

MEETING
STATE OF CALIFORNIA
AIR RESOURCES BOARD

JOE SERNA, JR. BUILDING
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
BYRON SHER AUDITORIUM, SECOND FLOOR
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Dr. John R. Balmes

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Ms. Doreene D'Adamo

Ms. Lydia H. Kennard

Mr. Ronald O. Loveridge

Mr. Ron Roberts

Dr. Daniel Sperling

Mr. Ken Yeager

STAFF

Mr. James Goldstene, Executive Officer

Mr. Tom Cackette, Chief Deputy Executive Officer

Ms. Ellen Peter, Chief Counsel

Mr. Bob Fletcher, Deputy Executive Officer

Ms. Lynn Terry, Deputy Executive Officer

Ms. Mary Alice Morency, Board Clerk

Ms. Edie Chang, Assistant Chief (SSD)

Ms. Rajinder Sahota, Manager, Program Operation Section

APPEARANCES CONTINUED

ALSO PRESENT

Ms. Jasmin Ansar, Union of Concerned Scientists

Ms. Lillian Alvarez

Ms. Diane Bailey, NRDC

Ms. Adrienne Bloch, CBE

Ms. Shirley Bodi

Ms. Esteli Bowman

Mr. Robert Cabrales

Ms. Sofia Carrillo, Coalition for a Safe Environment

Mr. Ed Casey, California Independent Petroleum Association

Ms. Melissa Cervantes

Mr. Bowman Cutter, Pomona College

Reverend Kenneth Davis

Ms. Narla Deresa

Ms. Cassie Doyle, Consul General of Canada

Mr. Angel Duarte

Mr. Robert Duarte

Ms. Saskia Feast, EOS Climate

Ms. Caroline Farrell

Ms. Eloisa Fernandez

Mr. Juan Flores,

Mr. Tom Franz, Association of Irrigated Residents

Mr. Bill Gallegos, CBE

APPEARANCES CONTINUED

ALSO PRESENT

Mr. Gary Gero, Climate Action Reserve

Mr. David Gonzalez

Mr. Tim Haines, State Water Contractors

Ms. Marie Harrison

Ms. Marcello Hernandez

Ms. Bonnie Holmes-Gen, American Lung Association

Ms. Cara Horowitz, UCLA

Ms. Vivian Huang, Asian Pacific Environmental Network

Mr. Alex Jackson, NRDC

Ms. Carol Jones, CBE

Ms. Margaret Jordan, CBE, Richmond Progressive Alliance

Mr. Dan Kalb, Union of Concerned Scientists

Mr. Greg Karris

Ms. Marcie Keever, Friends of the Earth

Mr. Ken Koyama, CAPCOA

Mr. Tim Lesuik, Climate Action Secretariat, Province of British Columbia, WCI

Mr. Bob Lucas, CCEEB

Ms. Gloria Madrigal

Mr. Fred Main, WIRA

Mr. Alexander Marquez, CFASE

Mr. Jesse Marquez, Coalition for a Safe Environment

APPEARANCES CONTINUED

ALSO PRESENT

Ms. Natalia Marquise

Mr. Paul Mason, Pacific Forest Trust

Mr. David Mata

Mayor Gayle McLaughlin, Richmond

Ms. Machel Medema, California Interfaith Power and Light

Ms. Jeanne Merrill, California Climate and Agriculture Network

Mr. Brent Newell, CRPE

Mr. Tim O'Connor, Environmental Defense Fund

Ms. Ana Orozco, CBE

Ms. Esther Parhees

Ms. Sofia Parino

Ms. Michelle Passero, TNC

Ms. Heather Pearson, WCI

Mr. Norman Pedersen, SCPPA

Mr. Joseph Pinon, City of Carson, SFASE

Mr. Ricardo Pulido, CFASE

Mr. Shankar Prasad, Coalition for Clean Air

Ms. Isella Ramirez

Ms. Maria Ramos

Ms. Griselda Reyes

Ms. Betsy Reifsnider, Catholic Charities, Diocese of Stockton

APPEARANCES CONTINUED

ALSO PRESENT

Ms. Alicia Rivera

Mr. Rodrigo Romo

Ms. Kirsten Schwind, Bay Localize

Ms. Nita Sisamouth, Asian Pacific Environmental Network

Mr. Frenando Solis

Ms. Julia Souder, Clean Line Energy Partners

Mr. Reede Stockton, Center for Community

Mr. Hugo Tamayo

Mr. Robert Noel De Tilly, WCI

Ms. Dorian Tippet

Ms. Jessica Tovar

Ms. Olivia Trujillo

Ms. Veronica Trujillo, CFASE

Mr. Michael Turnipseed, Kern County Taxpayers Association

Mr. Refugio Valencia

Mr. Rodolfo Vallejo

Mr. C.T. Webber, Peace and Freedom Party of California

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PROCEEDINGS

1
2 CHAIRPERSON NICHOLS: Good morning, ladies and
3 gentlemen. Welcome, everyone.

4 The August 24th, 2011, public meeting of Air
5 Resources Board will come to order.

6 And before we take the roll and begin with the
7 proceedings, it's our custom to say the Pledge of
8 Allegiance to the flag. And if the interpreter wants to
9 lead it in Spanish, that would be fine. Thank you.

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

12 CHAIRPERSON NICHOLS: Will you please call the
13 roll?

14 BOARD CLERK MORENCY: Dr. Balmes?

15 BOARD MEMBER BALMES: Here.

16 BOARD CLERK MORENCY: Ms. Berg?

17 BOARD MEMBER BERG: Here.

18 BOARD CLERK MORENCY: Ms. D'Adamo?

19 BOARD MEMBER D'ADAMO: Here.

20 BOARD CLERK MORENCY: Ms. Kennard?

21 BOARD MEMBER KENNARD: Here.

22 BOARD CLERK MORENCY: Mayor Loveridge?

23 BOARD MEMBER LOVERIDGE: Here.

24 BOARD CLERK MORENCY: Mrs. Riordan?

25 Supervisor Roberts?

1 BOARD MEMBER ROBERTS: Here.

2 BOARD CLERK MORENCY: Professor Sperling?

3 BOARD MEMBER SPERLING: Here.

4 BOARD CLERK MORENCY: Supervisor Yeager?

5 BOARD MEMBER YEAGER: Here.

6 BOARD CLERK MORENCY: Chairman Nichols?

7 CHAIRPERSON NICHOLS: Here.

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

10 CHAIRPERSON NICHOLS: Thank you very much.

11 Our beloved Vice Chairman Barbara Riordan is
12 missing due to a personal family emergency. And we know
13 she's going to be watching the proceedings on video
14 camera. We send her our very best.

15 Before we begin, I want to make a few
16 announcements. We have interpretation services available
17 in Spanish for those who need it. Head sets are available
18 outside the hearing room at the attendance sign-up table.

19 (Whereupon the announcement was interpreted into
20 Spanish by the interpreter.)

21 CHAIRPERSON NICHOLS: Anyone who wishes to
22 testify who has not yet signed up, please fill out a
23 request to speak card. They are available at the table
24 outside the auditorium. We appreciate it if you put your
25 name on a card, though it's not required.

1 If you've already taken advantage of the on-line
2 sign up feature, you don't have to fill out another card.
3 But you do need to check in with the Clerk here or your
4 name will be removed from the speaker list.

5 We also want to make sure that people know that
6 we will be imposing a time limit, and we will give three
7 minutes to each speaker. We may have to shorter it to two
8 because of the number of people who sign up. But if a
9 person is speaking through the interpreter, we will give
10 them the extra time, double the amount of time for the
11 interpreter.

12 (Whereupon the announcement was interpreted into
13 Spanish by the interpreter.)

14 CHAIRPERSON NICHOLS: Thank you.

15 For safety reasons, I would ask you to note that
16 the exits are at the rear of the room. There are two here
17 at the back. If we should have a fire drill, the alarm
18 goes off, everyone has to leave this room and leave the
19 building, go downstairs and across the street over to
20 Cesar Chaves Park where we wait until we get the all-clear
21 signal to come back into the room.

22 We have only one item in front of the Board
23 today -- I do want to say one other thing. Because I
24 believe there may be people who are planning to come later
25 and speak who are probably listening now. I want to ask

1 everyone who intends to speak, even if you're at the end
2 of the list and probably won't get heard until late, I
3 want to ask you to sign up before noon, because otherwise
4 we'll just have an endlessly rolling list. And we will
5 not be able to accommodate everybody. Or those at the end
6 will have next to no time to speak and everyone will have
7 taken up all the time at the beginning. So we need to cut
8 off the sign-up list at noon today for people who are
9 planning to address the Board. If you decide not to
10 speak, you can always decide not to, but we need you to
11 put your name down on the list.

12 The plan for today is because this is a big item
13 with a lot of people who want to talk, we will not take a
14 lunch break at noon. The court reporter has agreed that
15 she will accommodate us. And we will attempt to be
16 thoughtful about taking a break every couple of hours for
17 ten minutes or so.

18 The Board members have a staff room in the back
19 of this area, which has both sound and the ability to
20 watch on computer. And if you see people standing up and
21 leaving to go back, they are still listening even if they
22 are not sitting right here in front of you. I may stand
23 up a few times and walk around because I'm sorry to say I
24 did something to my back. And sitting here in one place
25 for the entire day is probably more than I can do. But I

1 will be here for the whole duration of the meeting.

2 I think that's it as far as the public speaking
3 piece of this. There is no lunch break for us today. But
4 obviously if you know where you are on the program, you
5 can adjust your time accordingly.

6 We do know that there are people who came here on
7 bus who need to leave. And our plan is to call those
8 people that we're aware of who came as a group at the very
9 beginning when we begin the public comment period.

10 But the first thing that we're going to do, of
11 course, is to hear from our staff.

12 So we just have one item on the agenda today, but
13 it's a substantial item. Staff is going to be presenting
14 an update on our activities under AB 32, and they will
15 then be presenting to us an updated environmental analysis
16 of the alternatives that have been identified to the
17 proposed Scoping Plan. At the end of the day, the Board
18 expects to make a decision on whether to approve the
19 Scoping Plan as proposed or instead to direct staff to
20 pursue a different alternative.

21 So today's meeting is an opportunity for the
22 Board members to listen and for all of us to take a fresh
23 start at the 2008 Scoping Plan, a fresh look the 2008
24 Scoping Plan and agree on a path forward. And that is our
25 goal for today is to come out of this with a decision on

1 what the path forward will be.

2 So Mr. Goldstene, with that introduction, would
3 you please introduce the staff presentation?

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

6 We are here today to give an update on the
7 progress in implementing AB 32 and to seek direction on
8 how to complete our AB 32 strategy.

9 Here's our plan for this morning. We all start
10 with an update on our AB 32 implementation efforts, a
11 reminder of all the work the Board and staff have
12 accomplished since AB 32 was passed in 2008, including
13 some of the key measures we're currently implementing.
14 We'll then preview some of the upcoming climate change
15 regulations and strategies the Board will hear later this
16 year.

17 This status report will provide context for an
18 update to the environmental analysis of five alternatives
19 to the proposed Scoping Plan. You all received copies of
20 this updated analysis when it was released mid June, as
21 well as responses to the comments which we released on
22 August 19th. After we summarize the updated analysis and
23 the information you received on the status report, the
24 Board will decide how ARB should proceed to meet our AB 32
25 objectives.

1 I'll now ask Eddie Chang from our Stationary
2 Source Division to begin the staff presentation.

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

5 ASSISTANT CHIEF CHANG: Thank you, Mr. Goldstene.
6 Good morning, Chairman Nichols and members of the Board.

7 --o0o--

8 ASSISTANT CHIEF CHANG: Today, I'm here to give
9 you an update on the implementation of AB 32 and present
10 for your consideration the updated environmental analysis
11 of alternatives to the proposed Scoping Plan.

12 --o0o--

13 ASSISTANT CHIEF CHANG: I will start with the
14 status report on our implementation of AB 32.

15 --o0o--

16 ASSISTANT CHIEF CHANG: AB 32 represents a
17 pioneering effort to address climate change. California's
18 long standing pollution control programs have demonstrated
19 that strong environmental regulation and economic growth
20 can go hand in hand.

21 For example, clean car technologies that act to
22 reduce greenhouse gas emission intensity and increase fuel
23 economy are a source of economic growth, job creation.
24 California families benefit from state greenhouse gas
25 emission standards and federal fuel economy policies,

1 whether they buy new cars or not.

2 In addition to addressing climate change,
3 implementation of AB 32 will have positive impacts on
4 improving air quality and public health. These occur
5 because the climate change program is about improving the
6 efficiency with which we use energy and reducing our
7 reliance on greenhouse gas intensive processes and fuels,
8 such as coal and oil. This shift will also provide us
9 with greater energy security and reduce our dependence on
10 expensive imported oil.

11 Furthermore, the clear policy signal that
12 California's commitment to clean energy provides has sent
13 a message to markets, driving investment in clean
14 technology, and increasing energy efficiency. ARB is
15 implementing AB 32, fully aware that a successful program
16 will be a model for future national and international
17 climate change efforts.

18 --oOo--

19 ASSISTANT CHIEF CHANG: We are implementing AB 32
20 in collaboration with our State agency partners at the
21 California Environmental Protection Agency, as well as
22 agencies as diverse as CalRecycle, Cal Fire, the
23 Department of Water Resources, the Department of Food and
24 Agriculture, the Energy Commission, and the Public
25 Utilities Commission.

1 We also solicited advise from a number of formal
2 and informal committees. The Market Advisory Committee
3 provided important recommendations on how market-based
4 measures could play a role in AB 32 implementation. AB 32
5 itself established two advisory committees, the Economic
6 and Technology Advancement Advisory Committee, and the
7 Environmental Justice Advisory Committee. Both of these
8 committees met numerous times and provided advise on how
9 ARB should pursue the 2020 emission goal. The Economic
10 and Allocation Advisory Committee provided important
11 advise regarding our economic modeling, as well as the use
12 of program revenue.

13 California is also participating in the Western
14 Climate Initiative. We are meeting with three of our
15 Canadian partner jurisdictions in Sacramento this week.
16 Some of our partners will provide comments to you later
17 today.

18 We are also coordinating with many other states
19 on energy and climate change program development through
20 the Three Regions Collaborative. And we are learning from
21 and exchanging information with other countries and
22 jurisdictions who are implementing climate change program
23 in order to design the best program for California.

24 --o0o--

25 ASSISTANT CHIEF CHANG: Since AB 32 was adopted

1 in 2006, it would be an understatement to say that ARB has
2 been busy. In December 2007, the Board considered a
3 mandatory reporting regulation to require that the largest
4 industrial sources of greenhouse gases report their
5 emissions. The Board considered revisions to the
6 mandatory reporting regulation at the December 2010 Board
7 hearing, and the staff is now in the process of finalizing
8 this regulation. In December 2007, the Board also
9 considered our 2020 emission target, set at the level of
10 California's 1990 emissions.

11 As required by AB 32, the Board considered early
12 action measures before January 2010 -- nine measures that
13 cover sources ranging from transportation fuels to ships
14 to automobile air conditioners. All nine of these
15 regulations are now in effect and are being implemented.

16 In 2008, ARB developed a climate change Scoping
17 Plan, which builds on the early action measures,
18 recommending a comprehensive strategy to meet the 2020
19 emission goal. The Board has adopted 13 of the
20 recommended measures in the plan.

21 In September 2009, the Board also considered a
22 regulation to fund State agency implementation of AB 32
23 and to pay back loans that ARB and Cal/EPA incurred in the
24 first years of the program. These funds are distributed
25 to seven state agencies to implement AB 32 programs. We

1 are in the process of preparing invoices for fiscal year
2 2011-2012, which will be mailed shortly.

3 --o0o--

4 ASSISTANT CHIEF CHANG: Let me now turn to some
5 of the key measures ARB has adopted and is currently
6 implementing.

7 The low carbon fuel standard is an early action
8 measure that requires a ten percent reduction in the
9 carbon intensity of transportation fuels by 2020. 2010
10 was a reporting year, with 2011 being a first year that a
11 reduction in carbon intensity is required to occur.
12 Though it is early in the program and the required
13 reductions in this period are gradual, several lower
14 carbon intensity fuels are already being used to comply
15 with the regulation.

16 Staff has also been working with the Low Carbon
17 Fuel Standard Advisory Panel, which consists of over 40
18 representatives from industry, the environmental
19 community, and others in an overall review of the
20 implementation of the program as called for under the
21 regulation. Currently, staff plans to return to the Board
22 in December with the results of the program review, as
23 well as recommended amendments to the regulation.

24 SB 375 called on the ARB to set regional targets
25 to reduce the greenhouse gases associated with passenger

1 cars. The Board considered regional targets for 18
2 metropolitan planning organizations in September 2010.
3 The impact of SB 375 is already being felt as regions
4 incorporate the targets into their transportation plans.
5 The focus and energy around sustainable planning has
6 increased, and new tools are being developed. In
7 September, the Board will hear an update on statewide SB
8 375 activities, including the first sustainable community
9 strategy developed for the San Diego region.

10 One of the most important measures in our AB 32
11 strategy was the extension of California's previously
12 existing 20 percent renewables requirement by 2010 to a 33
13 percent requirement by 2020. As you know, ARB considered
14 a regulation to require that 33 percent of electricity
15 delivered to retail customers in 2020 would be generated
16 from renewable sources.

17 The Legislature subsequently passed a bill which
18 contains substantially the same requirements. ARB chose
19 not to finalize our regulation and is now working with the
20 Public Utilities Commission and the Energy Commission on a
21 process to assess the greenhouse gas emission reductions
22 associated with the energy agency's implementation of the
23 program.

24 --o0o--

25 ASSISTANT CHIEF CHANG: ARB has also adopted a

1 number of other measures to implement AB 32. I've listed
2 those measures here. Some of them, like improving
3 efficiency from heavy-duty trucks, are early action
4 measures. Others, like the refrigerant management
5 program, were recommended in the Scoping Plan, and after
6 staff research and development were proposed for Board
7 approval.

8 --o0o--

9 ASSISTANT CHIEF CHANG: As I mentioned earlier,
10 we are not alone in our pursuit of reducing greenhouse gas
11 emissions. Many measures are being developed and
12 implemented by our State agency partners. Most notable
13 among these are the many energy efficiency measures such
14 as the building and appliance standards developed by the
15 California Energy Commission, and the Utility Energy
16 Efficiency Programs overseen by the Public Utilities
17 Commission. This includes the California Solar Initiative
18 that contains incentive programs for solar water heating
19 and roof top solar systems.

20 Also, the Public Utilities Commission has
21 recently finalized a settlement designed to maintain
22 existing combined heat and power facilities and to
23 incentivize new combined heat and power development. We
24 also envisioned emissions reductions from the deployment
25 of high speed rail, which would displace emissions

1 associated with travel.

2 --o0o--

3 ASSISTANT CHIEF CHANG: As you know, AB 32
4 requires ARB to develop and adopt a Scoping Plan that
5 describes the approach California will take to meet the
6 2020 emission goal. The Scoping Plan uses a comprehensive
7 policy framework to recommend greenhouse gas reduction
8 measures. These recommended measures are based on our
9 best knowledge at the time the plan is developed. ARB can
10 pursue these measures or not, depending upon whether
11 further research and consultation with stakeholders shows
12 the measures to be feasible, cost effective, and capable
13 of meeting AB 32 objectives and requirements. However,
14 ARB is not limited by the Scoping Plan. AB 32 gives ARB
15 authority to pursue new emission reduction opportunities,
16 even if they are not in the Scoping Plan.

17 Since the Scoping Plan was first proposed in
18 2008, California and the country have experienced an
19 economic downturn. To reflect the downturn, ARB has
20 updated the greenhouse gas emission inventory. Based on
21 this new inventory, current estimates indicate that we
22 would need fewer emission reductions to meet the 2020
23 goal.

24 --o0o--

25 ASSISTANT CHIEF CHANG: I have described the

1 action we have taken to date. Now let me turn to some of
2 the measures the Board will consider in the upcoming
3 months.

4 The first upcoming measure I will discuss is the
5 proposed Advanced Clean Car Program.

6 --o0o--

7 ASSISTANT CHIEF CHANG: ARB has a long history of
8 regulating passenger cars. With the passage of AB 1493 in
9 2002, we extended our regulatory framework to include not
10 just smog-forming pollution, but also climate changing
11 gases. As the first in the nation, the Pavley regulations
12 authorized by AB 1493 became the benchmark for the vehicle
13 climate change standards. The federal government followed
14 California's lead, adopting standards that essentially
15 made California's greenhouse gas standards the law of the
16 land.

17 We are now taking the next step, integrating our
18 smog and climate standards into a comprehensive advanced
19 clean car program to meet our long-term air quality and
20 climate targets. Advanced clean car is a compilation of
21 several regulatory amendments: The Low Emission Vehicles
22 Program, the Zero Emission Vehicle Program, the clean fuel
23 outlet regulation, and the environmental performance
24 label.

25 The low emission vehicle program has a greenhouse

1 gas component and a criteria pollutant component. Our
2 goals are ambitious: To deploy the leanest possible
3 vehicles to help California attain the health based
4 ambient air quality standards, to reduce greenhouse gas
5 emissions from new cars, and to shift from
6 petroleum-powered vehicles to a zero emission fleet, all
7 of which will be supported by deployment of clean fuel
8 infrastructure via both incentive programs and regulatory
9 requirements. This regulation is currently planned for
10 the Board consideration at the December Board hearing.

11 --o0o--

12 ASSISTANT CHIEF CHANG: As you are no doubt
13 aware, earlier this month, President Obama announced new
14 greenhouse gas emission standards for passenger vehicles
15 for the 2017 to 2025 model years. The Air Resources Board
16 was a party to the development of the standards and a
17 participant in the negotiations with auto makers, along
18 with U.S. EPA, and the National Highway Transportation
19 Safety Administration. In fact, in announcing the
20 standards, President Obama made a special point to
21 acknowledge California's contribution to the successful
22 negotiations.

23 --o0o--

24 ASSISTANT CHIEF CHANG: These new standards cover
25 cars and light trucks and require a fleet average of 54.5

1 miles per gallon in 2025, while reducing greenhouse gas
2 emissions by 38 percent from 2016 levels. Over the life
3 of the program, the measure is expected to save consumers
4 an estimated \$1.7 trillion and reduce our use of oil by 12
5 billion barrels. Initially, it is expected that available
6 advanced technologies and additional hybrid vehicles will
7 be used by auto makers to meet these standards.

