Well, just for information, there
will be a transcript made available. This is part of
public record. We will be responding to this question.

Thank you for that.

WILL BARRETT: Good morning. My name is Will Barrett
with the American Lung Association of California.

A little closer? So we're strongly in support of the
scope and in support of the Plan.

I believe there are certain ways to evaluate the group
on the measures within the Plan. Does the climate goal
improve public health and decrease the air pollution and affect the climate changes particularly in our most vulnerable communities?

The recommendation we would have for strengthening the Supplement would be in the description of the Cap-and-Trade Program to include in your commitment for a periodic review and update, and hopefully an assessment -- emissions assessment. That was a bit of an eyesore.

The ongoing updated assessment of criteria pollutant emissions at -- and real data would help us to more fully understand how the program is actually impacting local communities and tapping into the local impacts that are more included in the initial analysis.

We support the scope and the Plan and look forward to working with you all. Continue to improve the Plan itself and measures. And the best goal is to improve public health.

And we do applaud the recent announcement and applaud the recent measures. Good example of the way the programs could be improved.

We'll be providing written comments as we go forward. Thank you for indulging.

JEANNIE BLAKESLEE: Could I have your name again, please?

WILL BARRETT: Hop-along. It's Will Barrett, American
Lung Association.

CHRISTINA MORKNER BROWN: I can briefly say that just so it is clear that the Scoping Plan looks at measures in a broad way; that each measure that would actually be picked up and goes through its own regulatory process and its own environmental review process and public process as well.

There is ongoing rulemaking and development of all of the various measures.

So that your comment sounded more specific to the ongoing cap-and-trade rulemaking.

NORMAN PEDERSEN: Good morning, Jeannie. Norman Pedersen for Southern California Public Power Authority. Good to see you.

I was hoping to get just a little clarification on how some of the tables worked. For example, you start out with Table 1.2-1, which is basically taken from the 2008 Scoping Plan, showing what we would get from the complimentary measures.

Then you presented Table 1.2-3 as a revised 2020 baseline of 507 million metrics tons. And then you show the reductions from complimentary measures as being 58 million tons. Quite a drop from 112 million tons we had in the 2008 Scoping Plan.

I was wondering if you can walk us from where we were in 2008 to where we are with the five -- with the 58
I'm assuming part of the explanation is that some of the 112 million tons are no longer included in the reduction from measures line because you've gotten to the 507 million by assuming Pavley will be achieved and assuming 20 percent will be achieved. I don't know if I'm correct in making that assumption.

Can you provide something of a walk-thru from the table on complimentary measures that we had from the 2008 Scoping Plan, Table 1.2-1 to where we are with Table 1.2-3 showing where we are today?

UNIDENTIFIED SPEAKER: What page is that?

NORMAN PEDERSEN: 12. Table 1.2-3 is on Page 12. Table from the 2008 Scoping Plan is on Page 9.

EDIE CHANG: I think, you know, for some of us I think I'll defer to Jeannie's response to the gentleman from Environ. But, generally, I did want to -- you did mention that as we talk about the baselines, there are things that did change between 2008 and when we did this Supplement. And one of them is with the economic downturn. We saw a reduction in the BAU emissions estimate for 2020.

The other piece of it that accounts for a fairly substantial portion of it is what you've mentioned. In the Scoping Plan, we didn't consider the first phase of the Pavley Regulations and the 20 percent per RPS in the
baseline.

And when you look at the 507 number that we were calling the baseline in the Supplement and that we used as the baseline in Cap-and-Trade Regulation, we included Pavley and the 20 percent RPS in that. That accounts for -- trying to do the math in my head -- something like 35 million metric tons of reductions that went from not in the baseline into the baseline. That is a big chunk of what that is.

NORMAN PEDERSEN: Do you have an idea of about what other complimentary measures might have been outside of the baseline in 2008 that have now moved into the baseline?

EDIE CHANG: Those were the two.

