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To: MR. KEVIN KENNEDY From: K. Kelley McKenzie

Fax: Pages: four

Phone: Date: MARCH 13, 2008

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March 13, 2008

Via Facsimile to 916.324.5942

Mr. Kevin Kennedy
California Air Resources Board
1101 I Street
Sacramento, CA 95814

*Re: Comments regarding February 29th AB 32 Program Design Technical Workshop –
Scope of Coverage and Point of Regulation for a Potential Greenhouse Gas Cap-and-
Trade Program*

Dear Mr. Kennedy:

As you know, NUMMI is the Toyota/GM venture in Fremont, California that employs about 5000 team members and produces approximately 400,000 vehicles per year. Also, NUMMI has attracted to California 23 affiliated major part supplying companies that employ a total of approximately 4000 additional team members. We appreciate the opportunity to share with you our comments regarding the *Scope of Coverage and Point of Regulation for a Potential Greenhouse Gas Cap-and-Trade Program* as presented at the CARB February 29th AB 32 Program Design Technical workshop.

NUMMI sees environmental stewardship as a very high priority. Through its concerted voluntary efforts, NUMMI has been a model of conservation and environmental innovation over the years. Its systematic review of manufacturing processes has resulted in very high levels of source reduction, water conservation, energy conservation, recycling and the like. Along with all of its other environmental concerns, NUMMI is taking a strong interest in finding workable solutions leading to the reduction of greenhouse gases.

NUMMI truly appreciates efforts to find options to protect the environment while not endangering high paying manufacturing jobs such as those NUMMI and its suppliers offer. As mentioned in the February 29th notice, "AB 32 ... requires the California Air Resources Board (ARB) to prepare a Scoping Plan for achieving the maximum technologically and cost effective reductions in greenhouse gas emissions by 2020." To this end, a direct regulatory framework has proven itself to be a successful approach in bringing about significant emission reductions in an orderly and cost effective way. As long as a direct regulatory framework adopts performance standards which are based on demonstrated cost effective technology, the state should meet both its emissions reduction and economic development goals. As you know, the regulatory adoption of performance standards has been very successful overall in reducing the health based criteria pollutants in California during the past 30 years (i.e., 1975 to 2005). Despite huge growth in the population over this period, California has reduced the five criteria

pollutants (i.e., total organic gases, nitrogen oxides, sulfur oxides, carbon monoxide and particulate matter) by more than 57% overall. This has been accomplished mainly through a direct regulatory performance based program -- in other words without heavy reliance on a cap-and-trade system.

While the performance-based programs have had good results, it does not appear that the same is necessarily so for cap-and-trade systems. Our understanding is that some locations that are using cap-and-trade systems to meet greenhouse gas reduction targets are struggling to make them work, and some are not meeting their emission reduction targets.

Also, a cap-and-trade system may actually have negative results in meeting greenhouse gas reduction targets. In particular, such programs can grant credits for reductions resulting from moving or scaling back operations. The state would undoubtedly have difficulty determining to where the operations are actually moved. Operations could simply be moved to a location where greenhouse gases are not regulated. In such a situation, regulated locations like California could lose jobs (i.e., *job leakage*) without any corresponding actual reduction in emissions.

There are also other potential verification problems. If California accepts credits generated in other locations that do not take extraordinary measures to verify the permanency of reductions for which the credits were granted, the sale of credits could only amount to a trade of money -- not a certain reduction in global emissions. We are discouraged by the prospect that such results might emerge through a cap-and-trade system.

Also, some have argued that a cap-and-trade system should allow credits for past emission reduction efforts. We are concerned that this could lead to a situation where those who had been granted credits could become less prone to participate in greenhouse gas reduction efforts moving forward. This is the difficult point of a cap-and-trade system—those who have credits or money to buy credits need not do anything proactive or technologically innovative to help reach the state targets. Others who are willing to make the investment in conservation and technology then must work harder to assure reduction targets are met.

In summary, we are concerned that a "cap" type program that requires only absolute reductions, rather than allowing for optional compliance with performance based standards, is likely to have several negative effects. In particular, such programs typically result in *job leakage* and reward businesses that move their greenhouse gas-producing business to other states or countries. On the other hand, many companies, like NUMMI, that have kept their business here and have long been working toward waste and greenhouse gas reductions will have fewer remaining options to reduce emissions. These companies may be forced to meet the caps by 1) reducing manufacturing production which has brought a high tax base and well paying jobs to the state, 2) absorbing significant non-value added costs resulting from purchases of emissions "credits" or "allowances" or 3) installing costly technologies which ultimately make the

companies uncompetitive. With any of these choices, California experiences *job leakage* and loses business by reducing its own cost competitiveness vis-à-vis other states or countries.

Some have argued that a cap and trade system would be the best motivator for innovation. A cap and trade system may, indeed, produce technology innovation. However, such a system is always accompanied by non-value added costs. In particular, those who cannot meet the cap must make expenditures for pollution credits. These expenditures sometimes take the place of investment in technologies and equipment that would constitute a long term benefit to the environment. On the other hand, performance standards frequently motivate innovation and ensure that all those regulated are actually investing in technology improvements. Allowing a mix of technologies and processes, which CARB has done in the past, to meet the standard encourages creativity. An added benefit is that such creativity often leads to capital or operational savings which help pay for the new technologies.

For these reasons, NUMMI urges CARB to allow any greenhouse gas source the option to submit to a direct regulatory program based on demonstrated technology and cost effective performance standards in lieu of participating in a mandatory cap-and-trade program. If you would like to discuss these issues further, please contact our consultant, Tony Fisher, at 916.833.0723.

Sincerely,



K. Kelley McKenzie
General Counsel

cc: Chuck Shulock (Via Facsimile to 916.322.4743)