8 After that, we will see more full battery
9 electric, plug-in hybrid, and fuel cell powered vehicles.
10 ARB is now in the process of translating the standards
11 into regulatory language. The regulation will set clear
12 targets through 2025, laying a foundation for this next
13 generation of clean vehicles. The standards will continue
14 to be performance-based, allowing auto makers the
15 flexibility to produce vehicles that will fulfill
16 consumers' desire for a range of vehicle choices.

17 --o0o--

18 ASSISTANT CHIEF CHANG: The Cap and Trade Program
19 is another measure that was included in the proposed
20 Scoping Plan and is currently under development. The
21 proposed cap and trade regulation occupies a unique place
22 in the proposed Scoping Plan because it sets an
23 enforceable emission cap on the greenhouse gases that
24 covers 85 percent of the California's emissions. However,
25 the measure itself does not account for the majority of

1 the anticipated emission reductions in the proposed plan.
2 The vast majority of the reductions occur either through
3 other measures adopted by ARB or implemented by other
4 State agencies.

5 The proposed regulation would limit aggregate
6 emissions, but would allow covered entities the
7 flexibility to find the best and most cost effective
8 reduction strategies. The enforceable cap is designed to
9 ensure we meet the AB 32 goal, providing a powerful
10 backstop so that even if direct or other measures do not
11 achieve their estimated reductions, we will meet our
12 objective.

13 The regulation sends a price signal throughout
14 the economy, reinforcing the deployment of lower carbon,
15 more efficient processes and products called for in the
16 direct measures. The durable framework provided by the
17 cap ensures we would not only meet the 2020 goal, but that
18 a regulatory structure would be in place for the long
19 term.

20 The Board considered the proposed cap and trade
21 regulation at the December 2010 Board hearing. At that
22 hearing, the Board also asked for a midyear update on our
23 progress in developing and implementing the cap and trade
24 regulation in such areas as allowance allocation, offsets,
25 biomass, linkage, and market operations and oversight.

1 consumers purchase, while simultaneously ensuring that
2 emission reductions occur.

3 Last December, the Board asked us to report back
4 on the finalization of the allowance allocation system.
5 As described in the proposed regulation, allocations to
6 industry are based on efficiency benchmarks that are tied
7 to specific products. For example, one ton of cement or
8 one barrel of crude oil.

9 For each product, ARB staff developed a benchmark
10 based on average California efficiency. Each sector will
11 receive allowances equal to approximately 90 percent of
12 the sector's emissions. Within each sector, more
13 efficient facilities will fair better, with some receiving
14 more allowances than they will likely need to cover their
15 emissions. Less efficient facilities will be required to
16 take actions to either reduce emissions or to purchase
17 additional compliance instruments.

18 For the electricity sector, we are proposing to
19 allocate allowances to the sector starting at 90 percent
20 of recent emissions. The allocation declines by 15
21 percent through 2020 in line with the rate of decline of
22 the overall program emissions.

23 Within the sector, the allocation among the
24 electricity distribution utilities is based on the cost of
25 carbon in the electricity that each utility procures on

1 behalf of its rate payers.

2 To determine the appropriate amount of allowance
3 for each utility, staff performed an analysis based on
4 resource plans filed with the Energy Commission for the
5 2009 integrated energy policy report. The allocation also
6 builds in the expectation that each utility will achieve
7 its 33 percent renewable portfolio standard goal and
8 continue aggressive investment in energy efficiency.

9 This approach achieves several objectives. It
10 recognizes the early actions taken by many utilities to
11 reduce their emissions. It acknowledges the different
12 emission intensity profiles of California utilities. And
13 it provides strong incentives for all utilities to
14 continue to reduce their emissions intensity over time.

15 Investor-owned utilities must auction their
16 allowances, and we are working closely with the Public
17 Utilities Commission to ensure that the ensuing revenue
18 benefits rate payers in a way that achieves the emission
19 reducing goals of the Cap and Trade Program.

20 Publicly-owned utilities are not required to
21 auction allowances, but like the investor-owned utilities
22 must use their allocations for the benefit of rate payers.

23 Free allocations will decline over time based on
24 two main factors. One is the cap decline factor, which is
25 what ensures that we will reduce emissions to meet the

1 2020 goal. The cap declines at two percent each year for
2 the first compliance period and then at three percent a
3 year from 2015 through 2020.

4 The other fact is based on the risk of emissions
5 leakage. Staff has conducted an extensive analysis of
6 leakage risk with a peer-reviewed methodology used in
7 existing cap and trade programs. This methodology
8 combines two considerations: Trade exposure and the
9 degree to which greenhouse gas emissions influences the
10 cost of the end product.

11 Sectors which have high leakage risk will
12 continue to receive a high percentage of allowances for
13 free through 2020. Sectors with medium or low leakage
14 risk will see reductions in their free allocation
15 beginning with their second compliance period in 2015.
16 ARB has committed to re-visit the leakage analysis before
17 2015 and to adjust leakage risk as necessary to reflect
18 the results of the re-visited analysis.

19 --o0o--

20 ASSISTANT CHIEF CHANG: Offsets are emission
21 reductions from uncapped sectors. If they are generated
22 in accordance with an ARB approved protocol and meet
23 strict monitoring and verification requirements, they may
24 be used to meet up to eight percent of an entity's
25 compliance obligation each compliance period.

1 In December, the Board asked for a report on
2 offset supply, development of additional offset protocols,
3 whether any entities had indicated an interest in applying
4 to become third party registries, and implementation of an
5 offset tracking system.

6 ARB staff estimate that if every entity used
7 their allowable eight percent offsets, approximately 26
8 million metric tons of offsets would be needed in the
9 first compliance period. This is a smaller number than we
10 had previously estimated due to the overall reductions in
11 economy-wide emissions, and because staff is proposing to
12 begin the compliance obligation in 2013 instead of in
13 2012, so entities will not be able to use offsets in 2012.

14 At this time, based on the four offset protocols
15 the Board has endorsed, manure digesters, forestry tree,
16 urban forestry, and deconstruction of ozone depleting
17 substances, ARB will be close to the supply demand for the
18 first compliance period.

19 After extensive review of existing offset
20 protocols, ARB staff plans to investigate three protocols
21 for possible consideration by the Board in 2012. These
22 include pneumatic valves and two potential agricultural
23 protocols.

24 Pneumatic valves are used on oil and gas pipe
25 lines to regulate process variables such as pressure, flow

1 rate, and liquid levels. Replacement of high bleed valves
2 with medium or low bleed valves reduces methane emissions
3 that are released as part of normal pipeline operation.

4 The American Carbon Registry has developed a
5 protocol with calculation methodologies to determine the
6 reduced emissions. In addition, U.S. EPA has a voluntary
7 program called Gas Star designed to encourage deployment
8 of this type of technology to limit methane emissions.

9 But to date, the Gas Star program has not been
10 widely used. If ARB approved the offsets from these types
11 of projects, it could encourage the widespread use of this
12 technology in California and the rest of the country. We
13 would expect that this could achieve 15 to 20 million
14 metric tons of reductions. These sources will be capped
15 in 2015, so these credits could only be generated through
16 2014.

17 In addition, staff proposed to investigate two
18 agricultural related protocols. A nitrogen protocol could
19 provide offsets for the avoided use of nitrogen based
20 fertilizers; while a rice straw protocol could generate
21 offsets by removing rice straw from flooded rice fields to
22 reduce the methane emissions.

23 The American Carbon Registry has published a
24 nitrogen management protocol, while the rice straw
25 protocol is currently under review at multiple voluntary

1 registries. The rice straw protocol has yet to be
2 formally adopted for use in a voluntary program.

3 Both of these protocols rely on emission models,
4 which require field work to better characterize emissions
5 in California. ARB is currently funding field work to
6 validate the model for specific crops and conditions in
7 California, and this information will be used in the
8 protocol development work.

9 Due to the ongoing efforts to quantify emission
10 reduction potential, ARB staff do not have available
11 estimates at this time.

12 We will continue to work with stakeholders and
13 our WCI partners to evaluate the feasibility of other
14 possible offset protocols.

15 Under the proposed regulation, third-party
16 registries play an important role in the offset program.
17 ARB will leverage the resources of existing third party
18 registries to help administer the compliance offset
19 program.

20 To date, two registries have contacted ARB staff
21 regarding their interest in becoming third party
22 registries. The American Carbon Registry and the Climate
23 Action Reserve both administer voluntary registries and
24 have mechanisms and staff in place to provide registry
25 services for the compliance program. ARB will continue to

1 work with these registries, as well as others who express
2 interest, as we develop the offset program.

3 To help provide additional information to
4 registries, protocol developers, project developers, third
5 party verifiers, and the public, staff will also work with
6 stakeholders to develop implementation documents that
7 detail the protocol development process and how the offset
8 program will operate.

9 Finally, we have contracted for development of a
10 market tracking system that would include an offset
11 tracking system. We expect the system to be operational
12 in 2012.

13 In December, the Board also asked for an update
14 on the treatment of biomass and biofuel emissions in the
15 cap and trade program. Under the proposed regulation,
16 specific types of verified biomass are exempt from a
17 compliance obligation.

18 Staff has bolstered the reporting requirements
19 under the proposed mandatory reporting regulation to
20 require the reporting of additional information about the
21 source of woody biomass. This is intended to ensure that
22 only woody biomass harvested in accordance with an
23 approved forestry plan qualifies for an exemption from the
24 compliance obligation.

25 Staff's initial analysis indicates that the cap

1 and trade regulation would be unlikely to have a negative
2 impact on forest biomass. This is because woody biomass
3 is currently considered an economically unviable energy
4 source because of the need to transport material a great
5 distance from the source to a biomass facility, the lack
6 of infrastructure to efficiently collect and transport the
7 materials, and the relatively less expensive cost for
8 fossil fuels.

9 The use of woody biomass will also be restricted
10 by the existing protections limiting harvest activities in
11 forests. However, should the Board choose to pursue the
12 proposed Scoping Plan, ARB could pursue an adaptive
13 management approach to monitor for potential adverse
14 environmental impacts.

15 --oOo--

16 ASSISTANT CHIEF CHANG: In December, the Board
17 asked for an update on the implementation of cap and trade
18 programs by other WCI partner jurisdictions and the
19 expected timing of Board consideration of linking with WCI
20 partner programs. Our Canadian partners in the Western
21 Climate Initiative, British Columbia, Ontario, and Quebec
22 are developing compatible programs to enable linking.

23 We have been working closely with our partners to
24 coordinate our rule makings and to take advantage of
25 potential administrative efficiencies in the operation of

1 our cap and trade programs. Should the Board opt for a
2 cap and trade approach, we will explore potential linkage
3 agreements with possible consideration by the Board in
4 2012.

5 We are working with our local air district
6 partners to investigate potential district information
7 sources to help us develop and implement a strong adaptive
8 management program to identify any localized air quality
9 impacts as a result of the cap and trade regulation.

10 In December, the Board also asked for an update
11 on our efforts to address potential issues associated with
12 air district development of offset projects. Under the
13 proposed regulations, air districts may become offset
14 project developers.

15 As directed by the Board, we have also proposed
16 modifications to the regulations to clarify the district's
17 roles and the conflict of interest provisions regarding
18 district activities. Both the cap and trade regulation
19 and mandatory reporting regulation specify that district
20 actions as part of their normal regulatory functions do
21 not constitute a conflict of interest and that districts
22 will have mechanisms in place to ensure an objective
23 review of any emissions or offset project data reports.

24 --o0o--

25 ASSISTANT CHIEF CHANG: In December, the Board

1 asked for an update on the implementation of a market
2 tracking system. As part of the staff's efforts to ensure
3 a successful implementation of the program should the
4 Board direct us to move forward, we began working on
5 development of a comprehensive tracking system for the cap
6 and trade program. Allowances will only exist within
7 ARB's market tracking system, and the ARB will need to
8 approve all transfers of allowances, minimizing the
9 potential for fraud or theft.

10 ARB is also developing a new emission reporting
11 system that will reflect the proposed update to the
12 mandatory reporting regulation aligning California's
13 requirements with federal requirements.

14 ARB staff is developing contracts to provide
15 additional cap and trade services, auction and reserve
16 sale operation, a contractor to verify the capability of
17 auction and sale participants to meet their financial
18 obligations, and an independent market monitor. We have
19 worked closely with our WCI partners on developing these
20 requests for proposals and expect to issue them, either as
21 ARB or WCI requests for proposals in the very near future.
22 In addition, we are also working on a contract that would
23 provide training for agency staff on how to monitor a
24 carbon market.

1 ASSISTANT CHIEF CHANG: As the Board recognized
2 in December when it asked for this update, market
3 oversight and the ongoing proper operation of the market
4 are critical. We are addressing this challenge in three
5 ways: Deter, detect, and remedy.

6 First, the program and its operating procedures
7 are designed to provide a level playing field, deterring
8 and preventing activities that would compromise the market
9 for allowances and offsets.

10 Second, while we expect that nearly all
11 participants will follow the rules, we must make sure that
12 we can detect those who choose not to play by the rules.
13 ARB is proactively planning to institute market monitoring
14 via an expert independent contractor. This contractor
15 will review and analyze auction and reserve sales and
16 analyze daily market activity.

17 We also intend to work with the University of
18 California to establish a Market Surveillance Committee to
19 conduct timely review of auction and reserve sales and
20 notify ARB if any anomalous behavior is observed in the
21 market operations.

22 Third, the regulation incorporates strict
23 penalties for those who violate the law. ARB will pursue
24 enforcement and strict punishment for those who do not
25 comply with the regulation.

1 --o0o--

2 ASSISTANT CHIEF CHANG: As I mentioned on the
3 previous slide, the cap and trade program is designed to
4 prevent prohibited activities. Key aspects of the design
5 include establishing the manner how auctions will be
6 conducted, allowance holding limits, and requiring rigorous
7 emissions and offset project verification. For example,
8 the format of the auction, a single round, sealed bid,
9 uniform price design with required financial assurance
10 helps prevent manipulation of the auction.

11 The price floor on the low end and the allowance
12 price containment reserve on the high end limit the
13 potential gains from attempting to manipulate the
14 allowance price beyond a fairly narrow window. Market
15 participants will be subject to purchase and holding
16 limits to prevent the accumulation of market power by any
17 one participant. And the executive officer will certify
18 that the auction and reserve sales were conducted in
19 conformance with the regulation before payments are
20 processed.

21 ARB is also proposing to contract with the
22 University of California to conduct market simulations in
23 spring 2012. These simulations would test the robustness
24 of the market design and identify any needed improvements.
25 In consultation with the Market Surveillance Committee,

1 this modeling will stress test the market design under
2 several scenarios, after which the results will be shared
3 with stakeholders.

4 We have been working with a number of state and
5 federal agencies to ensure that there would be rigorous
6 monitoring and enforcement of the regulation. Although
7 ARB can directly regulate the primary market for
8 allowances and offsets, regulation of the secondary
9 market, for derivatives, futures, and other financial
10 instruments, is the purview of the Commodities Futures
11 Trading Commission, or CFTC. The CFTC has seen its powers
12 expanded as a result of the federal Dodd-Frank legislation
13 last year. We are working with the CFTC staff to
14 establish a formal relationship as we launch our market.

15 --o0o--

16 ASSISTANT CHIEF CHANG: In December, the Board
17 also asked for updates on the schedule for deployment of
18 the market tracking system and training for covered
19 entities. This slide summarizes potential implementation
20 time line should the Board choose to proceed with the
21 proposed Scoping Plan.

22 As originally proposed to the Board in December
23 2010, covered entities would be held responsible for their
24 greenhouse gas emissions beginning in 2012. In light of
25 the potential importance of the cap and trade regulation

1 and the need for all necessary systems to be in place and
2 fully functional, we are proposing to initiate the program
3 in January 2012, but start the requirements for compliance
4 in 2013. This means there will be no 2012 allowances and
5 no emissions cap in 2012. This change would not affect
6 the stringency of the program or alter the amount of
7 emission reductions that the program will achieve, keeping
8 us on track to meet the 2020 target.

9 Under this schedule, ARB would begin the program
10 in 2012, with registration of market participants. In
11 spring 2012, we would begin to test the computer systems
12 needed to operate the market and to train market
13 participants. We would plan to hold the first auction of
14 allowances in August 2012 and the first allocation of
15 allowances in fall 2012. Regulated entities would begin
16 to be responsible for their greenhouse gas emissions on
17 January 1st, 2013.

18 --o0o--

19 ASSISTANT CHIEF CHANG: As you can see, the staff
20 have been working on a number of fronts to ensure that
21 should the Board should to pursue a cap and trade approach
22 to achieve the 2020, we will be ready to proceed beginning
23 in 2012.

24 Next slide.

25 --o0o--

1 ASSISTANT CHIEF CHANG: ARB staff will continue
2 to evaluate the potential for additional AB 32 measures.
3 This slide highlights four measures that the staff are
4 currently working on.

5 In coordination with CalRecycle, we are
6 developing a proposed mandatory commercial recycling
7 regulation. The measure has the potential to provide
8 several benefits, including diverting wastes from
9 landfills, promoting reuse and recycling, and reducing
10 GHGs by about five million metric tons. The proposal is
11 schedule to be considered by the Board in October.

12 At the October Board meeting, we will also
13 propose minor amendments to the AB 32 fee regulation to
14 align the definitions with those in the mandatory
15 reporting regulation.

16 We are also preparing to initiative a public
17 process to ensure that large industrial sources subject to
18 the industrial efficiency audit regulation be required to
19 take cost effective actions identified under those audits.
20 The audit results are due to ARB by the end of 2012 and
21 will inform the development of the regulatory requirements
22 staff intends to propose to the Board in 2012.

23 The audit results are due the ARB by the end of
24 2011.

25 ARB staff has also begun work to identify the

1 logistics, infrastructure, and technology improvement
2 needed for California's freight transport system. The
3 long-term objective is a more efficient system that relies
4 on advanced technologies with zero or near zero emissions
5 for all pollutants.

6 We are partnering with the South Coast Air
7 Quality Management District through a working group
8 convened by the Southern California Association of
9 Governments to start with the high traffic, high
10 population corridors between the ports, rail yards, and
11 distribution centers in that region.

12 This concludes my status report on AB 32
13 implementation.

14 --o0o--

15 ASSISTANT CHIEF CHANG: Let me now turn to the
16 updated environmental analysis of the Scoping Plan.

17 --o0o--

18 ASSISTANT CHIEF CHANG: Under the California
19 Environmental Quality Act, or CEQA, agencies must consider
20 alternatives to their proposed project. For each
21 alternative, the agency must describe the potential
22 adverse environmental impacts and analyze whether the
23 alternative will meet the proposed project objectives. In
24 this case, the proposed project is the proposed Scoping
25 Plan. The agency must then compare the potential adverse

1 environmental impacts of the alternatives to the potential
2 adverse environmental impacts of the proposed project and
3 compare each alternatives -- alternatives ability to meet
4 the objectives with the ability of the proposed project to
5 meet the objectives.

6 In currently pending litigation, a California
7 trial court found that the analysis of the alternatives
8 identified in the environmental document for the Scoping
9 Plan was not sufficient for informed decision making and
10 public review under CEQA. ARB disagrees with the trial
11 court finding and has appealed the decision. However, in
12 the interest of public participation and informed decision
13 making, ARB prepared an updated analysis and possible
14 alternatives to the proposed Scoping Plan. This update
15 was released on June 13th for public comment.

16 ARB staff drew upon considerable internal
17 expertise as well as an experienced team of CEQA experts
18 to engage in a serious exercise to re-examine alternatives
19 to the proposed Scoping Plan and to consider the many
20 thoughtful comments we received. The resulting analysis
21 reflects a robust look at alternatives that could meet the
22 main objectives of AB 32, as well as the potential adverse
23 environmental impacts of those alternatives.

24 --o0o--

25 ASSISTANT CHIEF CHANG: I will now describe each

1 of the alternatives, including the ability of each
2 alternative to meet the project objectives and the
3 potential adverse environmental impact of each
4 alternative.

5 The update provides a programmatic level
6 assessment of the alternatives. The level of detail
7 reflects that the project is a broad policy framework of
8 recommended measures. The analysis does not provide the
9 level of detail that would be provided in subsequent
10 environmental documents prepared for individual measures.

11 --o0o--

12 ASSISTANT CHIEF CHANG: The 20 objectives for
13 this project are drawn directly from AB 32 and illustrate
14 the broad range of factors that the Board must balance
15 when choosing the appropriate policy direction for meeting
16 AB 32 goals. I have highlighted some of the key
17 objectives on this slide. They include meeting the 2020
18 emission goal, achieving technologically feasible and cost
19 effective reductions, avoiding disproportionate impacts,
20 and minimizing emission leakage.

21 --o0o--

22 ASSISTANT CHIEF CHANG: The staff evaluated five
23 alternatives: A no-project alternative; alternatives
24 relying solely on cap and trade; direct regulations; and a
25 carbon fee or tax; as well as an alternative that combines

1 elements of the cap and trade, direct regulation, and a
2 carbon fee.

3 I will now discuss each alternative.

4 --o0o--

5 ASSISTANT CHIEF CHANG: The no-project
6 alternative assumes that ARB adopts and implements no
7 further measures to reduce greenhouse gas emissions.
8 Measures which are already being implemented or would be
9 reasonably expected to occur, such as the low carbon fuel
10 standard and energy efficiency, would continue.

11 Under this alternative, California would likely
12 not meet the 2020 goal, falling short by about 22 million
13 metric tons. This alternative is not feasible because ARB
14 is required by statute to meet the 2020 limit.

15 --o0o--

16 ASSISTANT CHIEF CHANG: The second alternative
17 relies solely on cap and trade to achieve the remaining 22
18 million metric tons needed by 2020.

19 For the purposes of this analysis, staff assumed
20 a cap and trade program based on that proposed in October
21 2010. This cap and trade approach would include a
22 transition from free allocation of allowances to auction
23 to minimize leakage, as well as offsets to provide cost
24 containment. Under this alternative, no additional direct
25 regulations, including the advanced clean car regulation,

1 would be pursued.

2 This alternative would be expected to meet the
3 main AB 32 objective of reducing greenhouse gas emissions
4 to 1990 levels by 2020. However, reliance solely on a
5 price signal would likely minimize incentives for
6 technological change to reduce greenhouse gas emissions in
7 the automotive industry. All technologically feasible and
8 cost effective reductions may not be achieved. Although
9 our analysis determines that increases in co-pollute
10 emissions are unlikely, there is a remote potential for
11 localized impacts and the program design minimizes
12 leakage.