NORMAN PEDERSEN: Okay. So we still have a little bit of gap.

EDIE CHANG: Right.

NORMAN PEDERSEN: Just one other quick question. I am gathering we don't have the technical staff who put together the numbers here.

On the Table 1.2-2, I couldn't quite get the numbers to add up. For example, I looked at electricity. I see a total for imported electricity from about 98.3 million tons. That does not quite match up with other numbers on, you know, projecting the BAU 2020 forecast electricity. Then I notice up in the uncapped sector,
seems like you have electricity tons.

Do you have any insight as to what is going on with Table 1.2-2 and why we don't have the numbers quite matching? It seems either the 2008 forecast or updated forecast -- I might be --

JEANNIE BLAKESLEE: It looks like we need to do a little more work on clarifying how we got to baseline. You bring up really good points. I know you well enough to know that you've probably submitted some comments or you're about to. This is of real value. So we're getting a broader picture about what people might be confused about. Thank you.

And, of course, we would -- I reiterate we would be really happy to meet with everybody or anybody that wants to speak with us --

NORMAN PEDERSEN: That might be --

JEANNIE BLAKESLEE: -- for additional clarification.

NORMAN PEDERSEN: Thanks a lot.

DAVID BRENTLINGER: Good morning. David Brentlinger. I'm with New Forests. We are a -- we're a company -- we're a mission driven -- did you hear my name? We're a mission driven company that's dedicated to using environmental solutions for environmental problems. And I really wanted to be here to voice my support for the cap-and-trade approach outlined in the scope and proposal and the options
We have been a supporter of that. We continue to do so. And one of the benefits of that that is worth mentioning is our own experience, which is in taking a market approach to carbon emissions. We hire people to approach this problem. We've done so. We're a national company here. We could have located anywhere in the country. We chose to locate ourselves in San Francisco because of the cap-and-trade legislation in California.

We hire staff. We -- the benefit of this alternative is the fact that it does provide a market approach to solving environmental issues. In the course of this, we will raise -- we have raised funds to attack carbon emissions. This will go and has gone towards hiring attorneys, foresters, paying for carbon inventories.

These are benefits, I think, to California in approaching the problem in a way that isn't a burden to the state and can bring in an intellectual cap. It will be to solving the problem as well as funding, which is not tax based.

So I encourage you to consider that added advantage to Alternative 2 in the cap-and-trade system, which it brings a lot more resources to bare to solve the problem and we're happy to be a part of that.

Thank you.
JEANNIE BLAKESLEE: Thank you.

MICHELLE PASSERO: Hi. Michelle Passero with The Nature Conservancy.

First, we are supportive of the Scoping Plan. We think that the current is a sound one for trying to reduce emissions in California most efficiently and effectively.

I had a question on the Supplement. It is -- there has been some discussion on the treatment of the forest biomass for energy within the Cap-and-Trade Program. And it seems like this Supplement might be an opportunity to bring a little more discussion around the potential impacts made, positive benefits of the use of forest biomass or renewable energy and distribution potentially associated with that from the forest land base.

And given some of the discussions we had with ARB staff around this issue -- and we've had very constructive ones -- we had that discussion with respect to the Supplement. And we need to have sort of a little more information on that potential issue here in the Supplement. I don't know. Maybe you've had that discussion and made a decision on that but it would just be good to know.

JEANNIE BLAKESLEE: I want to know, you're asking for a little more discussion within the -- within the construct of the Cap-and-Trade Alternative to include a bit more discussion regarding biomass?
MICHELLE PASSERO: Yeah. I think that would be a "yes." Yes.

JEANNIE BLAKESLEE: Okay. I want to make sure I've captured that.

MICHELLE PASSERO: I would be happy to, you know, provide more information and discussion, if you would like.

JEANNIE BLAKESLEE: Thank you very much. I appreciate that.

JOHN LARREA: Hello. John Larrea with the California League Food Processors.