13 The potential adverse environmental impacts would
14 likely be similar to those of the proposed Scoping Plan.

15 --o0o--

16 ASSISTANT CHIEF CHANG: The third alternative
17 relies solely on direct regulations to achieve 22 million
18 metric tons of emission reductions. The direct regulation
19 approach described in the analysis targets various
20 sectors. In the transportation sector, the alternative
21 envisions pursuit of the advanced clean car regulations.
22 The alternative would require the replacement of at least
23 50 percent of coal-based electricity generation, with the
24 cleanest natural gas electricity generation. The
25 alternative would also impose facility-specific caps to

1 reduce emissions by 20 percent from large refineries,
2 cement plants, and large oil and gas extraction facilities
3 by 2020. Under this alternative, there is no hard cap on
4 most emissions, although there would likely be a hard cap
5 on emissions from certain facilities.

6 --o0o--

7 ASSISTANT CHIEF CHANG: This alternative is less
8 likely to meet the main objective of reducing emissions to
9 1990 levels to 2020 because there is no cap on most
10 emissions. Because the alternative relies on direct
11 regulations, it is likely to be less cost-effective than a
12 market-based approach and may result in emission leakage.
13 The effect on disproportionate impacts are uncertain
14 because the compliance strategies are unknown.

15 --o0o--

16 ASSISTANT CHIEF CHANG: This alternative could
17 have fewer greenhouse gas benefits because the potential
18 for emission leakage. Other potential environmental
19 impacts are similar to the proposed Scoping Plan.

20 --o0o--

21 ASSISTANT CHIEF CHANG: Under alternative four,
22 ARB would pursue a carbon tax or fee. Although there are
23 myriad ways to design a carbon tax or fee, for the
24 purposes of this analysis, we assumed that tax or fee
25 would cover the same sources that would be covered under

1 the cap and trade regulation and the point of regulation
2 would be the same.

3 In order to minimize leakage, we also assumed
4 that the tax or fee would only be assessed on emissions
5 above a certain benchmark and that other administrative
6 mechanisms could be implemented to minimize leakage. The
7 carbon tax or fee alternative does not include a firm
8 emission cap or performance standards.

9 --o0o--

10 ASSISTANT CHIEF CHANG: The main drawback to the
11 carbon tax or fee is that it risks failing to meet the
12 2020 emission goal. Without a firm cap on emissions,
13 there is less certainty that we will meet the 2020 limit.
14 It would be difficult to set the tax or fee to strike the
15 right balance between obtaining not enough emission
16 reductions, thereby failing to meet the AB 32 goal and
17 obtaining too many emission reductions.

18 And because the fee or tax alternative does not
19 include offsets, the cost would likely be higher than the
20 proposed Scoping Plan. Because a tax or fee approach has
21 no emission cap or performance standard, the impact on
22 local emissions is uncertain. Administrative mechanisms
23 could reduce leakage, but would make a tax or fee more
24 complex to administer.

25 --o0o--

1 ASSISTANT CHIEF CHANG: This alternative may have
2 fewer greenhouse gas benefits because of leakage.
3 However, overall, this alternative has similar potential
4 environmental impacts as the proposed Scoping Plan.

5 --o0o--

6 ASSISTANT CHIEF CHANG: The last alternative is a
7 combination of cap and trade, direct regulation, and
8 carbon fee approaches. Under this alternative, the
9 transportation sector would be directly regulated under
10 the advanced clean car regulation. The industrial and
11 electricity sectors would be subject to a cap and trade
12 regulation. Transportation fuels and commercial and
13 residential natural gas use would be subject to a carbon
14 fee.

15 --o0o--

16 ASSISTANT CHIEF CHANG: This alternative would be
17 less likely to achieve the 2020 emission target because a
18 substantial portion of the emissions are not subject to a
19 firm cap. It would be difficult to set the fee on
20 transportation fuels and natural gas to strike the right
21 balance between obtaining not enough emission reductions
22 and to many emission reductions.

23 This alternative is slightly less susceptible to
24 leakage than the carbon tax or fee option because
25 transportation fuels and commercial and residential

1 natural gas use are less susceptible to leakage than
2 industrial sources.

3 --o0o--

4 ASSISTANT CHIEF CHANG: The potential
5 environmental impacts of this combination alternative are
6 similar to those of the proposed Scoping Plan.

7 --o0o--

8 ASSISTANT CHIEF CHANG: This slide compares the
9 alternatives. Most of the alternatives have the ability
10 to meet the main objective: Reducing emissions to meet
11 the 2020 emission goal, although the likelihood varies.
12 The carbon tax or fee alternative offers the least
13 certainty about meeting the 2020 goal. The alternatives
14 have similar potential environmental impacts to each other
15 and to the proposed Scoping Plan.

16 --o0o--

17 ASSISTANT CHIEF CHANG: As I mentioned, ARB
18 posted the environmental analysis for the alternatives on
19 June 13th for a 45-day comment period. During this public
20 comment period, ARB held a workshop on July 8th to provide
21 clarification on the update as well as to solicit
22 stakeholder comments. We received 109 comment letters and
23 several transcript comments and posted our responses to
24 comments on August 19th. Comments fell into several main
25 categories, with most of the comments focusing on issues

1 other than adequacy of the environmental analysis.

2 Many commentors advocated for a different
3 approach than that in the proposed Scoping Plan. Most of
4 these commentors advocated for a carbon fee or tax instead
5 of a cap and trade, with some proposing reliance solely on
6 direct regulations. Many commentors focused on design
7 features of the cap and trade regulation, including the
8 forestry offset protocol. These commentors were referred
9 to the cap and trade regulatory process.

10 Some commentors expressed concerns about
11 potential localized impacts associated with the proposed
12 Scoping Plan. In the response to comments, ARB also
13 provided additional clarification about the emission
14 reductions associated with adopted and ongoing measures at
15 the request of some commentors.

16 --o0o--

17 ASSISTANT CHIEF CHANG: After consideration of
18 the updated alternatives analysis and the comments
19 received, ARB staff have concluded that the proposed
20 Scoping Plan remains the best approach for achieving the
21 goals of AB 32. The proposed Scoping Plan outlines a
22 comprehensive approach that includes a firm emissions cap
23 to drive emission reductions and includes a market
24 mechanism designed to achieve the most cost effective mix
25 of emission reductions.

1 --o0o--

2 ASSISTANT CHIEF CHANG: Staff recommends that the
3 Board set aside the approval of the 2008 Scoping Plan,
4 approve the environmental analysis, including the updated
5 alternatives analysis and the staff's responses to
6 comments, and approve the proposed Scoping Plan.

7 Thank you.

8 CHAIRPERSON NICHOLS: Thank you very much,
9 Ms. Chang, for a very comprehensive presentation. It
10 covers a lot of ground and represents a lot of work behind
11 it.

12 I think what we're going to do now is to turn to
13 the public and ask the Board members -- I know they've all
14 read and been briefed on the plan and the alternatives
15 analysis and have had many opportunities over the last
16 couple years to receive input, so we will turn to the
17 commentors. To start with, however, we normally call on
18 representatives of local governments or elected officials
19 or representatives of other jurisdictions. And we are
20 fortunate to have here today representatives of our --
21 some of our partner jurisdictions in the Western Climate
22 Initiative. And so we are going to call on them first.
23 We have four speakers. They'll each get the normal three
24 minutes. And I believe the order of their presentation is
25 as follows: First Tim Lesiuk, who's the Executive

1 Director of Climate Action Secretariat for the Province of
2 British Columbia; second, Heather Pearson, who is the lead
3 on air policy instruments and program designs for the
4 Ontario Ministries of the Environment; third, from the
5 government of Quebec, we have Robert Noel De Tilly, Senior
6 Policy Advisor for sustainable development. And lastly,
7 Cassie Doyle, who is the Consul General of Canada here in
8 San Francisco.

9 So if the four of you will come forward, we'll
10 welcome your comments. Thanks for being here.

11 MR. LESUIK: Thank you, Madam Chair. And thank
12 you, Board, for allowing us to make these short
13 presentations today. It's a pleasure to be here in
14 California. We continue to design and development of the
15 regional cap and trade system the option you're
16 considering today.

17 I work for the government of British Columbia.
18 My name is Tim Lesuik, Executive Director of Business
19 Development. And I work in a group called the Climate
20 Action Secretariat that coordinates climate action across
21 all of our government ministries and cross the Province of
22 British Columbia.

23 I'd like to give you some brief background on our
24 province to begin with. BC's the western most province in
25 Canada made up of diverse terrains, peoples, and

1 economies. It's rich in history.

2 And British Columbia's total land area is 95
3 million hectares, larger than France and Germany combined
4 and approximately 10 percent of Canada's total area.
5 Washington state, Idaho, Montana border BC to the south,
6 Alberta to the east, the northwest, and Yukon territories
7 to the north, and Alaska to the northwest. So we have
8 strong relationships with all of those partners and along
9 the pacific coast. And we have many initiatives,
10 including many on climate that link us and attempt to do
11 things collaboratively and benefit from the large
12 populations and initiatives on the west coast that make it
13 an even larger difference as a group than we can as single
14 entities.

15 British Columbia, for contrast with California,
16 has a population of about 44.5 million people; combined
17 GDP of \$191 billion per year, and greenhouse gas emissions
18 of 69 mega tons. So in Canada, we're a small part of the
19 total Canadian greenhouse gas emissions. But the Province
20 has been extremely active over the last four years in
21 looking for ways to reduce the emissions and transition
22 our economy.

23 British Columbia is one of North America's most
24 competitive and dynamic places to do business. We're
25 Canada third largest generator of hydroelectricity, and we

1 provide a significant amount of electricity to the west
2 coast of north America. We're Canada's second largest
3 natural gas producer. And we continue to see tremendous
4 growth in that sector in the northeast to British
5 Columbia.

6 The BC forest sector has fueled BC's economy for
7 decades and is poised for rebirth as demand for carbon
8 neutral wood products and bioenergy has seen continued
9 growth across the Pacific Rim. And at the same time, we
10 have nearly a thousand provincial parks across those
11 millions of hectares of land, parks and protected areas
12 that attract about 20 million visitors per year. And we
13 have over 14 percent or 33 million acres of protected
14 area, more than any other province in Canada.

15 So we balance those dynamic interests on a daily
16 basis. And climate change is bringing the economic
17 interest of those key sectors and environmental interests
18 of the people and the land of British Columbia together.
19 We're having very similar conversations in British
20 Columbia.

21 BC has a road map to a prosperous green economy
22 for the future. The government has put in place a revenue
23 neutral carbon tax on greenhouse gas emissions from fossil
24 fuels and has cut taxes on personal and corporate income
25 tax. We've legislated tailpipe emissions for cars and

1 fuels they use similar to California. We have incentive
2 programs for residential and commercial buildings and
3 we've collaborated on those with California and our
4 western partners.

5 CHAIRPERSON NICHOLS: Excuse me. Three minutes
6 goes by really quickly. If you could summarize quickly.

7 MR. LESIUK: I will.

8 In December 2010, we completed consultation on
9 our proposed cap and trade program and emissions trading
10 and offset regulations align to the Western Climate
11 Initiative, similar to some of you those before you today.
12 We've been working with California and the WCI
13 jurisdictions to finalize the details of the design.
14 We're undertaking a comprehensive economic analysis right
15 now to support a decision by our government whether to
16 move forward on cap and trade. And we believe that the
17 decisions you make today are very important and it would
18 provide us some confidence that in that future as we make
19 our decisions that there will be entities to trade with.
20 There is no cap and trade without the trading component.

21 So we're looking forward to the decisions you
22 make today and look forward to your continued leadership
23 in the Western Climate Initiative.

24 Just as a final note, the staff of all
25 jurisdictions that have worked on this initiative for the

1 past four years have shown great courage and dedication
2 and I think believe deserve our commendation and
3 encouragement to continue to move forward on the design.
4 Looking forward to the decision you make today and to
5 provide us with the opportunity to continue to work with
6 them.

7 So thank you, Madam Chair and Board.

8 CHAIRPERSON NICHOLS: Thank you.

9 MS. PEARSON: Good morning. My name is Heather
10 Pearson. I'm from the Ontario Ministry of the
11 Environment. And I'm also very pleased to be here today
12 to speak to you about the work that's going on in Ontario.

13 In 2007, Ontario introduced its climate change
14 action plan, and this includes greenhouse gas emission
15 reduction targets of 6 percent below 1990 levels by 2014;
16 15 percent below 1990 levels by 2020; and 80 percent below
17 1990 levels by 2050. We know that we need to find
18 reductions in all sectors to achieve the targets, and we
19 annually report on our progress towards this work.

20 Ontario is working hard to reduce our dependence
21 on coal and fossil fuels for energy. We are shifting to a
22 clean energy and low carbon economy, which will be built
23 upon clean and efficient production.

24 A key element of our plan is phasing out coal
25 fire generation and promoting renewable energy. Ontario

1 is on track to phase out the use of coal in electricity
2 generation in the province by the end of 2014. And it's
3 increasing the renewable energy supply and conservation
4 efforts.

5 Ontario's plan to phase out coal by the end of
6 2014 is one of the largest climate change initiatives in
7 North America. To support the phase out, we have also
8 enacted the Green Energy Act, which includes a
9 comprehensive fee and tariff program.

10 We are also addressing emissions from other
11 sectors, including promoting transportation efficiency
12 with record investments in public transit over the past
13 decade, committing more than nine billion to our regional
14 rapid transit projects, 600 million to light rail transit
15 in Ottawa, and 300 million to Waterloo's region rapid
16 transit.

17 Finding other mechanisms to reduce greenhouse
18 gases by protecting and conserve Ontario's water, land,
19 and forest is also underway. We have enacted legislation
20 to strengthen the existing framework through the Green
21 Energy Act, which protects green spaces and focuses growth
22 and the Water Opportunities Act, which conserves water and
23 encourages development of new technology.

24 We are also working to attract green investment
25 in creating jobs. Ontario has attracted 16 billion in

1 private sector investment in renewable energy generation
2 projects. The Green Energy Act, including our feed-in
3 tariff program, is expected to create 50,000 green energy
4 jobs by the end of 2012.

5 Working with our WCI Partners, we have made good
6 progress toward developing an emissions trading program,
7 and we remain committed to developing and implementing a
8 cap and trade program for Ontario.

9 Further work still lies ahead to put in place a
10 program that will work for Ontario's industry and deliver
11 the environmental benefit that Ontarians value.

12 We are working through our greenhouse gas
13 reporting regulation to collect the data needed to design
14 the right program. We have continued to work with our WCI
15 partners on the elements that are needed to support the
16 infrastructure, including the tracking and auctioning
17 system, market oversight, offsets, and possibly an
18 administrative organization.

19 CHAIRPERSON NICHOLS: Your time is up.

20 MS. PEARSON: One thing.

21 CHAIRPERSON NICHOLS: Yes?

22 MS. PEARSON: We all benefited from the expertise
23 and experience brought to the collaborative effort. And
24 we hope that California will decide to continue to move
25 forward towards implementation.

1 CHAIRPERSON NICHOLS: Thank you very much.

2 MR. TILLY: Good morning, Madam Chair Nichols,
3 distinguished Board members. I'm Robert Noel De Tilly of
4 the Province of Quebec.

5 I must admit I'm really impressed by California's
6 hospitality. It's the second time I have a chance now to
7 address this audience. And it's a privilege to us as a
8 representative of a foreign government to have a chance to
9 speak to you.

10 So California and Quebec are quite different. We
11 have a larger territory, but our population is much
12 smaller. I would say about five times smaller. GDP is
13 smaller. GHG emissions also smaller. And our climate is
14 different from yours, of course. But we have something in
15 common, and it is our determination to address the climate
16 change issue. And this is very, very important to us.

17 Quebec GHG emissions now are on the down slope.
18 We were over about four percent above the 1990 level
19 ten years ago. Today, we are two percent below the 1990
20 level, and we have a target of being six percent below the
21 1990 level in two years and also a target of being 20
22 percent below the 1990 level in 2020. This is a very
23 aggressive target. To achieve this target, we have
24 adopted different climate action plans over the years.
25 Presently, we're having about 2,000 projects that are

1 being implemented to reduce these reductions. And we are
2 very hopeful that we will attain -- we will reach our
3 target for 2012 and 2020.

4 Of course, cap and trade is very important part
5 of our strategy to reach this target. And incentive
6 measures are important, but we believe that this trend of
7 the market is very important. And this is why we work
8 with our WCI partners to implement a common program here
9 in order to create a common carbon market. We believe in
10 the strength of the market. And we are very hopeful that
11 we will have adopted our regulation by the end of the year
12 and we will be then in a very good position to sign
13 agreement with our WCI partners that will have adopted
14 their regulation. Thank you very much.

15 CHAIRPERSON NICHOLS: Thank you.

16 MS. DOYLE: Good morning, Madam Chair,
17 distinguished Board members.

18 I'm here both as the Consul General for Canada in
19 northern California as well as the representative of
20 Environment Canada to the Western Climate Initiative. And
21 I'm pleased to have this opportunity to provide with you
22 some information on the government of Canada's approach on
23 climate action, which I trust will provide some useful
24 context for understanding the presentations of my
25 previous -- my colleagues who have just made their

1 presentations.

2 So I want to stress that any progress that we've
3 made in Canada on GHG emissions reduction has been as a
4 result of a combination of federal, provincial, and
5 territorial actions to date. Canada is committed to
6 ensuring long term success through continued collaboration
7 with key partners, such as the provinces represented here.
8 And we also are very interested in engaging with the
9 Western Climate Initiative on a continued basis.

10 In December 2009, the government of Canada
11 committed to a national GHG reduction target of 17 percent
12 below 2005 levels by 2020 as inscribed in the Copenhagen
13 Accord, a target that is fully aligned with the
14 United States.

15 And just a quick status report. In '09, Canada's
16 total GHG emissions were estimated to be 619 mega tons, a
17 decrease of approximately 6 percent from 2008 levels
18 attributed to two things: Of course, the global economic
19 recession and also the reduced use of coal for electric
20 generation in Canada.

21 So Canada's plan to reach its GHG goal in
22 addition to collaboration with our provincial partner is
23 through a sector by sector regulatory approach as well as
24 significant investments in clean energy. In the
25 transportation sector, our largest source of emissions, we

1 have finalized regulations to limit emissions from
2 passenger cars and light trucks for model year 2011 and
3 beyond fully harmonized with regulations in the
4 United States initiated here in California.

5 Work is underway on more stringent regulation for
6 model years 2017, as discussed here this morning. In
7 addition, we are also working with the U.S. to regulate
8 emissions from new heavy duty vehicles and earlier this
9 month released a consultation paper on the main elements
10 of the proposed regulation.

11 The government has also put regulations in place
12 in 2010 requiring five percent renewable fuel content in
13 gasoline. And effective earlier this month, two percent
14 renewable content in diesel fuel and heating and oil.

15 We have recently announced aggressive regulations
16 for the coal fired electricity sectors that will provide a
17 gradual phase out of all traditional coal-fired generation
18 and promote a transition to lower or non-emitting types of
19 generation, such as high efficiency and natural gas,
20 renewable energy and only coal-fired plants that have
21 carbon capture and sequestration facilities.

22 So that in a nutshell is Canada's approach to
23 reducing GHG emissions and meeting our 2020 target.

24 I just want to say that, again, that we will rely
25 on collaboration with the provinces to ensure that we meet

1 those targets and that we look forward to future
2 engagement with the Western Climate Initiative to address
3 progress on climate change. Thank you very much.

4 CHAIRPERSON NICHOLS: Thank you. Thanks for all
5 the encouragement.

6 We are now going to move to the block of
7 witnesses we have signed up through the organization CBE,
8 CRPE, and we have a separate list here. So we will begin
9 with Adrienne Bloch and then Bill Gallegos and Brent
10 Newell.

11 And since the list is up on the board, it would
12 be very helpful in terms of moving the flow of the
13 discussion if you could all sort of be ready to step up
14 when it's your turn. Thank you.

15 MS. BLOCH: Good morning, Chair Nichols and
16 members of the Board.

17 My name is Adrienne Bloch. I'm from Communities
18 for a Better Environment.

19 The court in the case that specifically spawned
20 this process noted that it was not really possible to
21 authentically consider alternatives to cap and trade while
22 at the same time implementing and moving forward with
23 those regulations. It's a process that involves setting
24 up complex new financial markets at a very financially
25 complex time.

1 It's as if you're being asked to consider having
2 breakfast -- considered while you're making bacon and
3 eggs. You're making bacon and eggs, and you're being
4 asked to consider alternatives to that while you're
5 actually at the frying pan. It's highly unlikely you
6 could actually consider any alternative at that time.
7 Here, there was such a hurry this comment period literally
8 overlapped to a comment period on the amendments to the
9 regulation. And I have to say that on behalf of CBE, it's
10 been a little bit of an insulting process. And we hope
11 that today can be something other than just a mere
12 formality on your part.

13 We received the response to comments late on
14 Friday. And we found that the response to comments did
15 not actually respond to the comments that we submitted.
16 Greg Karras as is going to speak in a few comments on
17 giving an example of that. But the responses were also
18 confusing. After establishing that cap and trade
19 disproportionately impacts low-income communities of
20 color, we described alternatives that are feasible and
21 that avoid significant impacts. The response to comments
22 say that some of these alternatives are infeasible and
23 that it's not proper to single out specific sectors in
24 reducing emissions.

25 But then the staff's alternatives analysis

1 singles out specific sectors in its analysis. And then
2 Attachment D on page 64 actually acknowledges that certain
3 alternatives are feasible, but that they would require
4 further study. Staff's decision not to study feasible
5 alternatives is not a sufficient reason to reject an
6 alternative. It's critical that before adopting the fed
7 staff adequately respond to comments and that the Board
8 understand the implications of choosing cap and trade over
9 feasible effective alternatives.

10 CHAIRPERSON NICHOLS: Thank you.

11 Mr. Gallegos.

12 MR. GALLEGOS: I just want to thank Chairman
13 Nichols and the Board for allowing us this time. Really
14 appreciate the chance to engage in this conversation.

15 Before I start, I'd just like to -- not all the
16 people from the community that are concerned about this
17 can say anything. I'd like folks to stand up from CBE and
18 CRPE just to get a sense of the concern people taking time
19 off of work, from school, to be here to engage in this
20 civic process because there is a real concern, a serious
21 concern.