I guess, you know, the Court decision required -- they said your environmental analysis was sufficient but the alternatives analysis was not.

I know that, based upon the fact you are a state entity, that you can do a kind of truncated analysis here. You don't have -- it does not require a full EIR.

I was hoping -- at least among our members, we would like a little more in depth on economic impacts associated with the alternatives themselves.

It is very difficult for us to judge based upon what we see here, you know, whether or not the alternatives represent what types of choices, for us, based upon not only our markets but also our operating procedures, especially those represented in the valley.

So a little more -- you know, I know it is not
required but I think in terms of this and especially in 
light of the recession, it would really be helpful for all 
of those of us who are not those over a hundred million 
tons emitters but those that are going to be functioning 
and trying to (a) prevent leakage from taking away our 
business or from trying to move out of California; that 
more economic analysis would help us make that decision as 
to which alternative would be best.

JEANNIE BLAKESLEE: Those are valuable points. CEQA 
does not require economic analysis.

However, I can certainly appreciate how economic 
effects can be an indirect environmental impact. I think 
that is what you're getting at.

Is that true?

JOHN LARREA: Yes. And we will be putting in 
comments, too.

JEANNIE BLAKESLEE: That will be very valuable. Thank 
you.

REID STOCKTON: Hello. My name is Reid Stockton. I'm 
with the Center For Community Pharmacy and Ecology. I will 
be submitting written comments. I'll relieve you in 
advance of the burden of responding today.

I did want to get this in front of you now; though I 
have a few recommendations that I would like to ask ARB to 
consider. In general, I believe that the Supplement
overstates a bit the ability of cap-and-trade to meet the
objectives of AB 32 and understates the environmental
impacts of Alternative 2, the Cap-and-Trade Alternative.

It does both of those essentially by not giving
adequate weight to the -- to the mandate included in AB 32
to avoid disproportionate impacts of communities of color
and low-impact communities to ensure that GHG reductions
compliment existing air quality regulations and to reduce
toxic air contaminates.

In addition, the range of alternatives considered, I
find it to be a bit lacking in terms of both range and
depth -- breadth and depth. For example, one of the
obvious things that I think should get expanded
consideration is the possibility of restricting trading to
covered entities that do not do business in communities
that are already over burdened with toxic air contaminates.

Just in terms of the context for these comments, there
are several things we already know. We know GHG emissions
generally come bundled with other toxic air contaminates.
That is something ARB itself noted in its previous
responses in the Scoping Plan.

We also know that there are existing communities that
are already over burdened with toxic air contaminates and
the consequent health impacts. And we know that AB 32
directs ARB to consider those facts. And what we think we
know is that all CO$_2$e is interchangeable. That is really the underlying assumption of all cap-and-trade programs. If you make a reduction in one place, you know, there is a reduction in another place. The truth though is there is growing evidence that is not, in fact, the case. Professor Mark Jacobson of Stanford Civil Engineering Department found that -- and I'm quoting here -- "reducing globally-emitted CO$_2$ will reduce local air pollution mortality, even if CO$_2$ in adjacent regions is not controlled. This result contradicts the basis for air pollution regulations worldwide, none of which considers controlling local CO$_2$ based on its local health impacts. It also suggests that the implementation of the cap-and-trade policy should consider the location of the CO$_2$ emissions as the underlying assumption of the policy is incorrect."

So what all of this boils down to, I think, is that it is important to take advantage of the opportunity ARB has right now. In order to do that, I have a couple of few recommendations that I would like to make.

First, I believe ARB ought to recognize the principles that all CO$_2$e is not equal. The nature and allocation of emissions has to be considered in the creation of a greenhouse gas reduction program.

Second, ARB should prioritize CO$_2$ reductions in
communities that are already heavily impacted by toxic air contaminates.

Third, I believe ARB should reconsider the recommendation pursuing the Cap-and-Trade Program in light of the preceding principles and priority.

And prior to reaching a decision, I want to reconsider a GHG reduction program. ARB should hold hearings to evaluate that recommendation in communities that are already heavily impacted by toxic air contaminates.

Just in conclusion, I would like to comment that it is a bit disappointing that ARB has chosen to merely expand the discussion of the alternatives that were already considered.

There is an opportunity here to re-examine the available alternatives to take seriously the EJ concerns, the Environmental Justice concerns that are highlighted in the lawsuit, which prompted the production of the Supplement.

Let's be frank here for a second. The AB 32 mandated the creation of Environmental Justice Advisory Committee and 7 of the 11 members of that committee were parties to the lawsuit that were brought. I think that speaks to the kind of relationship that ARB has with that Environmental Justice Advisory Committee.

There is an opportunity here to repair the
relationship with communities of color and low-income communities and I think ARB needs to take advantage of that opportunity.

    Thank you.

JEANNIE BLAKESLEE: Thank you.

BRENDA CHANG: Hi. I'm Brenda Chang. I'm with ICF International and I am a team specialist. I work a lot on climate action plans. This is pretty relevant to what we're doing, especially since this has implications on what we need to change in terms of how we help our clients reduce or meet their AB 32 goals.

First of all, I think we've talked a little bit about the measures and whether or not there is documentation on the calculations. I think that is really important. And the transparency of the calculations is really important to us, too, in how we can help our clients to show them how their measures are -- are aligned with ARB's methodology.

So in terms of that, I'm trying to make a recommendation on hoping that the calculations will show the effectiveness -- the change of the effectiveness of the measures as they apply to the BAU emissions and changes in the baseline or other assumptions. And also I was wondering what the estimated timeframe is in which we might expect the documentation? Would it be like within a year or two to three years or when the Board finally approves
JEANNIE BLAKESLEE: Brenda, you bring up some really
good points. We will be clarifying our -- the way we got
to where we got to. I'm sorry about that.

But I encourage you to submit written comments because
your comments are multi-level.

It sounds like the methodology that was used can be
used for people who are preparing their climate action
plans. There may be some guidance we can provide. So this
isn't -- this wouldn't be necessarily a bad thing. It can
be a useful tool is kind of what I'm hearing. Am I
correct?

BRENDA CHANG: Uh-huh.

JEANNIE BLAKESLEE: So we'll probably -- you know,
we'll be happy to meet with you to get some more clarity on
this. We'll look forward to receiving your written
comments as well.

EDIE CHANG: Let me clarify the methodology for how we
developed the Scoping Plan estimates. It is contained in
an appendix in the Scoping Plan. I don't remember the
name.

BRENDA CHANG: J or something?

EDIE CHANG: Volume 3. It has a significant amount of
detail in how we calculated the benefits of the measures in
the Scoping Plan. For every regulation we've adopted,
there is a discussion in the document about how we've calculated the benefits. So that is -- that stuff is already all out there. I think what we've really been talking about is sort of the adjustment of you have this method in the Scoping Plan. There is new information because of the economic downturn. There is new information because there was a regulation adopted. It got "x" many times. We pulled it out of there.

I want to clarify in terms of, you know, folks understanding sort of being able to use it in their climate action plan and methodology, that information is out there already and has been documented.

BRENDA CHANG: Thanks. And timing?

EDIE CHANG: It sort of depends on -- you know, some of the information you're asking for is already out there.

BRENDA CHANG: I know. I'm saying like those adjustments that are not published, whether they will be available and when?

EDIE CHANG: We'll take a look at that.

BRENDA CHANG: Okay.

TIMOTHY O'CONNOR: Hi. Good morning. My name is Tim O'Connor. I work with Environmental Defense Fund. I wanted to make two points today.

One is that obviously the Scoping Plan is -- it is the high level plan for how to reduce emissions in
California. It identified a number of measures in there, many of which have already been implemented. And ARB is doing a great job walking us through the individual measures in actually reducing emissions in California. It has really been important to continue on in that process.