22 Communities for a Better Environment is a member
23 of the Environmental Justice Advisory Committee, one of
24 the Committees mandated by AB 32. And we've worked for
25 several years very diligently, mostly unfunded, to provide

1 thoughtful analysis, critique, and recommendations to the
2 ARB's Scoping Plan. We took it seriously, as did every
3 member of the EJAC. We have a special expertise in oil
4 refineries, so we worked particularly hard in that arena.
5 And we worked with CARB staff since oil refineries are the
6 largest emitter of greenhouse gasses -- we're the third
7 largest refinery state in the country. And we made a
8 number of concrete proposals for reducing this arena of
9 greenhouse gas emissions as well as a range of toxic
10 co-pollutants that would be captured.

11 We actually have to say we had a very positive
12 relationship with the ARB staff in preparing these
13 recommendations. Unfortunately, those recommendations
14 were not included in the Scoping Plan, did not seem to be
15 given serious consideration, despite that support from the
16 CARB staff.

17 It felt to us like the decision to adopt cap and
18 trade for all industrial emissions was a political
19 decision, rather than one based on evidence and science
20 and the potential impacts on low income communities of
21 color. That was our feeling.

22 We are here today because now you have an
23 opportunity to correct this major defect in the Scoping
24 Plan. California has another chance to get it right, and
25 right now California is the only game in town. There is

1 going to be no international climate trade, it doesn't
2 look like. Forget it at the federal level. We are the
3 model. So we have a chance to get it right. We have an
4 obligation to get it right and create a visionary model
5 for this country and for the world.

6 Our proposed alternatives will not only produce
7 direct and verifiable greenhouse gas reductions to meet
8 the goals of AB 32 and we specified exactly how they can
9 be done. They will also benefit the environmentally
10 overburdened communities by capturing co-pollutants, which
11 is one of the considerations in the spirit of AB 32. They
12 will generate and keep new green jobs in California. We
13 have a lot of respect for our folks north of the border,
14 but we need those shops here. We need an economy. We
15 need an economic stimulus here at a time when our economy
16 desperately needs this kind of economic resource.

17 They will ensure that we avoid the fraud and
18 system gaming that have plagued pollution trading programs
19 almost everywhere they've been tried.

20 Members of the Air Resources Board, we ask you to
21 join with us to strengthen the AB 32 Scoping Plan and
22 ensure California's leadership in saving Mother Earth from
23 destruction.

24 CHAIRPERSON NICHOLS: Thank you so much. Thank
25 you to all the people who have come today to be here to

1 listen and participate.

2 I want to say what I said at the outset, which is
3 this Board is not under any obligation to act in any
4 particular manner, except to do what we think is right.
5 That's what we were appointed to do and that's what we
6 will attempt to do.

7 Mr. Newell.

8 MR. NEWELL: Good morning, Madam Chair and
9 members of the Board. My name is Brent Newell. I'm the
10 general counsel of the Center on Race Poverty and the
11 Environment.

12 We are here and I am here appearing on behalf of
13 those individuals and groups that signed our comment
14 letter. And I would remind the Board that the California
15 Environmental Quality Act requires the Board to engage in
16 a meaningful and good faith analysis of alternatives.

17 If you approve the alternatives analysis and
18 proceed with the Scoping Plan as proposed by staff, then
19 you will violate that duty.

20 Ever since you lost the lawsuit Association of
21 Irrigated Residents versus California Air Resources
22 Board -- and I say "you" intentionally because this Board
23 was the defendant, you in your official capacity are named
24 as defendants.

25 This Board's tactics have betrayed your

1 intentions and makes this analysis nothing more than a
2 post hoc rationalization for a decision that is cap and
3 trade that you've already made and that you appear to have
4 no intention from changing.

5 Right after you lost that lawsuit, you
6 immediately appealed Judge Goldsmith's decision and his
7 injunction that ordered you to stop developing cap and
8 trade. You immediately sought what is called a writ of
9 supersedeas, which is in English an order from an
10 appellate court stopping Judge Goldsmith's injunction from
11 taking effect.

12 You argued that if you did not get any relief
13 from the appellate court that you would be somehow
14 irreparably harmed or the environment would be harmed if
15 you could not implement cap and trade on January 1st,
16 2012.

17 The court of appeals allowed you to continue to
18 develop and implement cap and trade. They granted your
19 petition. So Judge Goldsmith's decision was suspended.

20 Now, I want to add that just five days after the
21 court of appeals halted Judge Goldsmith's decision,
22 Chairman Nichols announced that you were deferring
23 enforcement and operation of cap and trade for a full
24 year, until January 1st, 2013. So you told the court of
25 appeals one thing, and then you got the remedy you sought

1 and then you turned around and delayed cap and trade for a
2 year.

3 You have consistently sought to move forward with
4 cap and trade while you simultaneously and supposedly have
5 been considering alternatives to cap and trade. These
6 facts demonstrate that this analysis and your
7 consideration to alternatives are a sham, are meaningless,
8 and are done in bad faith. Your actions speak much, much
9 louder than your words. Thank you.

10 MR. KARRAS: Madam Chair, members of the Board,
11 Greg Karras, Communities for a Better Environment.
12 Instead of controlling oil refinery emission, California's
13 Air Resources Board --

14 CHAIRPERSON NICHOLS: Pardon me. Can I just ask
15 where you are on the agenda? I don't -- your name is not
16 next on the list.

17 MR. KARRAS: Yeah. Our coordinator asked me to
18 speak next. I don't know where I am on the agenda. I did
19 sign in. I was on the list.

20 CHAIRPERSON NICHOLS: Well --

21 MR. KARRAS: If you'd like to call me later,
22 that's okay.

23 CHAIRPERSON NICHOLS: It's your group's list.
24 I'm sorry, but we're trying to keep some kind of order
25 here. I don't mean to be rude, but you see what we got.

1 This is what your group presented to us.

2 MR. KARRAS: Would you guys like me to speak?

3 I'm just doing what I'm told. If you'd like me
4 to speak later, just let me know when.

5 CHAIRPERSON NICHOLS: I'd like to hear from
6 Eloisa Fernandez who is the next on the list, please. If
7 she doesn't wasn't to speak, then Sofia Parino and then
8 Gustavo Alvarado and Antonio Alvarado and Rodrigo Romo and
9 Jessica Romo. I didn't prepare this list. This is your
10 list.

11 MR. KARRAS: That's all right with me. When
12 would you like me to speak?

13 CHAIRPERSON NICHOLS: Whenever you're on the
14 list. I don't happen to see your name here actually at
15 the moment.

16 MR. KARRAS: I did see my name on your list at
17 your clerk's outside. But I agree with you, I'm not on
18 your list in here. I don't know why.

19 CHAIRPERSON NICHOLS: Can you check with the
20 clerk? So there's another page that's being added to the
21 list, which is fine. It says here this is the group that
22 can stay beyond 3:30 p.m. and there are others who have to
23 leave earlier. I'm just trying to work with you here.

24 MR. KARRAS: Me too. I'll respect your decision
25 if you'd like me to speak later.

1 CHAIRPERSON NICHOLS: Thank you. I think that
2 would be -- and if you all want to regroup and work with
3 the Clerk to change the list around --

4 MR. KARRAS: Sure. Let's do that.

5 CHAIRPERSON NICHOLS: Ms. Fernandez and then
6 Ms. Parino and then Mr. Alvarado. Are you here to speak?

7 MS. FERNANDEZ: Good morning, everybody. My name
8 is Eloisa Fernandez. I come from the community of
9 Shafter. I come from the community of Shafter. From the
10 environment, I know the bad things that we have going on
11 there, the fumigation. We are lots of people that is sick
12 of asthma since we are living there.

13 Because I live there since the last ten years and
14 since then we have asthma from the allergies from the
15 fumigation. I know that was going on there. The
16 environment is very poor because of the fumigation they
17 have for the fruits, the fumigations. The environment is
18 very poor.

19 So the thing is that we are asking for help so
20 the fumigations are not so close to the households or the
21 school where the children are. That's the whole
22 community, we are present right here from the community of
23 Shafter. And so we are here on behalf of the community.
24 We're all together on behalf of the community. Thank you
25 for everything.

1 CHAIRPERSON NICHOLS: Thank you.

2 Sofia Parino.

3 MS. PARINO: Good morning. I want to apologize
4 in advance for being a little breathy. I'm
5 eight-and-a-half months pregnant and my lung capacity is
6 not the best. I've been running around. So just in
7 advance, if I'm a little breathy, that's that.

8 My name is Sofia Parino, and I'm from CRPE. You
9 know, you're going to hear from a lot of our community
10 members today who have taken the long drive from the
11 central valley to be here and to speak about the pollution
12 and the co-pollutants and the greenhouse gases in their
13 neighborhoods and in their communities. And one of the
14 major sources of that in the valley is agriculture. And
15 so, you know, we were hoping when we saw this alternatives
16 analysis that there would be some discussion of actually
17 having agriculture being regulated and a part of the plan
18 to reduce greenhouse gases and not just a voluntary offset
19 measure.

20 You know, not only is agriculture -- I mean,
21 that's one of the main issues in our communities in the
22 valley, but it is it account for six percent of the
23 greenhouse gas emissions in California. So, you know,
24 that's a pretty sizable chunk that is being left to
25 voluntary offset type programs.

1 Methane emissions, which are from the large
2 animal facilities that are in the valley, those emissions
3 actually have a potential -- a global warming potential of
4 over 25 times that of carbon. And that accounts for
5 over -- for over three percent of the total greenhouse gas
6 emissions in the state. So half of our greenhouse gas
7 emissions that come from agriculture are coming from
8 methane from these large animal facilities. And these are
9 not being regulated under this program. And they really
10 need to if they want to: One, make sure that our
11 communities that are near these facilities are being
12 protected; and two, if we really want to reduce our
13 greenhouse gas emissions, this is sort of a big ticket
14 item that is being left out.

15 We have in our letters and time and time before
16 you, we have mentioned that there are cost effective
17 technologies that can significantly decrease methane
18 emissions at these large confined animal facilities, that
19 they're available, that they're in use around the country
20 and in California and that they should be made mandatory.

21 You know, along with the greenhouse gases, there
22 is the co-pollutant issues, and those are a big piece of
23 the ag PM10, PM2.5, NOx. These all have significant air
24 pollution impacts on our health and on our communities.
25 And this is just a real easy simple way to get these

1 reductions, not only air pollution and greenhouse gases,
2 is to take these regulations mandatory. Thank you.

3 CHAIRPERSON NICHOLS: Thank you so much.

4 Gustavo Alvarado, followed by Antonio Alvarado
5 and Rodrigo Romo, are any of you speaking?

6 Johana Romo, Jessica Romo, Socorro Guzman,
7 Melissa Guzman. Sorry. I have a new list. Who's this?

8 MR. ROMO: Rodrigo.

9 CHAIRPERSON NICHOLS: Okay. I had just -- I'm
10 sorry. The list was changed and Greg Karris and Caroline
11 Farrell have put their names down ahead and you next, if
12 that's okay. Greg, Caroline, and then Rodrigo. Okay.
13 We'll try to get this in order. Thank you.

14 MR. KARRAS: Hello again. And thank you for
15 working with us.

16 Greg Karras, Communities for a Better
17 Environment.

18 Madam Chair and members of the Board, instead of
19 controlling oil refinery emissions, California's Air
20 Resources Board proposes to give refineries free
21 permission to pollute. Refining is the biggest industrial
22 polluter statewide. ARB's own former advisor showed
23 refineries cause disproportionately high exposure to GHG
24 co-pollutants like particulate matter in low-income
25 communities of color. ARB itself finds this localized air

1 quality impact could be significant.

2 But ARB's theory that California refineries will
3 shut down before they clean up and that this will increase
4 total emissions from increased production of refineries
5 elsewhere that are dirtier is not even possible.
6 Refineries elsewhere are not dirtier. In fact, ARB staff
7 does not even attempt to rebut clear and convincing
8 evidence that the average emissions intensity of
9 California refining is substantially higher than that of
10 any other major U.S. refining region. By refusing to
11 disclose or address facts that disprove its leakage
12 theory, ARB threatens to base its proposal to violate
13 environmental rights on a cover-up.

14 Allowing oil refineries to pollute steals our
15 health and jobs. ARB staff blatantly ignores evidence
16 straight out of the U.S. Economic Census that shows oil
17 refining is next to last in jobs and the sector's refiners
18 would spend on to clean up create at least ten times as
19 many times per dollar in the California economy. But
20 repeatedly, staff's findings reject feasible refinery
21 reduction emission measures based on perceived costs to
22 oil companies, while ignoring this clear evidence that the
23 measure would restore desperately needed jobs.

24 Please reject your staff's flawed environmental
25 analysis and direct your staff to focus instead on

1 developing alternatives to its harmful cap and trade
2 scheme that you can actually consider. Thank you.

3 CHAIRPERSON NICHOLS: Thank you.

4 Caroline Farrell, and then we'll hear from Mr.
5 Romo.

6 MS. FARRELL: Good morning, Chairwoman Nichols,
7 members of the Board. My name is Caroline Farrell. I'm
8 the Executive Director of the Center on Race Poverty and
9 the Environment.

10 I have a slight cold, so hopefully you'll be able
11 to hear what I'm saying without too much trouble.

12 The Air Resources Board's alternative analysis
13 does not comply with either the superior court's order or
14 the California Environmental Quality Act. ARB was
15 required to do more than bolster its previous alternatives
16 analysis. Instead of engaging in a good faith analysis,
17 ARB skews the alternatives analysis just to justify the
18 foregone conclusion of adopting the cap and trade program.

19 One of the ways it does that I'm going to
20 highlight is that ARB includes more objectives in the
21 alternatives analysis that make cap and trade sort of a
22 pre-determined outcome by including objectives around
23 market mechanisms. In increasing the number of objectives
24 of the program, ARB's analysis focuses on just tracking AB
25 32's requirements in various respects. It walks through

1 the statute. It does so without paying much attention to
2 those provisions which are required versus those which are
3 discretionary, creating all of them to be objectives of
4 the program. Specifically, creating market mechanisms is
5 an objective for the program.

6 That's actually not the case. Market-based
7 mechanisms is a discretionary element of AB 32. ARB is
8 authorized to adopt a market mechanism but is not required
9 to. By having that as an objective, it skews anything
10 that's not a market mechanism from complying with the
11 alternative analysis objectives and therefore makes those
12 less attractive or less environmentally superior
13 alternatives, which is exactly the opposite of what they
14 are; direct regulations across the board that ensures
15 uniform reductions in communities regardless of income or
16 race is more protective than one that leaves it up to the
17 market and is not very protective of low income
18 communities or communities of color.

19 Therefore, ARB should not approve the
20 alternatives analysis as prepared and require a new
21 alternatives analysis that complies with both the court's
22 order and with CEQA. Thank you.

23 CHAIRPERSON NICHOLS: Okay. Rodrigo.

24 MS. FARRELL: One thing. Over the course of the
25 last few months, we've collected about a thousand

1 petitions from folks in the San Joaquin Valley who are
2 interested in making sure that, as Sofia said, agriculture
3 is regulated as well as industrial sources are directly
4 regulated versus cap and trade. And I just would like to
5 present these to the --

6 CHAIRPERSON NICHOLS: Could you just give those
7 to our clerk over here, and we'll get a chance to look at
8 them. Thanks.

9 Okay. Now to Mr. Rodrigo Romo.

10 MR. ROMO: Good morning. My name is Rodrigo
11 Romo. I reside in the city of Shafter, California.

12 I would like to start by reading something that
13 we had prepared. It is a reference to a green gas that is
14 a mix of toxic gases like dioxin sulfur and sulfur
15 nitrogenous. The places that have these poisons are
16 mostly Latin communities and Afro-American communities.

17 The city of Arvin and people that is here is from
18 that place, from Arvin, is the worst air in the state. It
19 has an oil refinery where in this state in Richmond is the
20 highest asthma -- they have more asthma than any other
21 place in the state.

22 We need for implementation of the AB 32 to change
23 these facts and to change our communities in California.
24 And I would like to say few are worse than my communities,
25 and the city has the worst air quality is the city of

1 Shelter. Because many times you have knowledge of what's
2 going on in these communities, like chloroform, dairy
3 products, and pesticides, and basically all these poisons
4 on the environment.

5 And I would like to thank you very much for
6 listening to us, and I would like to ask you as well to
7 pay attention to our requiring our requests and our
8 petitions. Thank you.

9 CHAIRPERSON NICHOLS: Jessica Romo, are you
10 planning to speak or Johana Romo? Socorro Guzman, Melissa
11 Guzman, Gloria Madrigal, Pulo Lopez.

12 Someone is coming up. Good. Gloria.

13 MS. MADRIGAL: Yes. Good morning. We're here
14 representing the community of Wasco. And I would like to
15 let you know we support this law, the AB 32. What we
16 don't support is implementation, how to implement because
17 this not only affects the communities, but the whole
18 California. Even yourselves and ourselves and workers,
19 like, we live in this country. All these forms that we
20 brought, I hope you pay attention to them, because they
21 are from all of our towns. We work. And today they
22 couldn't come, because they are working. They had to be
23 working, too. Thank you very much.

24 CHAIRPERSON NICHOLS: I understand those of you
25 who are here are representing many others who are not able

1 to be here.

2 Pulo Lopez, Lucy Cuevas, Javier Pimentel, Steve
3 Garcia, Ruben Trujillo, Ignacio Buenrostro, Felipa
4 Trujillo, Gustavo Fernandez, Ana Valle, Hugo Tamayo,
5 someone is coming down.

6 MR. TAMAYO: Hello. My name is Hugo Tamayo. I'm
7 here from the city of Arvin.

8 And I'm not a very good speaker, but just bare
9 with me.

10 I'm the Vice President for the Committee for a
11 Better Arvin. And, you know, we don't agree on this cap
12 and trade. As you know, we are the worst state in the
13 whole nation. And I wish that some of you could go to
14 Arvin and see how many kids have asthma, see how the kids
15 are really suffering.

16 I mean, we don't need any more bad air. We
17 already have enough. We're trying to fight for a better
18 community, better, cleaner air. And now you got this cap
19 and trade, it's not going to work. Didn't work in Europe,
20 it's not going to work here. So please help us out. We
21 don't need any more bad air. Thank you.

22 CHAIRPERSON NICHOLS: Romelia Melendez, Margarita
23 Orsua, Delfina Colunga, Salvador Melendez, Olivia
24 Trujillo. Is this Salvador? No. Okay.

25 MS. TRUJILLO: My name is Olivia Trujillo, and I

1 was in Arvin since 1962, over 50 years. And the truth is,
2 I have seen the changes. It's horrible. And it's not
3 getting any better. We have become L.A.'s dumpster. You
4 know, all their garbage comes into our community, their
5 air quality. And I'm here to support AB 32. But we do
6 need to get better implementation. Thank you.

7 CHAIRPERSON NICHOLS: Thank you.

8 Estela Garcia, Lupe Martinez, Juan Flores,
9 Refugio Valencia.

10 MR. FLORES: My name is Juan Flores. Thank you
11 so much for taking time to listen to me.

12 I'm coming from the city of Delano, which is in
13 Kern County -- north of Kern County. I work with these
14 communities Shafter, Wasco, Arvin. It's sad that in the
15 state in communities like Shafter they -- children are
16 receiving notes from school saying that following day
17 there's going to be pesticides being put on the fields.
18 If you want to come, come. If not, well, that's okay.

19 We cannot afford that for population of big
20 agriculture farms our kids are staying home while these
21 people, which sometimes they don't even live in
22 California, are getting richer at the expense of the
23 education of our kids. And it is sad to see the kids
24 staying home because they can have an attack of asthma in
25 the middle of their lunch, in the middle of the math

1 class, in the middle of their science class. These
2 children are the future of this country. We cannot play
3 with that anymore. Thank you.

4 CHAIRPERSON NICHOLS: Mr. Valencia.

5 MR. VALENCIA: Good morning. My name is Refugio
6 Valencia. I live in the city of Bakersfield, California.
7 As you already heard, Bakersfield, California is one of
8 the most contaminated cities of the country as well.

9 I want to think that all the Board of Directors
10 is thinking right here from the ARB like all these would
11 be new. However, I cannot believe that because you
12 already have lots of years working, but the results of
13 your work is not -- very bad. It's not so good because
14 contamination keeps working every year. It keeps growing.
15 It's more. And so as the contamination is getting bigger
16 and growing, so is health problem of our children from the
17 southern California as well.

18 I want to tell you something what's going on in
19 the United States in reference to the children, to the
20 youth. The sports leagues is bringing stars from another
21 sports -- stars from another country, they'll bring them
22 here. And you guys are bringing cap and trade. However,
23 you know that, in Europe, cap and trade did not work to
24 clean the air.

25 I feel you should adopt the idea so the sports

1 leagues to bring the best and leave aside things that
2 doesn't work and adopt or implement things that do work
3 like, for example, the AB 32 because we know that does
4 work. Okay. Thank you.

5 CHAIRPERSON NICHOLS: And is this Estela Ramirez?

6 MR. HERNANDEZ: My name is Marcello Hernandez. I
7 come from (inaudible) California. This is what I would
8 like to tell you. Just in my neighborhood where I live is
9 53, like ten people died of cancer, asthma. And I would
10 just like to ask you to do something about it. Because I
11 don't want any contamination killing people or even
12 children. And this is what I would like to ask you. And
13 I want you to please enforce this, because it's very sad
14 to lose your families. And I really would like this to
15 stop.

16 That's all I would like to tell you to come to
17 tell you. Thank you.

18 CHAIRPERSON NICHOLS: I'm going to try to go back
19 to the list that I have here and hope that we can stay in
20 order and that people will speak in the order they signed
21 up. Is this Ms. Ramirez?

22 MS. RAMIREZ: Yes. Good morning, Chairman
23 Nichols and members of the Board. My name is Isella
24 Ramirez. I'm the co-Executive Director of East Yards
25 Communities working for environmental justice, a

1 community-based organization working to promote a healthy
2 and safety environment in the communities of Commerce,
3 East L.A., and Long Beach where communities are
4 disproportionately impacted by the negative health impacts
5 of industrial pollution.

6 So I usually address the Board to demand real
7 rail yard emissions and health risk reductions. But
8 today, I'm here to talk about greenhouse gases.