I think as a programmatic EIR, one of the benefits of redoing some analysis like this is that it looks at how, even with an update in the emissions of California or the emission reduction, we need to achieve to get to 1990. It is going to be a mix of measures, which is going to be the best approach to reducing emissions. Some of those measures, direct emission control, some of them financial incentives, some working with local governments. One of them, which EDF feels is important, is the Cap-and-Trade Regulation.

By working together with all of those regulations, we find that it would be the most economically effective as well as the most environmentally effective opportunity to get to the 1990 goals. We think the range of analysis that goes into the alternatives which you put forward really document that.

And we're going to really support, of course, re-adoption of the Scoping Plan as written. And I see that in this analysis it says that the Proposed Scoping Plan is substantially similar or even identical to the prior
Scoping Plan, which is adopted; and that is something we're going to support. That does not mean every regulation ARB puts out there can just be written or done in a way that isn't protective or does not respond to the individual considerations of the sources or of the public health surrounding those communities.

So it is going to be really important for ARB to develop the regulations as they move forward with the Advanced Clean Car Regulation or Cap-and-Trade Regulation to be protective of communities and really responsive to the issues that deal with the individual aspects of trading or whatever it may be.

We really look forward to working with ARB and seeing the FED that comes out of the individual regulations and how, in particular, in a Cap-and-Trade Regulation ARB can be protective of communities. That is one of the reasons we do support a regulation like that.

We think there are things ARB can do and things ARB has proposed to do already in those documents that are going to be protective of the communities and able to reduce emissions in California throughout California and get us to the 1990 goals. I think we need to be working together and figure out opportunities to develop that and other regulations to be the most responsive to communities; but that is something we really look forward to and,
obviously, you have a big challenge ahead of you between now and October and now and over the course of the next decade to make sure that is going to happen. We'll be looking forward to that.

I wanted to say thank you also for taking the time as required by the Court but to really go into a thoroughness of detail required to really show a mix of measures that incorporates all of the things that ARB has already talked about and is going to get us to 1990.

So thank you.

MICHAEL WANG: Hi. Mike Wang with the Western States Petroleum Association.

We wanted to say it is very clear the Supplement is a comprehensive document. We wish we had a little more time to review it but nonetheless we stand before you. We recognize that ARB addressed a lot of the issues that have been identified as being needing further details.

We're going to concentrate our comments for today and our written comments on things that are specific issues or concerns to our industry where we have specific expertise.

We are going to defer comments on the studies of land use and things like that to those who are specialists in the field.

After reviewing the Supplement, our position remains unchanged. We think that well-designed market-based
systems are the most cost-effective way to reduce global greenhouse gas emissions. We see a Cap-and-Trade Program as one such market-based system.

We know that the Supplement has identified a Cap-and-Trade Program as an option that seems to be most viable in short-term. Given the challenges facing ARB and the state, we agree with that assessment.

We will continue to engage with ARB in efforts to initiate a program that is cost-effective and environmentally sound.

We continue to believe -- and I think you've seen that even in your document -- that command and control regulations are not an appropriate way to achieve goals of AB 32 because of their cost inefficiencies.

California acting alone using a command and control program does nothing to address the need for significant global GHG reductions.

Furthermore, command and control regulations don't allow California to link with other programs. Linkage has been a key program element that was a fundamental underpinning of AB 32.

We do see some opportunities for Alternative Number 5, as there may be some means to productively combine the flexibility with constraints.

So in short, we believe a Cap-and-Trade Program must
not include fuels under the cap, recognize trade exposure
to ensure free allowance for trade exposed industry,
include linkage to other programs, include access to
minimize leakage, and have adequate program review
including criteria to assess the efficient function of the
market and actions that could be taken if disruptions in
the market occur as expanded.

We'll submit comments.

JEANNIE BLAKESLEE: Anybody else?