9 The state of California, as we all know, has
10 always been a leader in environmental and health
11 protective regulations. With the adoption of AB 32 in
12 2006, we took a revolutionary step. However, the
13 probability of such an act to be successful dramatically
14 increases with smart implementation and enforcement.

15 So today's staff recommendation to adopt the cap
16 and trade system is not an adequate solution to greenhouse
17 gas emissions.

18 First, cap and trade programs, as other speakers
19 have already said, continually prove that they are unable
20 to reduce greenhouse gases and to really enforce corporate
21 responsibility. The atrocious BP oil spill and the
22 ever-depressing real estate market crash both remind us
23 that industry and markets self regulation simply does not
24 work. The European Union cap and trade program at Phase 2
25 has yet to meet any real reduction goals. So it doesn't

1 make sense for us to follow in their mistake.

2 Secondly, cap and trade systems do not consider
3 the increased negative impacts on communities that
4 neighbor toxic emitters. For instance, one of the things
5 that cap and trade would do is to allow Industry X located
6 in Town A to continue polluting Town A by paying Industry
7 Y, which is located, say, 500 miles away from any town to
8 reduce their emissions. And so in this scenario, the
9 people of Town A -- in our reality, the people of
10 Commerce, of Wilmington, of Richmond, do not see any real
11 emission reductions. Instead, it's these people who are
12 already overburdened that have to pay the real price of
13 pollution allowances with their health and with their
14 quality of life.

15 Today, both as a representative of East Yard
16 Communities for Environmental Justice and as a life-long
17 resident of Town A, or in my case, of Commerce, I urge
18 that the Board direct staff to pursue a different
19 alternative, like those listed on CBE's written comments
20 that include industrial energy efficiency improvements,
21 which alone would eradicate up to three million tons of
22 greenhouse gases annually and would bring good union jobs
23 at the local level.

24 Thank you for your time.

25 MR. MATA: Good morning. My name is David Mata.

1 I grew up in the city of Commerce. I also grew up in a
2 street known as Cancer Alley. Once I moved there, I
3 developed asthma. I've developed horrible allergies. My
4 doctor basically told me to stop breathing because I'm
5 allergic to the air.

6 I am here because I represent the silent majority
7 of California, the people that can't come here, the people
8 who can't take time out of their week during a Wednesday
9 to attend these meetings, the people who can't come
10 overnight in a bus with barely two hours of sleep to be
11 here talking about these important issues.

12 We, as communities of color, already deal with an
13 education gap, a wealth gap, an unemployment gap, an
14 income gap, and now you want us to deal with now a climate
15 gap.

16 There is no incentive to care for poor people,
17 for youth, for people of color because we don't have
18 political clout. You keep talking about the market which
19 will fix everything. Your own staff says that we expect
20 them to follow the rules and we all know that's not going
21 to happen. I don't have the confidence that they do. The
22 market is not self-corrective enough. That's why we have
23 the EPA and the CARB.

24 We saw what happened with home mortgage crisis
25 and our own Securities and Exchange Commission can't even

1 deal with that mess. We need to think about California
2 and the future today. California needs to lead. This
3 will have profound repercussions in the future. We need
4 to do this now, right, fair from the beginning because we
5 have the alternatives in front of us. There is no reason
6 why we need to screw this up right now.

7 The research suggests that cap and trade will, at
8 minimum, fail to achieve the full benefits and at maximum
9 increase the climate gap I've been talking about.

10 We need to do something about this because we
11 can't come here all the time. I can't come to these all
12 the time. These people can't come here all the time. And
13 there's really no other way to say I'm fed up with all
14 this. I think we are all, too.

15 MR. CABRALES: Good morning, Chairman and members
16 of the Board. My name is Robert Cabrales. I'm a
17 community organizer with Communities for a Better
18 Environment in Huntington Park. I work with a lot of
19 residents from Huntington Park, South Gate, Bell, Maywood,
20 and the surrounding communities in the southeast L.A.
21 area.

22 We were here the last time we were looking at the
23 Scoping Plan. And the same message we heard back then and
24 the same results that we're expecting to have today is the
25 adoption of cap and trade and ignoring the voices from the

1 communities. A lot of the residents that are here are
2 from southern California and from other parts of the
3 state.

4 We came here with the intention of persuading you
5 to adopt an alternative to AB 32. AB 32 is a very
6 important law and an historic law that the state of
7 California has moved forward with the implementation of it
8 is actually the one that we are very opposed to it,
9 because we are sick and tired of living in communities
10 that we have to breathe bad air.

11 We are hearing the plans from staff today as
12 actual handouts to the polluters that are not doing
13 anything to reduce their own pollution. When are we going
14 to get handouts to breathe clean air in our communities?
15 When are we going to get handouts to live in environments
16 free of toxics?

17 That's one of the things we're really, really
18 hoping that you can make a difference today. We all can
19 say that we invite you to live in our communities for a
20 week to see if you can hang, like we say, in our
21 neighborhoods. If you can live and live like people live
22 on an everyday basis. It's sad that people have to get
23 used to breathing the kind of air that we do every day.
24 And if you come to our toxic tour, I'm sure you'll have
25 your left side of your body numb for at least a moment

1 because it sucks to be giving a toxic tour like I do all
2 the time.

3 So I encourage you to actually adopt real
4 alternatives, real solutions to AB 32, something that
5 we've been pushing for for the last couple years since we
6 were here. And we're going to continue to come here.
7 It's not that easy for us to come on a bus a couple have
8 like mentioned before me. It's tough. And we're not paid
9 consultants. We're not paid lobbyists like some folks
10 here are from the polluters and we're hoping that you make
11 the real decisions for solutions to California's climate
12 change initiative. Thank you very much.

13 CHAIRPERSON NICHOLS: Who's next here?

14 We've got Rodolfo Vallejo, and then I see we've
15 added a couple names back on again.

16 MR. VALLEJO: Good day. I don't want to sound
17 repeated because most of these members of the group,
18 they've been saying what I was going to cover.

19 But (inaudible) to this Governing Board but to
20 get together with the rest of the group members to bring
21 (inaudible) to bring light to the proper authorities.

22 I highly recommend the Board, like Mr. Cabrales
23 said, to pay a visit to these communities who get impacted
24 by those toxic emissions, like I do my daily walks. I
25 identify the odors. I identify the source of

1 contamination, because I go on my daily walks, not only in
2 my community, but next door which is Vernon. It's
3 probably the most contaminated city -- I don't know if it
4 is the state of California or the United States. So
5 please. Thank you.

6 MS. VERDUZCO: Hello, Chairman Nichols and Board.
7 My name is Iris Verduzco. I live in the city of South
8 Gate in the county of Los Angeles. And like many of the
9 other people who have testified already before me, they
10 speak of the struggles that we are facing in our
11 communities. And my community, like many other
12 neighboring communities, is in an area that's heavily
13 polluted by toxic facilities.

14 And I'm a supporter of AB 32 because I believe we
15 should aim to reduce greenhouse gas emissions. But I'm
16 not in favor of the cap and trade clause because I do not
17 believe it will bring reduction of greenhouse gases and
18 co-pollutants in communities like mine. If it doesn't
19 reduce pollution in communities like mine, it is not a
20 real solution.

21 CHAIRPERSON NICHOLS: Carolina Cabrera.

22 MS. CABRERA: Good morning. My name is Carolina
23 Cabrera.

24 I suppose I could bring up I have two younger
25 siblings. One's 13, one's 11. I suppose I could bring up

1 the fear I feel every day when I see them at home and I
2 see them taking a breath, because I know with every breath
3 they breath, there's more possibility for them to get
4 cancer, for them to get asthma, for them to get sick, just
5 sick, and not knowing what happens like so many people I
6 see. You go to the doctor. What's wrong with my child?
7 They don't know. What's wrong with them? What I can do?
8 Nothing. You can move away. No, you can't. You don't
9 have the money for it. So what will you do? You stay
10 there and you breathe this air. And you try to deal with
11 it.

12 And then you have something like AB 32 come up
13 and you say here's something that's going to happen. Here
14 is a climate justice solution, and not for climate change,
15 but justice. Because that way people that are low income,
16 that way people that are minorities, they get the justice
17 they deserve because nobody deserves to live in a bad
18 community like that. Everybody deserves the right to live
19 someplace where their breathing isn't a death sentence.

20 I can go into more detail over that, but I think
21 the real problem here is cap and trade, it's a market
22 system. It's a Band-Aide solution because what began this
23 problem was the market. It was the market maximizing.
24 It's not people maximizing. It's not health maximizing.
25 It's profit maximizing. The government is supposed to be

1 for the people and then you bring a market system that is
2 business. That is profit. That is industry. And you say
3 this is going to help, but that was the problem. It's a
4 Band-Aide thing. You use the problem to fix the solution,
5 to be the solution. Why would you do that? That makes no
6 sense.

7 You don't go on a test you go to school or
8 something and you do the same thing wrong, wrong, wrong
9 and then you get an A. That's not how that works.

10 There are different alternatives, we've. All
11 brought them up, alternative energy. We've at brought up
12 different subsidizing. We've all brought up fixing
13 agriculture because these are all these different
14 problems. Climate justice, climate change is caused by
15 climate injustice, which is a mixture of different
16 problems. And with cap and trade you're saying this one
17 thing will fix it; that's wrong. Thank you.

18 CHAIRPERSON NICHOLS: Okay. I appreciate that
19 you're all here and you're supporting each other, but
20 let's try to finish and get everybody a chance to speak.

21 Alicia Rivera, Esteli Bowman, Maria Ramos.

22 MS. RIVERA: Good morning. My name is Alicia
23 Rivera. I appreciate the few minutes that I have.

24 And I say that I'm a community organizer in
25 Wilmington, California. And the reason why a lot of

1 Wilmington residents are here is because Communities for a
2 Better Environment make it possible for them to -- we
3 provide a bus. And we left at midnight. We haven't
4 slept, but we wanted to be here today.

5 And cap and trade is a difficult and very
6 technical issue to explain to people who have very little
7 education. However, it's been very -- everybody gets it
8 in the community of Wilmington when I explain that cap and
9 trade -- among some of the things, Wilmington, with five
10 refineries, a ton of pollution removal within cap and
11 trade in the city of Wilmington with five refineries
12 equals the same as removing a ton of pollution in an area
13 where there is no people. And that is really rural. And
14 that is very unfair. It is very hard to conceive how can
15 such a program have those standards.

16 Also, cap and trade only look at greenhouse
17 gases. When we look at the emissions coming out of the
18 stacks -- smoke stacks from the refineries, I tell them do
19 you see the greenhouse gases coming through these
20 separated? Do you see the toxic coming you see separated?
21 No, they all come together. So why are you only
22 considering greenhouse gases and not the rest of the
23 toxics that are the ones that causes asthma and causes so
24 much cancer in the city of Wilmington and in some of the
25 very polluted areas that have their fair share of

1 pollution.

2 So it's quite inconceivable that those standards
3 be implemented on the cap and trade. It's not a fair
4 system. It doesn't consider how it affects all these
5 communities that have come here today to express their
6 concern.

7 If the environmental organization that have made
8 it possible for community members to come today, you would
9 not hear from them. You would only hear from industry
10 that are here continuing to support cap and trade. We do
11 not support cap and trade, because it's not going to
12 benefit anything of what is experienced now.

13 And we also do not understand how Mary Nichols
14 can be so for cap and trade when we have provided all this
15 information -- scientific information of how cap and trade
16 has failed and why would it work here in California if it
17 hasn't worked somewhere else. And if it has all these
18 deficiencies of really considering the affects of what is
19 not included in cap and trade, why do we want to continue
20 with this system?

21 We really believe that we can work with you guys
22 and that you guys -- really consider before continuing
23 with cap and trade and spending all these resources, we
24 hope that you guys really take a very good look at other
25 programs that we have given you information on other

1 systems. We should want to know that you guys really
2 study these other programs and that you convince us that
3 those other programs would do the job and not cap and
4 trade. And we really -- I do hope and I have a lot of
5 faith that Mary Nichols, especially, we trust you and
6 that, you know, things can be turned around. And that we
7 really appreciate that you are giving us the opportunity
8 to have these long lists of people. They want to express
9 how what is life for them. And so thank you very much.

10 CHAIRPERSON NICHOLS: Thank you. We really do
11 intend to listen to the whole group and respond after we
12 hear the testimony, so I'm not going to respond other than
13 to say thank you and we appreciate it.

14 Esteli Bowman.

15 MS. BOWMAN: Good morning. My name is Esteli
16 Alicia Bowman Riveria. Alicia Riveria is my mom and is
17 the community organizer in Wilmington. And my whole life
18 I have been hearing about the work that she has been doing
19 in Wilmington to reduce pollutants, toxins that are in the
20 air all the time for years and years and still continue to
21 come out.

22 And I'm here today because I, too, am very
23 concerned about everyone's well being, everyone in these
24 communities that are directly affected and the entire
25 state, the entire country, the entire world, because every

1 emission, every pollutant has an impact worldwide.

2 And here it is very clear to me that there is a
3 choice that can be made that can finally regulate these
4 emissions and bring some kind of soundness to what, we as
5 a state, are doing to take responsibility for pollution,
6 for our future, for our health.

7 And so I'm here like everyone else to ask you to
8 consider to really look at AB 32, because everyone is here
9 for a very good reason. And everyone lives these
10 experiences, and it is very important that you are here to
11 listen. And we thank you very much for that.

12 And so please say no to cap and trade because
13 clearly our bodies are saying no to it when people become
14 sick, when people cannot breathe. That is insane. Our
15 bodies are saying no. We are here saying no. And now in
16 turn we would like you to say no to cap and trade and
17 please say yes to AB 32. Thank you very much.

18 MS. RAMOS: Good morning. My name is Maria
19 Ramos. I come from Wilmington, California.

20 I live close by to five refineries. The toxic
21 emissions affect the health of all my family, especially
22 like all my colleagues are saying, especially the children
23 that are the most weak represented here.

24 That's why I work a lot against Proposition 23 to
25 protect the law, AB 32, because that law will reduce gases

1 that affect health. But I don't agree with the method cap
2 and trade, because it would not reduce the toxic that
3 cause asthma, allergies, and even cancer.

4 And it is a sickness that if somebody has cancer
5 is sentenced to death. And I can tell you that by my own
6 experience. And I'm surrounded by people by all ages,
7 youth, children, adults, that have cancer and they have a
8 death sentence. Here is a daughter of a woman, she was
9 given days of life. And somebody just died. And I am
10 surrounding of lots of people that are dying of cancer.

11 That's what I am here, the resolutions that you
12 are trying to impose to negotiate with contamination. I
13 don't agree that can invest in other projects that are not
14 in California that are produced the green gases on their
15 own business in their own areas.

16 So please, I pledge you, think of our children
17 that are the future of this country. I believe in these
18 children that live in these poor neighborhoods, they do
19 not have a future. You fight to move work and if you guys
20 don't help us, we will not go nowhere. Thank you.

21 BOARD MEMBER BERG: We have Ms. Reyes, followed
22 by Mr. Duarte.

23 MS. REYES: Hello. My name is Griselda Reyes. I
24 live in Harbor City, California. And I'm here in support
25 of AB 32.

1 But my concern is for my children. We live in
2 what is already a heavily polluted area. And I'm
3 concerned that cap and trade is not going to -- actually,
4 I think cap and trade is going to bring or allow more
5 pollution to what is an already heavily polluted area.
6 And I would just like to request that you guys consider
7 other alternatives that are more effective to the people
8 like myself and my children that live there and breathe
9 that air. So that's my request for you.

10 BOARD MEMBER BERG: Thank you very much.

11 Mr. Duarte.

12 MR. DUARTE: Hi. My name is Robert Duarte. I
13 live in Harbor City, California. And me and my brother
14 have a few brief words for you and the Board and everyone
15 else that came here for this Board, AB 32. Because they
16 think that me and my brother and everyone else who came
17 here, cap and trade is not working for any of us. People
18 who are sick. People that don't -- I think need -- I'm
19 trying to find the words here.

20 BOARD MEMBER BERG: You're doing a very good job.
21 Thank your time.

22 MR. DUARTE: I think that you should really
23 consider AB 32 and not cap and trade, because it's -- cap
24 and trade is not working for any of the people who came
25 here. They just don't like it.

1 BOARD MEMBER BERG: Thank you, Robert. What's
2 your brother's name?

3 MR. DUARTE: Hi. My name is Angel Duarte. I
4 live in Harbor City, California. And I support AB 32
5 because from my bedroom window I can see refineries and
6 I'm worried that if pollution might get worse and changes
7 aren't made it will -- cap and trade isn't helping. Thank
8 you.

9 BOARD MEMBER BERG: Thank you.

10 Esther.

11 MS. PARHEES: Good morning. I'm here to ask you
12 to please stop the cap and trade system that is proposed
13 by the Air Resources Board that have been chosen to curb
14 the greenhouse gases.

15 All of us in our communities are choking with
16 carbon dioxide and our children can't breathe. Some of
17 them, including my grandson, suffers from asthma.

18 We're surrounded by all the oil refineries in the
19 L.A. harbor. The refineries burn off their gas at night.
20 And in the morning when we get up, we can't even breathe.
21 We would like to be able to get up and breathe fresh air.
22 But for us that's impossible.

23 And between the refineries and all the trucks in
24 our area in the dock, we are being surrounded by the worst
25 quality of air in California. There has to be a better

1 way to reduce and control all the gases in our area. We
2 cannot afford to have a system where corporations can buy
3 and sell their credits among themselves. We need to
4 implement AB 32 and help them to reduce the people that
5 are emitting all the bad air and make them accountable for
6 their emission levels.

7 We do not agree with and we do not want cap and
8 trade system. We have come here from Wilmington because
9 of our concern, and we hope that you have heard our
10 voices. Thank you.

11 BOARD MEMBER BERG: Thank you.

12 Dorian Tippit.

13 MS. TIPPET: Thank you for the work you do.

14 Can you hear me? I have trouble with my voice.
15 I lost my voice while I was teaching at Wilmington Park
16 Elementary School because of the pollution, which is the
17 reason I'm here.

18 Our social justice group at Pacific Unitarian
19 Church worked for the passage of AB 32. But we are very
20 concerned about cap and trade. It could bring, as you
21 heard before, more pollution to already heavily polluted
22 hot spots like Wilmington and many other cities.

23 Cap and trade does not complement existing air
24 standards and does not ensure a lack of interference with
25 efforts to achieve and maintain national and California

1 air quality attainment standards.

2 The program fails to reduce toxic air
3 contaminants, leakage problems which you have mentioned.
4 But leakage of California's jobs, money, and air quality
5 benefits to other jurisdictions will cause California
6 businesses to choose to engage reduction projects outside
7 of the state of California. We do not want jobs leaving
8 California.

9 In a recent Columbia University study, cap and
10 trade showed that every pollution trading program suffers
11 from the issue of over-allocations, which has happened in
12 Europe, which I'm sure you know with the EU program. The
13 Columbia University study also found that cap and trade
14 fails to promote innovation, which is crucial to the
15 program. You have to be resilient. You have to be
16 flexible.

17 And it's also shown in the EU cap and trade
18 program widespread fraud and pollution tradings up to the
19 present time.

20 I appreciate the work you do. And thank you for
21 letting me voice my concerns.

22 BOARD MEMBER BERG: Thank you very much.

23 Next is David Gonzalez.

24 MR. GONZALEZ: Hello. I represent the Wilmington
25 area. I grew up there most of my life I'm very concerned

1 about the health and well being of the people there.

2 My own son and daughter, they acquired asthma.
3 And they outgrew it and they got better when they moved
4 away.

5 And I'm just very concerned about the area that's
6 highly toxicated and highly polluted. I'm for AB 32 and
7 against cap and trade. And I feel that it needs to be
8 improved. And we're hoping it gets better. Thank you.

9 BOARD MEMBER BERG: Thank you, Mr. Gonzalez.

10 Next is Maria Desera. Maria.

11 How about Natalia Marquise?

12 MS. DESERA: Good morning. My name is Maria
13 Desera. I come from the city of Wilmington, California.
14 I come to represent all the ones that could not come.

15 It's more than 30 years I live in Wilmington. I
16 retire living in the middle of so many refineries that
17 they contaminate so much. There's lots of sick people in
18 Wilmington.

19 I have three grandchildren that have asthma. We
20 had to take them to the doctors to have machines run on
21 them. And I've come to please ask you that the method
22 that you want to implement does not help us at all to take
23 away the contamination to clean the environment. So
24 please don't do it. Think of the innocence that are
25 losing their lives. That's all. Thank you very much.

1 BOARD MEMBER BERG: Thank you.

2 Next, is Natalie available?

3 And then we'll hear from Shirley Bodi.

4 MS. BODI: Good morning. My name is Shirley
5 Bodi. And I'm from north Richmond in California.

6 I want to first start off by saying that I grew
7 up in Massachusetts and was raised in Connecticut. And I
8 had never been sick a day in my life. I moved to
9 California. Now I have asthma.

10 My son was born with asthma. He's actually
11 allergic to dirt, dust, grass, cats and dogs. That's a
12 lot. This kid should have the opportunity to live and
13 grow and prosper, as you have. Many of these people that
14 are here have that right to do so.

15 You should look at cap and trade. If you're
16 going to cap something and allow it to be traded over here
17 and let these other people become sicker. You need to
18 look at what you are doing and follow actually what God's
19 rules are. Clean the environment up. You're letting
20 businesses get richer and the poor get poorer. And that's
21 not how it's supposed to be. Thank you.

22 BOARD MEMBER BERG: Thank you.

23 Fernando Solis.

24 MR. SOLIS: Good morning. My name is Fernando
25 Solis. I came from Bell, California. I'm a volunteer

1 with CBE.

2 I'm in favor of AB 32. But cap and trade is no
3 good for environment. Cap and trade was no good in
4 Europe. Cap and trade makes some dishonest people in rich
5 in Europe. Cap and trade is no good for California and
6 for world. All the communities in southern California
7 opposed to cap and trade. Thank you very much for listen
8 to us.

9 BOARD MEMBER BERG: Thank you for coming.

10 And then I think next on our list is Ana.

11 MS. OROZCO: My name is Ana Orozco with
12 Communities for a Better Environment. I'm a Richmond
13 community organizer.

14 Richmond is home to the largest oil refinery on
15 the west coast. It's also home to the largest greenhouse
16 gas emitter in the state of California.

17 If cap and trade is going to be implemented as a
18 way to reduce greenhouse gas emissions, clearly, it's not
19 going to work. It failed in Europe. Not only is it not
20 going to work, but it will increase greenhouse gas
21 emissions in places like Richmond. And one of our
22 community members who just spoke, Shirley, just explained
23 the health impacts of increased pollution.

24 So please do not use cap and trade as a way to
25 reduce greenhouse gas emissions. It's a false solution.

1 And stand up for real solutions to global warming, not
2 profit-driven false solutions like cap and trade. Thank
3 you.

4 BOARD MEMBER BERG: Thank you.

5 Carol Jones. Is Carol available to speak?

6 MS. JONES: Hello to everyone. Hello to the
7 Board. My name is Carol Jones. I'm a senior resident of
8 Richmond, California. And I've seen a lot of environment,
9 you might say. Okay.

10 So I support AB 32 when I first heard about it
11 and saw it. You know how they show on TV different
12 political things that are going on. I was very impressed
13 and felt very good about it because I thought I knew what
14 it was all about.

15 But I've learned more since then. And I don't
16 support cap and trade. And for my understanding and what
17 I've learned about it, I don't think cap and trade is a
18 solution for and support the accomplishments and the goal
19 of reducing greenhouse gas emissions.

20 Cap and trade will actually allow for more
21 pollution in our communities that are already heavily
22 burdened with pollution by industrial pollution,
23 agriculture, and I ask that the affected communities are
24 almost all predominantly low income communities of color.

25 I ask that you, the Board, stand for a healthy

1 California by opposing cap and trade. The word "trade"
2 means to our communities and sends to our communities that
3 this is another marketing concept. And we need solutions,
4 very healthy solutions.

5 California needs real solutions for global
6 warming, not for profit. Driven false solutions such as
7 cap and trade. Cap, cool. Okay. Trade, we are very
8 concerned about it.

9 And we thank you for allowing us to come and
10 speak to you. And we appreciate you for your time and
11 your energy and your thoughts on this AB 32. And we ask
12 for you to continue to support us, the communities. Thank
13 you.

14 BOARD MEMBER BERG: Thank you.

15 Margaret Jordan.

16 MS. JORDAN: Good morning. I'm Margaret Jordan
17 from Richmond. I'm a member of Communities of a Better
18 Environment and also of the Richmond Progressive Alliance.

19 The only way, as we all know, that to guarantee
20 that carbon emissions will not hasten global warming is to
21 have dramatic cuts in the current level of emissions. Cap
22 and trade has been shown, as people have said over and
23 over this morning, to be an ineffective means of reducing
24 emissions, particularly in communities of color
25 surrounding the industrial emitters.

1 The reality is, as you've heard before, that four
2 or five years out cap and trade is not working in Europe
3 and emissions are increasing. It's almost ludicrous to me
4 that you are putting this forth as your solution to the
5 problems in California.

6 We got into this mess as a result of two things.
7 One was a lack of understanding of the damage we were
8 causing. And the second is because most processes which
9 produced pollution were highly profitable. We cannot get
10 out of it by making polluting assets even more profitable,
11 as cap and trade does.

12 I want to speak to one aspect of the alternatives
13 put forward in the CBE plan. I'm here to support cap and
14 tax, or as you call it, a carbon tax as part of a broader
15 way of implementing effective ways of decreasing
16 emissions.

17 I'm here to support cap and tax as a more
18 reasonable approach, which incentivizes decrease of
19 emission by taxing all environmental emissions. Rather
20 than creating a system that innately allows for private
21 primarily corporate profits by selling polluting rights,
22 as does cap and trade, something that I find innately
23 morally reprehensible, cap and tax provides a secondary
24 benefit. In addition to incentivizing decreasing
25 emissions, it can provide profits directly to the people

1 of California, money that can be used can be spent for
2 public welfare, on research, on ways to reverse climate
3 change, on research on energy efficient public
4 transportation, and building the same, on health care for
5 all of those folks who have asthma and other
6 health-related problems as a result of climate -- of
7 emissions but can afford health care, for education, for
8 our education system, which is currently being strangled
9 financially and a multitude of other programs that can
10 directly benefit the citizens of California.

11 The current process is one that is going to
12 benefit multi-national corporations like Chevron that we
13 know well in Richmond that is an entity that made billions
14 of dollars last quarter and at the same time is trying to
15 take \$60 million back in property taxes, which will come
16 directly from the schools in our area. We say cap and
17 tax, it's the citizens' turn, not cap and trade.

18 CHAIRPERSON NICHOLS: We're down to the last four
19 names on the list. When we finish with those, we will
20 take a brief break, about ten minutes, and then re-group
21 and come back to the rest of the list.

22 I do want to encourage those of you who are able
23 to stay, to stay, because I think that you will find it
24 interesting at the end of all of the public testimony
25 after we've heard from everyone who's here. I believe the

1 Board is going to engage in a very spirited and robust
2 discussion about the alternatives that are in the staff's
3 document. And I think that you'll find it interesting.
4 So thank you.

5 Okay. So Marie Harrison and then Melissa
6 Cerfantes and then Reverend Kenneth Davis and Jessica
7 Tovar. And Jessica will be the last witness from this
8 group.

9 MS. HARRISON: Good afternoon. Marie Harrison
10 with Green Action for Health and Environmental Justice.

11 I'm here this morning -- or should I say close to
12 this afternoon -- to tell you that I sit back there and I
13 listen and actually had this prepared statement for you,
14 but I realize that where I only came from Bay View Hunters
15 Point, which is not even half of the distance that many of
16 my brothers and sisters traveled to get here that it would
17 be shameful for me to stand up here and tell you how
18 severely my community is suffering and how cap and trade
19 in so many instances would destroy it, when you have so
20 many folks who come so far and have given up so very much.
21 And they're pouring their hearts out to you because, after
22 all, you are who we rely on to take care of our well
23 being. Okay. That's your job. That's your charge.

24 So I'm simply going to ask you to do your job.
25 Remind yourself of what your charge is, and that's to

1 assure us that even the lowly of us, the poor little Black
2 folks and the poor little Mexicans and Latinos and Asians
3 and Samoans and Pacific Islanders, we have all these
4 different names. There are a lot of us out here. And we
5 are relying upon you to do the job.

6 It is not by chance that communities such as Bay
7 View Hunters Point, Richmond, Kettleman City -- how far
8 back do you want me to go? I work in all these
9 communities. It's not my happenstance that these
10 communities are communities that are suffering. And it is
11 not by happenstance these happen to be amongst the poorest
12 of the poor.

13 In Bay View Hunters Point, we have the highest --
14 you name it, we have it. We have the highest asthma rate.
15 We have the highest unemployment. We have the highest
16 breast cancer, bronchial, asthma. You name it, we have
17 it. We are relying upon you to do what you were put here
18 for, and that is to protect us.

19 So as a mother, as a grandmother, and not just as
20 a representative of Green Action -- because we do put the
21 action in that word. We are not afraid. We are not shy.
22 I've never been accused of being one of those grandmothers
23 that stepped to the side. Okay.

24 So knowing that, keeping that in mind, I trust
25 that as vigorous as I feel about this issue, you, too,

1 will feel that vigorous and you will do the right thing.
2 You will do the right thing, because it's right, not only
3 for you, but it is definitely right for us.

4 With that, I thank you so very much. I leave you
5 with do your job. Thank you.

6 CHAIRPERSON NICHOLS: Melissa Cervantes. Are you
7 speaking? Kenneth Davis.

8 MS. CERVANTES: My name is Melissa Cervantes.
9 I'm from Wilmington. I live in the area where I'm
10 surrounded by five refineries. Not only is it affecting
11 me, but I've seen people that -- I have neighbors that
12 have died of cancer. I still know people that are living
13 today with cancer.

14 Not only that, the reason I'm crying, because my
15 mom has cancer. And she strongly believes that it's the
16 pollution because she has -- not two years ago she has had
17 a cancer and the doctors couldn't really find a reason why
18 she was getting sick. They didn't find that she some
19 cancer until it became a tumor of 13 inches. Little over
20 size of a football. They couldn't find anything wrong
21 with her until she had that tumor and it was killing her.

22 So once they found that tumor, they were able to
23 actually catch it because her life was 50/50 chance on her
24 surgery. And thank God, she came out alive.

25 But now she got it back. A year later, the

1 cancer had returned. And now there is nothing else they
2 with do for her. Right now she couldn't be here because
3 right now she's at her doctor's appointment getting
4 treatment for cancer. And that's why I'm here to speak
5 for her, because she can't be out in the sun. She can't
6 do a lot of things. She can't eat dairy, because of the
7 cancer.

8 So I ask you guys to really think about what you
9 guys -- the choices you guys make, because it's affecting
10 not only us, but the people we love and our children.

11 I don't know what I will do if my mom were to
12 come to pass away. The doctor had told us we had months
13 to be with her. Not years; months. We don't know. The
14 cancer has already spread through her blood and her bones.
15 It hasn't gone to her brain yet. I don't know if that's
16 ever going to happen. I pray to God every day that he
17 cures her. The only thing that's keeping her alive is her
18 faith in God.

19 So I ask you guys, please, do the right thing.
20 We rely on you. You guys are the ones who have the
21 choice. Either you make us or you break us. And I can't
22 see anybody that I love or I know pass away. Thank you.

23 CHAIRPERSON NICHOLS: Thank you.

24 Kenneth Davis.

25 MR. DAVIS: Good morning. Good afternoon.

1 As Caesar was killed, Brutus stood before the
2 Senate and proclaimed, "I came not to praise Caesar, but
3 to bury him."

4 Many of the people in this room have no idea of
5 the political climate or how to get things done. But I
6 represent an area in the wonderful city of Richmond,
7 California. We have the best air, has been told. But I'm
8 here to disclaim that lie. We have the best weather, but
9 not the best air.

10 I look out of my window continuously every day
11 and I see Chevron refinery. I breathe that filth. I came
12 not begging you to be nice to me. You get paid to do a
13 job. You're the ones that have the lobbyists that you can
14 deal with. My people don't have that kind of money.

15 Let's think about this it. What you're dealing
16 with is environmental racism. I challenge all of you with
17 environmental racism.

18 Think about what I have to do on a daily basis
19 when I get in my car. I can't drive my car down the
20 street without paying a fee to have my car checked for
21 smog. Yet, you got people that sit up and they pollute
22 and kill all of us.

23 I'm a gospel minister. I want you all to know
24 this. While Chevron and other people go to the bank, talk
25 about making their three-and-a-half billion, \$23 billion

1 last year, you go to the bank and off-shore banks and they
2 make money and they come and see you with gifts. While
3 they deal with that -- while they poison the air, poison
4 the earth, and poison the water, my people -- I have to
5 see my people laying in boxes down in front of me. I have
6 to go and visit people in the hospitals, while you sit up
7 and talk about being nice.

8 You're not nice to me when you allow things to
9 happen. I should not have to be here right now. I have
10 no business here. My people are dying.

11 And so I challenge you, as I stand here before
12 you representing Richmond Progressive Alliance,
13 representing Communities for a Better Environment, Bay
14 Area Coalition of Concerned Citizens, I charge you with
15 environmental racism. If you don't do anything about it,
16 we're going to keep marching. We're going to keep
17 walking. We may have to be out here next year while you
18 sit around and be nice. You're not nice to me. Any time
19 you let these crooks poison my people, you're not nice at
20 all. You're a bunch of crooks and hypocrites.

21 CHAIRPERSON NICHOLS: Jessica Tovar. Try to
22 follow that.

23 MS. TOVAR: Running down the aisle, I wish I was
24 being called for the Price is Right. But unfortunately,
25 I'm here to talk about the losses of my community.

1 I'm originally from east Los Angeles. Went to
2 Roosevelt High School. Lived in Pomona. Went to school
3 in Pomona. Lived in San Bernardino. I live in
4 San Francisco. I work in Richmond. I worked in different
5 small communities throughout the San Joaquin Valley. So I
6 know all about the air pollution, all about the
7 contaminated water in the state of California. I probably
8 have more experience to make the decision and hold your
9 seat today and best represent these people. Because I've
10 been in all these communities.

11 And it's only just been weeks ago my doctor
12 actually diagnosed me with occupational asthma and has
13 asked me to stop giving toxic tours, because every time I
14 do so, I become ill. And that, my friends, think about
15 adult onset asthma. Some children are born with asthma.
16 Some people develop it over time. What do you think
17 causes the development of asthma? Okay.

18 On top of that, my mother is a breast cancer
19 survivor fortunately. But she has lived the last ten
20 years of her life with only one breast. Okay. So think
21 about the shame in that. Being a woman every day with
22 only one breast. Okay.

23 I want everybody who's left in the room the stand
24 up. Everybody. All you all. You all who came from far
25 away to talk to these people. Okay.

1 Who here has asthma or has a family member with
2 asthma?

3 Who here in the room has family members with
4 cancer?

5 Who here knows people who have died from cancer?
6 Who's gone through that process?

7 Right. Think about -- think about for those of
8 you who are a little bit older than some of us in the
9 room, okay, do you remember cancer and asthma so prevalent
10 in our communities? I talked to my grandma about it. My
11 mom is the first person in our family to develop cancer.
12 We had no cancer prior to that. Okay.

13 I tell the young folks, you know, very recently
14 in my lifetime, there was no such thing as bottled water.
15 And now we have air being sold to us in a can. Okay.

16 Think about what you're doing to the environment.
17 Think what you're doing to our communities.

18 Some of you all raised your hand. You probably
19 live in an affluent community. It's coming to a community
20 near you, okay. The pollution does not see racial lines.
21 Maybe you do. Maybe you see that we're poor. Maybe you
22 see we're dark. Maybe you see that we don't speak
23 oftentimes English and understand it.

24 But I'll tell you this much. There is a lot of
25 people in this room not formally educated, but they get

1 that quickly. They know that cap and trade is not a
2 solution in our community. Okay.

3 We've set forth the technical, the science, to
4 tell you what needs to happen. We need to clean up the
5 ports. We need to clean up these dirty refineries who are
6 probably the ones -- corporations who are benefiting the
7 most from cap and trade. Okay. The logging companies,
8 right? The palm oil companies. There is a lot of
9 corporations that are benefiting from this. It is the
10 same story. Okay.

11 When we talk about labor issues, when we talk
12 about all these injustice, it is the same people that are
13 benefiting. And it is the same people who are losing.
14 We're not going to sit here and lose. Okay.

15 What do we want?

16 Justice.

17 When do we want it?

18 Now.

19 What do we want?

20 Justice.

21 When do we want it?

22 Now.

23 What's the solution?

24 No more pollution.

25 What's the solution?

1 No more pollution.

2 And we'll be here for the rest of the day to let
3 people outside of here know that's what we're here for and
4 that's why some of us have not had sleep or had to wake up
5 earlier than usual, right, to be here to represent
6 probably ten, hundreds, maybe even thousands of people who
7 could not be here today. Thank you.

8 CHAIRPERSON NICHOLS: All right. With that, it's
9 12:00. We'll be back in the room again to resume the
10 hearing at 12:15.

11 (Whereupon a recess was taken.)

12 CHAIRPERSON NICHOLS: We're ready to get started
13 again. Board members will be filtering in and out.
14 They're back in the back room where they can hear all the
15 proceedings. They're grabbing a bite, since they don't
16 get a chance to go out during the course of the day.

17 I'm going to resume the hearing at this point.
18 I'm going to call on Tom Franz.

19 MR. FRANZ: This is real encouraging to not
20 seeing anyone up there.

21 CHAIRPERSON NICHOLS: We're doing our best. I've
22 just been joined by another Board member, and the others
23 are listening.

24 MR. FRANZ: My name is Tom Franz from Kern
25 County. I'm head of the Association of Irrigated

1 Residents. I'm an almond farmer, retired school teacher.
2 I've lived in Kern County 60 years. I know all about it
3 and the pollution issues as well and part of the lawsuit
4 that's making you rethink this whole cap and trade thing.

5 The adverse impacts of cap and trade are real and
6 present right now. So please come down for a little tour
7 and I can just show you all this stuff where people are
8 already gaming the system because they can see what's
9 coming down. It's not -- we're not saying it's going to
10 make our air worse in the future. Cap and trade is making
11 our air worse right now as I speak in the southern end of
12 the San Joaquin Valley.

13 Biomass incinerators are increasing dramatically.
14 The only place they get the biomass from are the major
15 urban parts of the state. The ag biomass is extremely
16 limited. There's over two million tons a year currently
17 being imported in the San Joaquin Valley for biomass
18 incinerators, and they're looking for more because they
19 know when they make steam from biomass for steam injection
20 enhanced oil recovery, they can get some kind of carbon
21 credit in the future. It's ridiculous.

22 And we're becoming the proven ground in the oil
23 fields now for -- they want import coal and petroleum coke
24 into our valley and make dirty polluting energy out of it,
25 it will pollute our air, but they will capture some of the

1 CO2 and inject it into the ground for enhanced oil
2 recovery, burning up more fossil fuel. They expect and
3 I'm sure they'll get some kind of carbon credit for that
4 under this cap and trade.

5 We have the factory dairies which are easily the
6 most unsustainable and fossil fuel intensive type of
7 agriculture on the face of this earth. And you want to
8 pay them to put in with credits methane digesters, to put
9 a Band-Aide on what is really a festering sore, and a huge
10 amount, three percent at least, of the greenhouse gas
11 emissions here in the state. They should be forced to do
12 that. They should change their ways, really, if we are
13 going to get rid of fossil fuel based emissions.

14 And do you really think that burning methane from
15 these digesters at dairies will not increase our air
16 pollution locally? And do you really think that burning
17 biomass trucked to the valley from L.A. to make steam for
18 enhanced oil recovery will not increase our air pollution?

19 And the response to my comments that stated all
20 this already was, new source review and the Clean Air Act
21 will take care of all these new sources of pollution.
22 That system has been gamed for years in the San Joaquin
23 Valley with our corrupt Air District. They have emission
24 reduction credits up in Stockton through inter-pollutant
25 trading for projects down in Kern County 150 to 200 miles

1 away. New projects increase our air pollution
2 significantly.

3 So please do not do this trading process now.
4 You can't -- and if it's stated you want to give credit to
5 farmers, like myself, who use more nitrogen who eliminate
6 fossil fuel nitrogen. We can get that from biomass and
7 manure, but not if the burned energy and manure is burned
8 up, adding CO2 to the air. And not if the biomass is
9 burned up, adding CO2 to the air. So you can't
10 incentivize that and also incentivize us decreasing our
11 nitrogen-based fertilizer use. It's just a huge
12 contradiction. Doesn't make any sense.

13 Please re-think this whole idiotic thing.

14 CHAIRPERSON NICHOLS: Okay. Reede Stockton.

15 MR. STOCKTON: Hello, Madam Chair, members of the
16 Board. Thanks very much for this opportunity to address
17 you today.

18 I have prepared remarks, but I think I'm going to
19 abandon them. I have a feeling I'll do better if I just
20 talk to you a little bit.

21 We submitted written comments in the form of a
22 letter that was signed by over 40 nonprofit groups. We
23 ask that you consider doing a couple of things. One of
24 the things that we wanted you to consider was holding
25 hearings on cap and trade in heavily impacted communities

1 around the state. What happened this morning was a
2 sampling I suspect of what you would hear if you went out
3 and around the state. I think it might be useful to
4 actually get some perspective from those communities. So
5 we're still urging that you do that.

6 The other thing that we ask you to do is rethink
7 the assumptions that underlie a cap and trade system.
8 Those assumptions are essentially -- the key assumption is
9 that all GHG emissions are essentially equivalent whatever
10 they occur. And we don't think that that's true. And we
11 don't think that that's true for a couple of reasons.

12 First of all, there is a relatively recent
13 evidence that local CO2 emissions actually have a
14 mortality effect. So we think there's actually
15 evidence -- and it's detailed in the written documentation
16 we gave you -- that it does matter where emissions occur.

17 The other thing the other way in which it
18 matters, if you were from outer space and you looked at
19 what we were doing right now and you kind of step back for
20 a second and you said, wow, look at these folks. They've
21 got a problem where they have heavily impacted communities
22 that are just sucking up the toxic air contaminants and
23 you have this process going on where they're trying to
24 reduce greenhouse gas emissions, and those greenhouse gas
25 emissions are bundled with those toxic air contaminants.

1 Wow, they've got an opportunity to take care of both
2 problems at the same time if they target and prioritize
3 reducing those emissions in those impacted communities.

4 When you look at it from the God's eye view
5 perspective, it's a no-brainer that we need to prioritize
6 reductions in those heavily impacted communities.

7 So what I would really urge you to do is rethink
8 the cap and trade recommendation based on that God's eye
9 view. Take a moment this afternoon before you deliver
10 that exciting discussion you promised us, and I'll be here
11 for that. I'm looking forward to it. Just take a moment
12 to step back and think about the opportunity you really
13 have right now to do something dramatic to reduce the
14 impacts of those communities that are heavily impacted.

15 The other -- I think I'm out of time. There's
16 not going to be another item. Thank you.

17 CHAIRPERSON NICHOLS: Thank you for your very
18 thoughtful presentation.

19 Rachel Medema.

20 MS. MEDEMA: It's Medema. I'm Rachel Medema. I
21 work with California Interfaith Power and Light. We have
22 faith communities around the state working on climate
23 change, working to respond to climate change.

24 Faith communities and disadvantaged communities
25 throughout California worked very hard to defeat Prop. 23

1 last November, because we believe that AB 32 held the
2 promise to improve public health and the California
3 economy for everyone, including low income and vulnerable
4 people. But this will only happen if the regulations are
5 well designed, strictly enforced, and transparent.

6 We support the Scoping Plan, but we also realize
7 that while offsets may be beneficial -- a beneficial way
8 to add flexibility to the system, we urge ARB to design
9 the program so that offset credits are limited, closely
10 monitored, and result in real, verifiable additional
11 reductions in GHG emissions.

12 We also call on CARB to provide clear language
13 supporting adaptive management, especially as it relates
14 to public health in disadvantaged communities.

15 We urge the ARB to make sure that the Global
16 Warming Solutions Act of 2006 is implemented effectively
17 and equitably for all people of California. Please reduce
18 free allowances and substantially limit offsets.

19 Thank you to the Board and the staff for all of
20 your work on AB 32.

21 CHAIRPERSON NICHOLS: Betsy Reifsnider.

22 MS. REIFSNIDER: Thank you. My name is Betsy
23 Reifsnider representing Catholic Charities in the Stockton
24 Diocese.

25 We are here to speak in support of the Scoping

1 Plan and for implementation measures that result in real,
2 measurable, and verifiable reductions in the greenhouse
3 gas emissions.