JULIA MAY: Hi. I'm Julia May for Communities For a
Better Environment. I'm the -- the CBE's senior scientist.

I've got my laptop here. I wanted to read you a
couple quotes. I wanted to make a couple statements
responding to what some of the people said earlier. It is
that -- that we can somehow deal with the Environmental
Justice issue later. And it is not responsive to the
communities of color to say we're going to adopt
cap-and-trade and go ahead with this proposal and then
later on check back in on the emissions. That is not
responsive.

The EJ issues -- we appreciate that you're holding
this public process but so far the EJ issues have been
treated as if they were a marginal special interest problem
and not a serious health problem; when, in fact, the
majority of emissions covered by cap-and-trade are located
in communities of color that bare severe burdens. For example, Wilmington, California has about a third of the entire state's oil refining capacity. So this is not a marginal site issue. This is the heart of the industrial corridor of California. We have to address it. Not only does it mean we solve the greenhouse problem but we would also solve the toxic and smog problem. This is really the heart of the issues for all California to reduce greenhouse gas and clean up smog and clean up toxics.

I have to say that the questions that people have put about the lack of documentation in the FED -- we have to agree with that. We thought that you would provide more detail today.

Again, it is not sufficient to say we should look back at the 2008 document for the details of the appendix. We need the technical details. The EJ community has submitted hundreds of pages of technical documents and really led the effort to propose specific economically feasible technological solutions that are direct regulations that will work to clean up the pollution in these communities in California.

And relying on a four-year-old appendix and then changing the calculations now, it just does not come up to the standard that the community needs. People have done their homework and tried really hard to take part in the
We also need ARB to seriously respond and provide us with the technical details.

I want to -- you know, I gave the example of Wilmington. I want to say I think you've realized in the case of Richmond California where Chevron is located, Chevron has been attempting to switch to a heavier crude feedstock, which is much more energy intensive. It has been proven that California's oil refinery industry is switching to a heavier crude feedstock. It uses a lot more energy to refine. It also means there is much more concentration of hazardous materials in the refineries as a result. So both as a matter of the higher carbon of the crude feedstock in addition the higher sulphur content. This is not being addressed by any of the Scoping Plan.

The LCFS does not include emissions directly from the oil refinery. Check with your staff. They've confirmed that with us.

In addition, the cap-and-trade proposal which ARB has clearly stated in other forms that you intend to go ahead with the regulation and that you're continuing to develop them right now, it is -- that does not require any reduction at all from oil refineries. I'm also using oil refineries as an example of all of the other industrial problems that communities of color face in
California. That is the largest one.

And it is really unfair and impractical to have zero reductions for the largest industrial sector in the state that has not only these huge greenhouse emissions but also benzine toxic sulfur emissions.

We're missing the opportunity to clean up these problems. Big opportunity. But we're also going to make the problem worse through cap-and-trade.

This is not just a theoretical problem. We've looked at the evidence from Europe. And also Columbia University did a study of cap-and-trade programs. In every single one they've studied, including the Acid Rain Program, it suffered from over-allocation at least in the early years, if not fatally flawed -- if not causing the programs to be fatally flawed for all years because of over-allocation.

If you have too many cheap credits, there is no incentive for the polluters to reduce. That has proven to be the case in all of the ones they've studied.

In addition to the International Energy Agency in Europe looked at these programs and studied them and said that they were, in general, not ambitious enough. They suffered from banking in early years. That meant you didn't get the reduction in later years. The companies got windfall profits. Credits were too cheap. And they also said it was not necessarily in the economic interest of the
people because of the public because -- let me see if I can find a quote for you -- because they did not prevent price increases to consumers. And they also put companies that were doing better at a disadvantage because they had to compete with companies who could buy cheap credits and not reduce their pollution.

There is a lot of evidence that cap-and-trade is not working. It's not a theoretical issue. It has been shown repeatedly.