4 I should let you know that the U.S. Conference of
5 Catholic Bishops has not taken a position on cap and
6 trade, per se. However, they have stated that "policies
7 addressing climate change should enhance rather than
8 diminish the economic situation of people in poverty and
9 policies should help vulnerable populations adapt to
10 climate impacts and to participate actively in those
11 efforts."

12 So with that in mind, Catholic Charities and the
13 Stockton Diocese urges the Board to make a very clear
14 statement on the importance of developing an adaptive
15 management program in implementing AB 32 in regards to
16 offsets.

17 We agree with the Interfaith Power and Light and
18 Union of Concerned Scientists and others who have
19 submitted comments that because the Air Resources Board is
20 allowing a large number of offsets, those offsets must be
21 additional, verifiable, transparent to the public and very
22 closely monitored.

23 And then in conclusion, I would just like to
24 thank the Board and all the staff for all your hard work
25 over all these years in this monumental effort. Thank

1 you.

2 CHAIRPERSON NICHOLS: Thank you.

3 Could you -- before you go, I know we have a
4 written comment from you. But I would like a copy of the
5 statement that you read, if you would be able to give it
6 to the Clerk.

7 MS. REIFSNIDER: I would be happy to.

8 CHAIRPERSON NICHOLS: Okay. Bowman Cutter.

9 MR. CUTTER: Hello. Thank you. My name is Bow
10 Cutter. I'm from Pomona College.

11 And I, along with my co-author Reede Enyan, Cara
12 Horowitz, and Ann Carlson from the UCLA law school took an
13 in-depth look at the cap and trade element of our program.
14 Our idea is to look and see if the market rules were set
15 up to ensure a fair cost effective market that was not
16 vulnerable to manipulation or gaming and also to make sure
17 that the enforcement rules would make everybody play by
18 the rules of the game.

19 A couple caveats. What we did not do was compare
20 cap and trade to other possible programs. We were looking
21 at cap and trade to work well. The second thing we did
22 not look at offset qualities specifically. That's a book
23 of its own.

24 So our methodology was to look at other emissions
25 trading programs and see if ARB had taken the best

1 elements from those programs and avoided the problems that
2 have been seen earlier. So when we were looking at those
3 different programs, we saw that there was two categories
4 or two check boxes that needed to be filled for allowance
5 trading to work well.

6 One is transparency, that everybody in the market
7 can see what the prices are, they can see what the volumes
8 are. Everybody has equal access to that information.

9 Second is liquidity, there's enough buyers and
10 sellers and volume in the market so that anybody can go to
11 the market and buy allowances, sell allowances and be sure
12 that they are able to do that and that no one or two large
13 players would manipulate that market.

14 So we looked and saw what ARB had done to ensure
15 those two big requirements.

16 On transparency, they've adopted the best
17 practices from other programs. They have solid
18 transaction reporting requirements on price and volume.
19 On emissions, they have very good emissions reporting
20 requirements. And also the periodic and auctions should
21 provide good public information on prices.

22 Second, on liquidity, they've also adopted a lot
23 of the good practices from other programs as well. The
24 banking, allowing -- saving allowances for a rainy day,
25 the price reserve, to inject allowances if prices become

1 high, multi-year compliance periods, all those should
2 guarantee that you have a lot of buyers and sellers. And
3 so the market achieves good cost effective reductions.

4 So we think the program is quite well designed
5 and we're comfortable going forward with it as the
6 regulations are going to be written. We think that will
7 work out well.

8 But, of course, we have a couple of
9 recommendations on the market side and then my co-author
10 Cara, is going to follow with recommendations on the
11 enforcement side.

12 So our first is that we really like the provision
13 that requires the investor-owned utilities to place their
14 allowances at auction and receive the proceeds. We like
15 it so much we think you should do it with the public-owned
16 utilities as well. That will get all of the big players
17 in the market, guarantee volume, liquidity, and get all
18 the big players looking at early emissions reductions.

19 Second, for more transparency, we think you
20 should publish periodic price forecasts so everybody can
21 have that information ahead of time. Thank you very much.

22 CHAIRPERSON NICHOLS: Thank you. Appreciate it.

23 Cara, you come next and fill in the rest, I hope.

24 MS. HOROWITZ: Thanks very much. Thanks for the
25 opportunity to talk today.

1 I'm Cara Horowitz. I'm the Executive Director of
2 the Emmett Center on Climate Change and the Environment at
3 UCLA Law School and one of Bow's co-authors on the study.

4 As Bow testified, our study looked at the
5 potential for gaming and market manipulation in the
6 proposed cap and trade market.

7 We asked this: If California goes forward with
8 the cap and trade forward as it's been proposed, how well
9 has CARB designed the program to avoid gaming and market
10 implementation?

11 At the law school, our role was really to look at
12 whether you would be able to enforce your program rules
13 against those who might engage in fowl play.

14 I should mention, you each have a copy in front
15 of you of the study and we submitted for further review.

16 In short, on the ability to detect fowl play to
17 enforce its rule and to impose adequate penalties to deter
18 non-compliance, our central conclusion was that CARB had
19 designed a strong system of monitoring enforcement that
20 would allow CARB to take necessary enforcement actions and
21 generally to hold cheaters accountable.

22 Humans are imperfect, and we recognize that and
23 we recognize that no system is fool proof. But in our
24 view, CARB has learned really important lessons from past
25 program and incorporated those lessons into its design.

1 We did find, as Bow mentioned, a few areas where
2 in our view the proposed rules could be improved and we
3 lay those out in the report. A couple I'll just flag
4 here.

5 We suggest that CARB clarify its definition of
6 resource shuffling, which as you guys know is a key
7 anti-gaming provision, but one that we fear may be drafted
8 too broadly.

9 We'd like to see CARB strengthen penalties for
10 under-reporting of emissions, as we believe the current
11 penalty structure is too lenient and could fail to
12 discourage under reporting.

13 Our recommendations, I want to stress, are aimed
14 at strengthening what is already in our view a well
15 designed program and minimizing even further the risk that
16 CARB has already addressed. And none of our
17 recommendations is so critical that we think it need delay
18 CARB's adoption of the program if that's where you are
19 headed. Though our preference would be for some of the
20 more important of our recommendation to be addressed
21 before program finalization and the remainder I imagine
22 during program roll out in the first year phase.

23 We're happy to be of assistance going forward.
24 And I thank you for your time and attention. And I
25 commend staff for its work.

1 CHAIRPERSON NICHOLS: Thank you very much.
2 Thanks for your focus on this really critical issue to
3 program design. I think it's fair to say that if we do
4 move ahead with the program, we're going to need to get
5 this issue nailed down sooner rather than later, because
6 it's really critical to acceptance on all sides of whether
7 there should be any kind of a market program. Thanks.

8 Ken Koyama from CAPCOA.

9 MR. KOYAMA: Good afternoon. I'm Ken Koyama,
10 Executive Director of the California Air Pollution Control
11 Officers Association. And for the record, CAPCOA
12 represents the Air Pollution Control Officers from each of
13 the 35 air districts in California dedicated to protecting
14 the public health and providing clean air for the state.

15 We continue to support the goals and
16 implementation of AB 32 and recognize the tremendous work
17 done by ARB staff and Board members on this important
18 program.

19 We believe strongly that local districts can be
20 an important partner in achieving these goals. Relative
21 to adaptive management under cap and trade, CAPCOA looks
22 forward to meeting with your staff to discuss the
23 possibility of working together on this important
24 component of the program. And CAPCOA's Climate Protection
25 Committee stands ready to provide suggestions, comments,

1 and recommendations in this area.

2 In addition, we look forward to the collaboration
3 and to extending it into other areas of program
4 implementation. Thank you very much.

5 CHAIRPERSON NICHOLS: Thank you. That was very
6 brief and very to the point. We agree with you, by the
7 way. The districts are the primary regulators of the
8 sources that are subject to a cap and trade program. So
9 if there is one, they have to be at the center of looking
10 at how things are going. Okay.

11 Shankar Prasad of the Coalition for Clean Air.

12 MR. PRASAD: Thank you, Chairman Nichols.

13 Chairman Nichols, I can fully empathize with your
14 back problem.

15 And Chairman Nichols and members of the Board,
16 I'm Shankar Prasad from the Coalition for Clean Air.

17 We recognize and concur that pricing carbon in
18 one form or the other is critical to reducing emissions.
19 Should you chose the path of cap and trade, reaching the
20 target of auctioning 100 percent of allowances as soon as
21 possible is critical to the success of the program and
22 also to meet the 2050 goals.

23 However, this Scoping Plan continues to be silent
24 on this issue, and we suggest that the Board direct the
25 staff to evaluate and come up with some specific

1 recommendations of the ramp up scheme auctioning as the
2 implementation moves forward.

3 We also concur and support the views of the Union
4 of Concerned Scientists on the offsets. And we all need
5 to accept the fact that low income and minority
6 communities actually bear the brunt of what climate change
7 and air pollution impacts.

8 We are thankful for the resolution that you took
9 supporting the concept of the community benefits fund.
10 Chairman Nichols, here is an opportunity to make it a
11 reality. We urge you to take support position. And thank
12 you.

13 CHAIRPERSON NICHOLS: Thank you.

14 Bonnie Holmes-Gen.

15 MS. HOLMES-GEN: Good afternoon, Chairman Nichols
16 and members. Bonnie Holmes-Gen with the American Lung
17 Association of California.

18 And we are pleased to be here today in support of
19 the Scoping Plan and we appreciate all the hard work of
20 you and your staff over the years on this. We believe the
21 Scoping Plan is a solid framework for meeting the goals of
22 AB 32. And we believe that moving forward with the
23 Scoping Plan is critical to meeting California's AB 32
24 goals to improving air quality and public health. We
25 recognize there is improvements needed along the way. But

1 if we can't control global warming pollution, as you know,
2 we will have worse ozone pollution and more suffering from
3 air pollution related illnesses and deaths.

4 We are pleased with a large commitment of the
5 Scoping Plan to regulatory measures, and we believe it's
6 really important to note that more than 80 percent of the
7 emission reductions in the plan are from regulatory
8 measures. And we are pleased with the steady pace that
9 the Board has shown in adopting and implementing these
10 measures.

11 The American Lung Association's key goals in this
12 effort have been to maximize public health benefits in the
13 AB 32 program to build in measures to protect impacted
14 communities. And we are extremely concerned about the
15 current public health burden of air pollution. And that's
16 why we're supporting this AB 32 Scoping Plan framework.

17 To that end, we want you to know we are pleased
18 with the Board's decision to accelerate adoption of GHG
19 reduction requirements in the industrial sector through
20 these regulations coming up next year. And we continue to
21 support the adoption of a community benefits fund to
22 ensure investments in disadvantaged communities.

23 We do strongly support putting a declining cap
24 and price on carbon is a key element of our state
25 strategy. And for this reason, we support cap and trade

1 as one element of the Scoping Plan.

2 We appreciate the Air Board has done a lot of
3 work to evaluate problems with other programs and to try
4 to ensure that we can correct those problems. At the same
5 time, we're asking for revisions to strengthen the cap and
6 trade program. And we signed onto the joint letter from
7 other environmental health groups that you've noted today
8 in previous testimony. We would like to see a reduction
9 in the number of offsets. We would like to see you build
10 in more protections to further strengthen the offset
11 program and ensure the integrity of offsets. We want to,
12 of course, make sure that all offsets are real and
13 additional and that we have effective provisions for
14 oversight of emission verification bodies. And we'd like
15 to see these aspects -- strengthening amendments in the
16 regulation.

17 And we'd like to see and we believe you have
18 committed to a strong adaptive management program. But we
19 need to flush out the details. We look forward to working
20 with you on that. It's critical as we move forward to
21 ensure that we have a strong program to protect against
22 any unintended consequences, to evaluate ongoing impacts
23 in local communities, to evaluate if there are adverse
24 impacts to public health and the environment that need to
25 be corrected. And this program needs to include a clear

1 list of mitigation strategies that will be followed. If
2 there are adverse impacts, we'll work with you on that.

3 In summary, we support the continued progress to
4 move forward on the Scoping Plan. We look forward to
5 working with you. And we appreciate all your work hard
6 and commitment to reducing global warming and making
7 California a leader in this effort.

8 CHAIRPERSON NICHOLS: Next is Michael Turnipseed.

9 MR. TURNIPSEED: Madam Chairman and members of
10 the Board, I'm Michael Turnipseed, Executive Director of
11 the Kern County Taxpayers' Association.

12 We'll be talking about a little different note
13 today.

14 Kern County respectfully requests that CARB
15 extend the allowances for new cogeneration facilities
16 meeting the efficiency criteria of AB 1613. This will
17 allow new facilities to make and submit substantial
18 financial commitments to design and build new
19 state-of-the-art electricity generation units with heat
20 rates that are substantially lower than the current system
21 average heat rate for fossil-fired dispatch.

22 CARB staff has shown great wisdom in providing
23 allowances to insulate residential electric service, which
24 is essential for economic stability. Kern Tax believes
25 the same thing should happen for industrial customers.

1 There are no financial provisions in the
2 allowance proposal to facilitate construction of
3 stabilizing high-efficiency state-of-the-art co-gens that
4 can reduce system demand and provide tax to local
5 communities and needed generation reserves for the ISO.

6 The proposed CARB discriminatory allocation of
7 GHG allowances to IOUs will deal a substantial blow to any
8 hopes of successful design, permitting, construction, and
9 operation of new state-of-the-art cogen facilities.

10 Preventing these facilities in helping the IOUs from
11 offsetting the native loads for electricity and steam.

12 FIRPTA was designed by the federal government and
13 adopted in California in response to a major energy crisis
14 in the early 70s. This period when energy prices went out
15 of control revealed many policy flaws.

16 Now, California taxpayers are going to be asked
17 to turn back the clock on California electric system to
18 pre-FIRPTA state of affairs and grant IOU in excess to a
19 double-edge sword that is assumed to protect rate payers
20 from higher rates. But the new special IOU resource will
21 only serve to usurp the beneficial relationship between
22 industrial utilities and IOUs realizing the result of
23 FIRPTA.

24 The long-term implication will be that cogens
25 will not be built and captive industrial facilities loads

1 will be first reduced demand shed during ISO system
2 emergencies when ISO could enjoy a less loaded system or a
3 new cogen could have been called upon to provide needed
4 in-state reserves. These parallel units could have also
5 provided reenforcement in voltage and frequency stability
6 at local sub-transmission levels.

7 Kern Tax suggests it should be only the affected
8 percentage of facilities whose electrical load and system
9 demand meets the necessary efficiency criteria so this
10 would not be a substantial modification to inventories
11 while the gains in ISO system integrity would be
12 tremendous.

13 In closing, CARB should consider extending a
14 similar allowance policy to those industrial facilities
15 whose new cogen facilities meets AB 1613 Efficiency
16 criteria, provided the cogens agree to dispatch excess
17 energy under a parallel generator agreement with the ISO
18 during system emergencies. Thank you

19 CHAIRPERSON NICHOLS: Your time is up. Thank
20 you.

21 I just received another card, which reminds me I
22 failed to reinforce my earlier comment that we're not
23 accepting any additional sign-ups because we told
24 everybody first thing in the morning that they needed to
25 sign up if they wanted to speak. However, there is

1 another exception, which is that we hear from elected
2 officials. So I believe we have the Mayor of Richmond
3 here who's asked to speak; is that correct? And so we're
4 going to let you speak.

5 MAYOR MC LAUGHLIN: Thank you. I very much
6 appreciate you making this exception.

7 First of all, I just want to state, my name is
8 Gayle McLaughlin. I'm Mayor of the City of Richmond in
9 the Bay Area.

10 And I want to state what you already know that
11 the courts have stated that alternatives to cap and trade
12 must be looked at. And I think that is so, so very
13 important because it gives us an opportunity. It gives us
14 an opportunity to really look at closely what those
15 alternatives are, really workable alternatives.

16 We know that cap and trade has been instituted in
17 Europe for a long time, and it has had so many -- so many
18 problems. It has shown itself to be unworkable through
19 fraud, through free emissions. Companies -- you know,
20 these big polluters are always looking for ways to skirt
21 around the system. And this is what has, indeed,
22 happened. Polluters have been allowed to do just that:
23 Pollute more, whether it's through this carbon trading or
24 whether it's through offsets.

25 And in the city of Richmond, we have the Richmond

1 Chevron refinery, which is the second largest oil refinery
2 in the city of Richmond. And we have seen and I have
3 witnessed the elements of damage that communities around
4 the refinery have suffered: The asthma, the heart
5 disease, the cancer rates are epidemic. And these are
6 things that communities -- low income communities, people
7 of color who are situated around the Richmond refinery, as
8 they are in most cities around refineries, around heavy
9 polluters, they are the ones that are suffering this
10 extreme burden of pollutants.

11 And the issue of environmental justice is
12 something that I really, really hope you'll take very,
13 very seriously, because this is what we're talking about.
14 We're talking about offsets where they can -- a polluter
15 can go and plant some trees in a developing country and
16 evict farmers in a developing country, which in itself is
17 a terrible environmental injustice. But then they are
18 allowed to pollute more in communities that, like
19 Richmond, who have already been overly burdened with
20 pollution.

21 So we really, really want to take that seriously.
22 We want you to know how seriously we take it. How
23 seriously I take it in the city of Richmond.

24 We have seen the Chevron refinery attempt to do a
25 project which the courts brought down in 2008 due to a

1 flawed EIR. We're now working with Chevron to come up
2 with a revised project, one that will truly reduce
3 pollution. We don't want trading to occur. We want real
4 reductions of greenhouse gas emissions. And we know that
5 along with greenhouse gas emissions come other pollutants,
6 metals and other chemicals. And we think that the jobs
7 are in a green clean future. So thank you very much for
8 giving me this opportunities.

9 CHAIRPERSON NICHOLS: Thank you for taking the
10 time to come. Okay.

11 Ed Casey.

12 MR. CASEY: Good afternoon, Madam Chair and
13 members of the Board.

14 My name is Ed Casie appearing on behalf of CIPA
15 and each of its members today.

16 I'll be brief in my remarks today because we did
17 submit two separate comment letters on the FED supplement,
18 and our comment letters focused almost exclusively on the
19 technical analysis in the FED supplement, because we
20 thought there were a number of analytical flaws as well as
21 omissions in the FED supplement. Our comment letters were
22 supported by two other reports from well-known experts in
23 the field.

24 Unfortunately, after looking at the responses to
25 those comments, we believe that those flaws and omissions

1 were not corrected. Indeed, we think the responses added
2 flaws and errors to the technical analysis underlying the
3 FED supplement.

4 We believe it's critical that those errors and
5 flaws be corrected in a revised version of the FED
6 supplement for at least two reasons. One is, substantial
7 evidence must, as a matter of law, support your decision
8 when you do decide on certifying an FED supplement. But
9 more importantly, when you correct those flaws and you
10 re-run the numbers, you will see that there are viable
11 alternatives to the cap and trade program. Thank you.

12 BOARD MEMBER BERG: Thank you.

13 MR. CASIE: By the way, we did submit an
14 additional comment letter this morning which I'll give
15 another copy to the Clerk.

16 BOARD MEMBER BERG: Thank you very much. I
17 believe we've just gotten a distribution also of a comment
18 letter.

19 MS. MERRILL: My name is Jeanne Merril. I'm with
20 the California Climate and Agriculture Network. We're a
21 coalition of sustainable agriculture and farmer member
22 organizations.

23 My comments today relate to a couple of critical
24 aspects for California agriculture when it comes to cap
25 and trade offsets and CARB's recommendations Legislature

1 on the use of future allowance revenue.

2 We're concerned that as described the
3 additionality requirements of offset credits may lead to
4 unintended perverse incentives. We want clarity from CARB
5 on how it intends to avoid creating such incentives. If
6 early adopters of agricultural conservation practices
7 which demonstrate a reduced greenhouse gas emission
8 benefits are prohibited from receiving offset credits,
9 early adopters may choose to stop their use of those
10 conservation practices so that they may in the future
11 reestablish those practices to then qualify for offset
12 credits.

13 To avoid penalizing early adopters of
14 conservation agriculture and creating more perverse
15 incentives, CARB should establish that additionality for
16 carbon offset protocols is determined by the common
17 practice for the industry and should not include a fixed
18 date requirement of when the practice was to be
19 established.

20 As far as verification of greenhouse gas
21 emissions reductions or design, rather, of offset
22 protocols in agriculture, the marketplace tends towards
23 simplified approaches to agricultural greenhouse gas
24 mitigation, rewarding single practices rather than
25 assessing and awarding whole farm system approaches, which

1 may lead to overall greenhouse gas emission reductions.

2 For example, you can alter an agricultural
3 practice to achieve reducing methane emissions only to
4 then require the farmer or rancher to change their
5 practices otherwise and that can lead to greater
6 unintended greenhouse gas emissions elsewhere in the
7 operation.

8 And to minimize the chance that agricultural
9 offset credits -- protocols, rather, will fail to account
10 for displaced greenhouse gas emissions within farms and
11 ranches, CARB should adopt only offset protocols that
12 account for the full life cycle impacts of the entire
13 operation.

14 We also have concerns about agricultural offset
15 credits and their impacts for small and mid-scale farmers,
16 many of which won't benefit from the carbon market.
17 They're simply too small to participate and have it be
18 worth their while. Yet, they have to compete in the
19 marketplace with larger farmers and ranchers who may
20 participate in the carbon market and be at a financial
21 advantage to them.

22 We recommend that CARB consider other ways to
23 support innovative conservation oriented small and
24 mid-scale producers who provide climate change benefits
25 which I'll mention in just a moment.

1 And then finally, the last comment on offset
2 credits is that many agricultural projects, rather, that
3 provide climate benefits provide other environmental and
4 health co-benefits. And those should be considered,
5 particularly for California.

6 And finally, I'll add, for the Legislature, we
7 really strongly encourage you to recommend that a portion
8 of the future allowance revenue go for agricultural
9 practices that provide climate benefits.

10 BOARD MEMBER BERG: Thank you very much.

11 MR. PEDERSEN: Good afternoon. My name is Norman
12 Pedersen. I'm here on behalf of the Southern California
13 Public Power Authority.

14 SCAPA supports the supplemental FED. We support
15 staying the course and moving to an economy-wide cap and
16 trade program in compliance periods two and three.