We also know by common sense cap-and-trade will not solve the problems directly in our communities.

We have proposed many specific solutions that work. An example, oil refinery boilers and heaters. Many ancient, very large units at oil refineries that power this industry are being allowed to voluntarily reduce their emissions instead of being required to reduce them directly, even though it is well-known and well-established they could come up to modern standards for efficient boilers and heaters.

Your own documents show this would actually save them money and -- while reducing emissions because the fuel costs are high. They're going to do it anyway eventually when it is convenient for them because it saves them money; but, instead, they're going to be allowed to use those pollution credits to offset other increases in
emissions.

We know that these sources are already causing a big health toll in California communities of color. They're causing smog regionally. They're a huge greenhouse gas source. You guys have the experience to clean it up. You have the technical expertise in-house. Right now it does not look like your scoping document is seriously considering doing this. We really hope we're wrong about that.

And I just would end with -- there is a lot I can say about this but we want to see the documentation from you. There have been so many questions across the board from everybody here about the technical issues, the baselines you're using, the changes in the numbers since 2008. And we want you to seriously look at the economically feasible solutions that will comply with AB 32 and will really address the health issues that people suffer from severely. This is the best solution for everybody in California economically and health-wise.

Thank you.

DAVID OPPENHEIMER: My name is David Oppenheimer. I'm unaffiliated but I'm coming from about 18 years of emissions trading experience locally, national and internationally.

And I want to exhort ARB towards simple and
transparent trading programs. Focus on reductions in the programs and absolutely, please, address the concerns that Julia has just raised, Mr. Stockton, Mr. Larrea in appropriate venues. Answer the questions but make trading simple because otherwise it is a disaster.

ANDRE TEMPLEMAN: Hi. Andre Templeman for Macquarie Energy. I'm here just as an observer today.

We did want to thank ARB for all of the work they have been doing. We are cognitive of the fact this is a very complex program.

Two comments we wanted to make was that in our experience in different international markets we do believe there are solutions for a lot of the problems that have been brought up today or a lot of the concerns brought up today within the cap-and-trade market mechanism, as was just stated. You know, an important factor to consider is liquidity efficiency and fundability so that the trading actually happens in an efficient, economical manner.

We would invite anybody who has got questions about ways the market can do that to come to us and we are always open to talk about that.

The other point we want to make is key and something that people are not always cognizant about is the market itself has already started trading these products 18 to 24 months ago. Most of the economic decisions that need to be
made have a 24 to 36-month life period. I think one of the things we advocate is not to let the perfect be the enemy of the good. Every delay that happens for this market does have an impact on the ability of the market to offer solutions out there. And that there is -- you know, it is already trading and the market is already there. So to assume it isn't there because it has not started yet would be a fallacy.

THE REPORTER: Can I get your name again, sir?

ANDRE TEMPLEMAN: Andre Templeman, Macquarie Energy.

MIKE SANDLER: Good morning. My name is Mike Sandler. I have worked for many years in climate protection in Sonoma County in a variety of organizations. I'm here as an individual representing myself today.

I appreciate the opportunity to comment today and I think that revisiting the Scoping Plan continues to be a multi-year that CARB has initiated several years ago and offered many opportunities for public comment, which I tried to participate in in regards to market mechanisms, cap-and-trade and some design elements that I want to refer to quickly.

The carbon size is the goal of the program and the cap-and-trade is the method to achieve that. The design elements of the cap-and-trade will determine the effectiveness at reducing emissions and the distribution of
the environmental and economic impacts and benefits.

For example, a price war on the cap-and-trade system will make cap-and-trade behave a lot like a fee. I think you've mentioned that in your presentation.

The program will be unsuccessful if it does not persist. Your goal is not to implement a cap-and-trade system for two or three years and have it go away. It is going to need popular support from the people of California.

I'll relate a brief anecdote about the regional greenhouse gas initiative in the northeastern states. They auctioned permits, which was a step forward from the previous cap-and-trade programs and used the majority of revenues for energy efficiency in related programs. But there was a lack of transparency to the average consumer who didn't see the direct benefit to themselves. This allowed the state to raid the funds to plug budget deficits.

Later, when the governor of New Jersey -- the new governor -- withdrew from the program, there was no voter constituency mobilized to defend the program.

I raise that because I believe that dividends are an important design element for the cap-and-trade system. The concept is often called cap-end dividend. It would be a way to bridge the legal and political divides between CARB and
some of the plaintiffs in the lawsuit and between the
previous governor's vision and hopefully the current
governor's goals. The dividends can be part of both the
cap system or a fee, and it can apply to both the
electricity sector and the transportation sector.

The state convened the experts in the Economic
Allocations Advisory Committee, EAAC. Their report
recommended the largest share of allowance by the return to
California households.

We believe -- I believe the dividends should be equal
for all people. This goes back to the concept of the
ownership of the shared commons; and that larger users of
electricity of transportation fuels do not own more of the
commons. They should compensate others who share in the
ownership of the commons here.

I'll just quote briefly. A professor, James Boyce,
who is a member of the EAAC committee, he wrote in a blog
recently: "Pollution burdens should be disputed fairly, as
advocated by the Environmental Justice movement, rather
than concentrated in particular communities. And polluters
should pay for their use of the limited waste-absorptive
capacity of our air and water. In keeping with the
principle that the environment belongs in common and equal
measure to us all, the money the polluters pay should be
distributed fairly to the public, as we're the ultimate
owners of the air and water." That is the end of the quote.

Those policies adopt -- if they're adopted here, can have international application. You've probably followed, as I have, with frustration the lack of progress the UN conferences and conventions. But the poorest people in Africa and elsewhere may not have access to cars or electricity but they do have a right to a portion of the limited global emissions allowed under a global cap. The idea to distribute shares or revenues from payments from upstream emitters to all individuals globally, California can start us down this path. Everyone gets the same dividends or same shares. People get paid. And as they receive checks in the mail or on their debit card, they gain an understanding we're all involved in climate protection together.

California and CARB can provide the template for national and international climate policy that provides equal dividends or shares to all Californians.

Thank you.

JEANNIE BLAKESLEE: Anybody else?

NIDIA BAUTISTA: Good morning. Nidia Bautista for Coalition For Clean Air. In addition to the request for the economic analysis, I was also wondering when it -- if we would be able to receive an updated table in light of
the fact you have a new analysis on the emissions reduction? Do you anticipate? Because business-as-usual scenarios are updated.

I also was hoping you would be providing us with updated tables detailing each of the reductions, each of the measures in the original Scoping Plan and what the anticipated scoping change would be in light of the change.

I recommend that it's outside the FED but very much related to the Scoping Plan to adopt. So do we know when and if we'll be receiving that?

JEANNIE BLAKESLEE: We'll be responding to comments and making any necessary changes in the final document and that document will be posted on the web prior to the Board hearing.

NIDIA BAUTISTA: Thank you.

JEANNIE BLAKESLEE: If there is no one else, we can adjourn this workshop. And I thank you all for coming. And please submit your comments.

Thank you so much.

(The public workshop concluded at 12:00 p.m.)
REPORTER'S CERTIFICATE

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STATE OF CALIFORNIA )
COUNTY OF PLACER )

I, DESIREE C. TAWNEY, a Certified Shorthand Reporter in the State of California, sworn and disinterested person, certify:

That the foregoing public workshop was taken before me at the time and place therein set forth;

That the foregoing public workshop was recorded stenographically by me and was thereafter transcribed into typewriting;

That the foregoing public workshop is a verbatim recording of the testimony of the public and others, said transcript being a true copy of my stenographic notes.

IN WITNESS WHEREOF, I subscribe my name this 20th day of July, 2011.

DESIREE C. TAWNEY
CSR No. 12414