17 We participated actively in the July 8th workshop
18 because we had trouble understanding why the recommended
19 direct measures, including advanced clean cars, are now
20 projected to account for only about 62 million metric tons
21 of the 80 million metric tons of emission reductions that
22 will be needed by 2020, leaving cap and trade to obtain
23 only about 18 million metric tons of reductions.

24 The July 22 report on the status of the
25 recommended measures was very helpful to us, and your

1 response to our comment was helpful as well. We now
2 understand that the projection that 62 million metric tons
3 will be obtained through direct measures by 2020 is a
4 conservative estimate of what will be obtained from the
5 direct measures.

6 For example, no emission reductions are currently
7 projected for combined heat and power, CHP, although CHP
8 was projected previously to produce as much as 4.8 million
9 metric tons of reductions. CHP will undoubtedly result in
10 some reductions, as will likely be shown by the survey of
11 utilities that you will be undertaking shortly.

12 We support the cap and trade program as a means
13 to ensure that California will meet the AB 32 goal by
14 2020. However, we continue to support a robust program of
15 direct measures that will produce the lion's share of
16 emission reductions. A robust suite of direct measures
17 such as the ones you designed in the Scoping Plan and the
18 ones that Edie Chang discussed in her remarks this morning
19 is a primary means to be sure that our insurance policy
20 the, cap and trade program, doesn't cost too much.

21 We urge you to stick with an economy-wide cap and
22 trade program to assure that we meet the 2020 goal, while
23 continuing to pursue direct measures aggressively.

24 Additionally, we urge you to continue to pursue
25 additional offset protocols, as Edie Chang also discussed

1 this morning, to attain emission reductions while also
2 simultaneously containing once again the cost of our
3 insurance policy, the cap and trade program. Thank you
4 very much for your attention.

5 BOARD MEMBER BERG: Thank you very much.

6 Hank de Carbonel.

7 Paul Mason, please.

8 MR. MASON: Good afternoon, Madam Chairman,
9 members of the Board.

10 Paul Mason for Pacific Forest Trust. I'll try to
11 be brief today.

12 We do support the adoption of the supplemental
13 FED and the revised Scoping Plan. We very much like the
14 portfolio approach that's been laid out for many of the
15 goals of AB 32, which includes a cap and trade program.
16 We think the cap and trade program is critical because it
17 does help send that price signal out to the rest of the
18 economy regarding carbon.

19 We heard a lot of concerns about the cap and
20 trade program for the first half of the day today. And
21 I'd just like to take a moment to suggest that a lot of
22 those concerns about impacts to public health in localized
23 areas as well as concerns that we have about impacts to
24 forest ecosystems could be addressed through the adaptive
25 management program that the Board has committed to or the

1 strategy for adaptive management.

2 I would suggest that's something the Board should
3 really focus on making very specific and getting that out
4 for public discussion as soon as possible so that we can
5 be looking at how to make sure it includes clear triggers
6 so we know when we're starting to see an unacceptable
7 level of impact and have some sense of what would be the
8 response.

9 If we did start seeing an impact in forest region
10 from biomass production or in a community getting
11 additional air quality impacts in a localized area, what
12 would be the trigger, what would be the response. We need
13 to get that out and make sure that's part of the public
14 discussion. But we very much support moving forward with
15 the Scoping Plan and with the portfolio approach. Thank
16 you.

17 BOARD MEMBER BERG: Thank you.

18 Jasmin.

19 MS. ANSAR: Madam Chairman and members of the
20 Board, my name is Jasmin Ansar. I work at the Union of
21 Concerned Scientists.

22 My remarks will focus on the proposals for the
23 allocation of allowances to refineries in California. But
24 let me just start by congratulating CARB staff for their
25 outstanding work and dedication in bringing about the

1 Scoping Plan and 15-day changes. This is an important and
2 significant milestone in helping California accomplish its
3 carbon reduction goals.

4 In the 15-day changes, CARB staff has put forward
5 an allowance allocation proposal for refineries. The
6 staff proposal is smart, pragmatic, and sensible first
7 program with many merits. This proposal is likely to
8 succeed since it rewards efforts by facilities to reduce
9 carbon emissions and it is based on California production,
10 which rewards and addresses outsourcing concerns.

11 If the benchmark is further set at best practice
12 standards, it will promote greater carbon reductions and
13 faster adoption of these best practices. In addition,
14 outliers with very high carbon intensities can be
15 accommodated through special transitional assistance to
16 address their poor carbon performance. This targeted help
17 can help finance the necessary investments in carbon
18 efficient production facilities to effect swift carbon
19 reductions.

20 There is an alternative proposal mentioned in the
21 15-day changes that is fatally flawed. This alternative
22 proposal is based on a non-transparent methodology that
23 results in a two billion dollar subsidy to the refining
24 sector with no public accountability or review. The flaws
25 in the alternative allocation scheme can best be

1 illustrated by means of a simple example. Under the
2 alternative, let's considered two facilities. Facility A
3 is a facility that innovates, that pushes the envelope.
4 Let's say it's a refinery that decides, okay, we're going
5 to go carbon free. In that sense, then it is rewarded
6 because it can enjoy the full value of its allowances.

7 Under the alternative proposal, it would only get
8 20 percent of the benefits. The remaining 80 percent of
9 the allowances that it thereby save by the carbon free
10 production would actually be decimated and given to other
11 refineries, other entities, other facilities that had
12 overshot their allowances and thereby actually exceeded
13 and polluted more than their share.

14 So let me just end by saying that the staff
15 proposal is a smart pragmatic and sensible initial program
16 and the alternative proposal has a fatal flaw, which
17 conflicts with the carbon reduction goals of AB 32.

18 Thank you very much.

19 BOARD MEMBER BERG: Thank you very much.

20 Dan Kalb.

21 MR. KALB: Members of the Board, my name is Dan
22 Kalb, also representing the Union of Concerned Scientists.

23 First, I want to be clear that UCS strongly
24 supports the Scoping Plan as proposed for adoption. We
25 acknowledge some of the concerns with one significant

1 element, cap and trade, in the plan. And we share some of
2 those concerns. But we believe that moving forward today
3 with implementing AB 32 is paramount. And we support
4 having the Board adopt the plan as put forward today.

5 We appreciate the hard work the staff has engaged
6 in over the past months and years in the cap and trade
7 rules, specifically, and we suggest there is some
8 important work to do on some provisions of the cap and
9 trade regulation, specifically the offsets provisions,
10 often considered the most controversial provisions.

11 We assert that offsets, which are not inherent in
12 cap and trade, present the most uncertainty and therefore
13 the most risk to the success of the market-based program.
14 Again, we support having a cap and trade program.

15 I should point out that the eight percent of
16 total obligation figure that was mentioned earlier this
17 morning equals roughly about an 80 percent of emission
18 reductions. That's a very large number. We believe that
19 it would be more prudent to focus our emission reductions
20 on the capped sectors, which is where most of the
21 pollution comes from.

22 In order to promote greater technological
23 innovation in the capped sectors as well as take advantage
24 of the potential in-state cobenefits, we encourage the
25 Board to eventually lower the offsets limit in the second

1 and third compliance period.

2 Never the less, if the Board continues, either
3 way, to allow for an expansive use of offsets, the
4 question of quality control and market oversight become
5 that much more important.

6 We, therefore, have proposed regulatory language
7 to strengthen the process for approving offset protocols
8 and for improving the oversight for verifying the offsets
9 themselves.

10 To increase the likelihood of offset integrity,
11 we propose that a rigorous analysis of additionality be
12 conducted for every proposed new offset protocol and as
13 part of the regular review of all existing protocols.

14 The language in the cap and trade regulation
15 today doesn't go far enough yet to provide the level of
16 rigor that is needed to maximum offset integrity through
17 the protocol process. Of course, it's the protocols that
18 allow for the offsets. That's where the important
19 additionality analysis needs to happen.

20 This additionality analysis should assess the
21 expected business-as-usual activities related to the
22 protocol and analyze the expected impact of the offset
23 protocol on new project development. Protocol should only
24 be adopted if there is a very high degree of confidence
25 that the credits generated due to the existence of the

1 protocol are truly real and additional.

2 We also believe that the regulation should
3 identify a required performance review of verifiers and
4 passing the performance review, of course, as a condition
5 for re-accreditation.

6 And finally, we support CARB and the buyer
7 liability provision. It is the buyers, the regulated
8 entities, that are the ones required to reduce emissions,
9 and they are the ones that should be held accountable.
10 And we thank CARB for including that in the regulation.
11 Thank you.

12 BOARD MEMBER BERG: Thank you very much.

13 Bob Lucas.

14 MR. LUCAS: Thank you. Good afternoon.

15 My name is Bob Lucas. I'm here today
16 representing the California Council for Environmental and
17 Economic Balance.

18 CCEEB supports the adoption of cap and trade
19 program as the best means to achieve greenhouse gas
20 reductions at the lowest possible cost. We also
21 appreciate the work that the staff has performed over the
22 last year.

23 In looking forward, I'd like you to know CCEEB is
24 committed to working with the ARB to build a workable
25 regulation that balances the environmental and economic

1 needs for a healthy and vibrant California. CCEEB
2 supports the objectives of the Scoping Plan.

3 We also support your proposed action as outlined
4 in the proposed Resolution 1127.

5 With regard to co-pollutant emission impacts
6 which has received a lot of attention today, I'd like to
7 direct your attention, if I may, to page 53 of the
8 supplement to the AB 32 Scoping Plan FED in the final
9 paragraph. And if I may, I'll read two sentences to you.

10 "The ARB staff evaluated the potential for
11 criteria pollutant emission increases under the proposed
12 cap and trade regulation in the co-pollutant emissions
13 assessment."

14 This is a document prepared by the ARB staff.

15 "The assessment examines some hypothetical
16 possibilities for potential increases in criteria
17 pollutant emissions from certain facility types in four
18 community-specific case studies and determined that any
19 increase in co-pollutants is highly unlikely."

20 Now, the staff responsible for preparation of
21 that study is here today, in case you do have questions
22 about it. I don't need to say anything more about it at
23 the moment.

24 I would like to also draw your attention, if I
25 may, to page 113 of this document, which is the Table

1 2.8-1. Comparative likelihood that alternatives achieved
2 project objectives. You'll see what this table does is to
3 list each of the 20 objectives of the Scoping Plan and the
4 assessed potential of each of the different alternatives
5 to meet those objectives.

6 You'll note that cap and trade has the highest
7 assessment of the ability to the meet the Scoping Plan
8 objectives of any of the alternatives that were evaluated.

9 So with that, I'll close. Thank you very much.

10 BOARD MEMBER BERG: Thank you very much.

11 Ms. Feast.

12 MS. FEAST: Good afternoon. My first name is
13 Saskia. Saskia Feast. Thank you for the opportunity to
14 speak.

15 So I'm Saskia Feast. I'm here representing EOS
16 Climate. EOS Climate is a small San Francisco-based
17 company that was founded to address the environmental
18 threat of ozone-depleting substances leaking into the
19 environment, ozone depleting substances which you may
20 recognize as CFCs are gases found in older refrigeration
21 and cooling equipment. These gases must be collected,
22 aggregated, and destroyed before they leak into the
23 atmosphere.

24 We support efficient market mechanisms as the
25 most efficient method to drive the investment required to

1 pay for the collection and destruction of these gases.

2 ARB is the first regulatory body in the world to
3 recognize the destruction of ozone-depleting substances as
4 a compliance grade offset. As a result of ARB's
5 leadership, the demand for offset produced from the
6 currently recognized protocols has increased. This has
7 enabled our company to ensure that hundreds of thousands
8 of pounds of old refrigerant gases have been prevented
9 from being emitted. We've generated over 1.4 million
10 metric tons of emissions reductions and sold them to
11 entities because of the rules that ARB has proposed and is
12 moving forward with.

13 Your leadership and the implementation of the
14 program sends a clear signal to investors and to
15 businesses. As I mentioned, we're based in San Francisco.
16 We were started in 2008. In the first six months of this
17 year, we've hired seven more people to our innovative
18 start-up company. So thank you for creating greener jobs
19 in the Bay Area.

20 In closing, I'd like to say we support the
21 supplemental FED and the Scoping Plan. And I'd like to
22 acknowledge the staff for their pragmatic and thorough
23 approach in developing these regulations.

24 BOARD MEMBER BERG: Thank you very much.

25 Tim O'Connor.

1 MR. O'CONNOR: Good afternoon. My name is Tim
2 O'Connor. I work for Environmental Defense Fund.

3 First of all, I don't think it's any secret that
4 EDF has been in support of this plan and the measures that
5 the staff has developed under the plan. And we are here
6 to, of course, urge the Board to adopt it today and to
7 move forward with implementing the rest of the measures
8 that are in there, included within that a cap and trade
9 program.

10 California has some of the worst air quality in
11 the nation. We need to make sure that polluters don't get
12 off the hook for their emissions. We believe that the
13 program doesn't do that. The cap and trade program
14 specifically that we heard so much about today doesn't do
15 that. It works alongside traditional and emerging air
16 quality regulations that are going to be very important
17 for improving our air quality throughout the state. It's
18 going to be working along side these regulations providing
19 a strong signal to reduce pollution that's going to help
20 clean up our communities.

21 We, of course, are very concerned, and a lot of
22 the statements we heard here today are very heartfelt
23 statements and are very important for the Board to hear
24 because, indeed, they are reminders that we need to be
25 improving our air quality. We don't think that cap and

1 trade and, say, getting rid of cap and trade is the right
2 solution. Holding polluters accountable is one thing this
3 program does, and we think it's important to move forward.

4 Right now, EDF has been working with other NGOs,
5 other entities to figure out a way to implement a market
6 program so that it doesn't impact communities. We've
7 heard from Edie Chang today that ARB is going to be
8 working to develop an adaptive management program to work
9 alongside this regulation so that we can detect and
10 respond to potential increases or changes to air quality
11 that were maybe either unforeseen or unintended. That's
12 going to be a critical part of this program.

13 We haven't yet seen a full proposal for that.
14 We're anxious and we are ready and willing and able to
15 work with the staff to develop that. And we want to make
16 sure that that becomes a critical part of this program as
17 well.

18 Further, one thing I think we have heard a little
19 bit about today is offsets. I mean, this program -- the
20 meeting today was not necessarily about cap and trade, but
21 of course that is becoming a strong topic of conversation.
22 EDF has been supporting the use of offsets in this program
23 from the beginning. They are a critical cost containment
24 mechanism. They also provide opportunities for innovation
25 and reductions of environmental impact in areas that are

1 outside of the program. They're a very important piece of
2 this overall package of reductions. And we think they can
3 be providing benefits both within California --
4 environmental benefits as well as outside of California.
5 And we think it's also important that the WCI partners are
6 here today. Because this program in whole is going to be
7 creating opportunities and improvements and benefits both
8 in California and outside our borders. And it's important
9 that we work together with those entities to make sure we
10 get regional as well as in-state benefits. Thank you very
11 much.

12 BOARD MEMBER BERG: Thank you, Tim.

13 Jessie Marquez.

14 MR. MARQUEZ: Good afternoon, Chairman of the
15 Board and members of the Commission. My name is Jessie
16 Marquez. I'm the founder and Executive Director of
17 Coalition for a Safe Environment. We have over 500
18 members in 25 cities in southern California. And we're
19 predominantly in the Wilmington, Carson, south Bay Area.

20 I'm here because you're here. And the reason
21 you're here is because CARB lost a court case where the
22 judge ruled that you did not do an adequate alternatives
23 assessment. This happened because CARB management and
24 staff failed to listen to the public comments and to
25 listen to the points that we brought up during the public

1 comment periods that there were deficiencies in the
2 proposed Scoping Plan.

3 What I'm going to discuss with you now are four
4 other alternatives assessments that could have been done.
5 For example, early action measures; our organization,
6 Environmental Justice Advisory Committees, and others made
7 over 50 early action measure recommendations. CARB staff
8 only recommended 21, and those that got incorporated.

9 So one of the alternative assessments could have
10 been done to go back and reassess the other 20. It's been
11 a few years now. Some have been tested. Protocols have
12 been developed for them. They've been certified. But
13 yet, here you are a decision maker not having that
14 information before you.

15 A second analysis that could have been performed
16 was that during this whole process you have a CARB
17 department that is reviewing technology, preparing your
18 protocol testing, witnessing testing and demonstration and
19 certifying. Where is that? You don't have that analysis
20 of all of various technologies. It also a fact some of
21 these technologies CARB was the co-sponsor of. Right here
22 in Roseville railyard, the advanced locomotives control
23 system was tested and proven to be 92 to 98 percent
24 effective at capturing emissions. Nowhere is that
25 technology mentioned as a recommendation. That AMEX

1 system for advanced emission marine control was performed
2 on three ships. It's nowhere there.

3 One of the other areas that we found that could
4 be done was that in some cases you had an opportunity to
5 establish higher standards. South Coast AQMD has a rule
6 for 95 percent emission efficiency for vapor recovery
7 systems, which sounds good. Except for when you have
8 hundreds of storage tanks, that five percent adds up.
9 Well, CARB staff could have done an assessment to find out
10 what is the maximum achievable and the maximum achievable
11 efficiency is 99 percent. So CARB could have made a
12 ruling or requirement that all AQMDs now adopt a 99
13 percent efficiency standard. They did not do that.

14 The fourth alternative assessment would be to
15 look at other technologies that CARB has not been involved
16 with, but yet Port of L.A., Port of Long Beach, AQMD, and
17 others have been testing different types of things. Port
18 of L.A. adopted a ten megawatt solar energy program. The
19 first megawatt has been done. There is an example.

20 So in our public comments, we've listed some of
21 those technologies and those are the four categories of
22 alternatives analysis that we feel you should direct staff
23 to go ahead and include in the supplement and not approve
24 and certify it today. Thank you for your time.

25 BOARD MEMBER BERG: Sofia from Coalition for a

1 Safe Environment.

2 MS. CARRILO: Good afternoon, Chairman Nichols
3 and members of the Board. My name is Sofia Carrilo,
4 community organizer with Coalition for a Safe Environment.

5 I wish to submit my public comment request that
6 the California Air Resources Board not approve and adopt
7 the proposed Scoping Plan document. Our staff find it to
8 include the alternative analysis and assessment and
9 comprehensive study of the potential public health impacts
10 (inaudible). ARB has not conducted one comprehensive
11 study on the greenhouse gas impacts for public health,
12 public safety for to future for socioeconomic impacts.

13 I request that ARB require ARB staff to conduct a
14 health impact assessment for each alternative analysis
15 option and that technology to validate the public cost
16 benefit prior to the final approval of the AB 32 Scoping
17 Plan. Thank you.

18 CHAIRPERSON NICHOLS: Richard Pulido.

19 MR. PULIDO: Good afternoon, Madam Chair. Good
20 to see you back, and to all the CARB Board members and to
21 staff and to our community here at large.

22 My name is Ricardo Pulido. I'm a member of the
23 Coalition for Safe Environment, Board member. And I live
24 in the beautiful city of Carson neighboring all the
25 greater south bay areas that we represent, Wilmington, San

1 Pedro, Long Beach, Harbor City up into the Gardena,
2 Torrance, Palos Verdes, Rolling Hills. All of those areas
3 are voices needed to be heard today, and you've been
4 hearing throughout the day from some of our friends and
5 community.

6 I would like to say on behalf of our coalition,
7 first of all, the Cal/EPA and yourself, CARB are the
8 watchdogs for our community. And that's the way I
9 remember you guys when I was a kid. I would say, gosh,
10 Cal/EPA, get them. Keep up the great work.

11 And then CARB came up and you guys kept rallying
12 and keeping the communities first and always foremost.

13 So with that said, this is regarding AB 32
14 California Global Warming Solutions Act of 2006, CARB
15 public meeting agenda today, Item 11-6-1. Public comment
16 request to not approve and not adopt the final supplement
17 to the AB 32 Scoping Plan functions equivalent document.

18 Dear Chair and all members, I wish to submit my
19 public comments requesting that the California Air
20 Resource Board not approve and adopt the proposed final
21 supplement of AB 32 Scoping Plan functional equivalent
22 document.

23 I believe the ARB staff did not do an adequate
24 job in researching, identifying, and recommending new
25 emerging greenhouse gases, a reduction alternative

1 technologies.

2 I further wish to share with you one zero
3 emissions reductions freight transportation emissions
4 technology -- this is a solution I'm talking about -- I
5 believe can contribute to the significant reducing
6 greenhouse gas emissions by replacing 19th century
7 locomotive freights, trains which was not included in AB
8 32 Scoping Plan.

9 Take heed and listen on. American Maglev
10 Technology, Incorporated, AMTI, Environmental Mitigation
11 and Mobility Initiative, and also EMMI Logistic Solution
12 Zero Emission Maglev freight trains. American Maglev
13 Technology, Incorporated, has built a working
14 demonstration project prototype of the Maglev train since
15 2008. AMTI has offered to build a demonstration project
16 at their own cost, no money, no tax dollars, nobody's
17 money -- private industry -- at the port of Long Beach and
18 Los Angeles, which no progress has been made up to this
19 date.

20 I gave your staff earlier this morning 30 copies
21 for everybody. As you can see right here, you can see the
22 Maglev in full operation. It's working in other
23 countries. And we'd like to see it happen here in the
24 L.A. area specifically. Maglev trains are zero emissions,
25 four times faster than a locomotive train. Each car can

1 travel independently, near noiseless, and very cost
2 effectively.

3 I respectfully, Madam Chair, submit this
4 information to you that your staff has already got.

5 And I'd like to also say I have a family of seven
6 children and a granddaughter. And just like yourselves,
7 you heard today, some of them that have mental health
8 issues. And I believe in my heart that a lot of our
9 contamination and pollution is causing the mental health
10 and unstability of a lot of our young people and our
11 elderly. We haven't heard that. But the poor and the
12 frail and the sick are being affected in their brain
13 disorders and also in their minds. Because of all the
14 contamination that's around us here, specifically the
15 refineries. We feel they should pay their fair share.
16 They're not paying enough to help with this. We should
17 have health care clinics around all of our surrounding
18 communities --

19 CHAIRPERSON NICHOLS: Your time is up.

20 MR. PULIDO: And madam Chair, in closing, I'd
21 like to say that the staff is flawed in their
22 presentation. So please vote this down today. God bless
23 you. Thank you very much.

24 CHAIRPERSON NICHOLS: Joseph Pinon.

25 MR. PINON: Good afternoon, Madam Chair and

1 members of the Board. My name is Joseph Pinon. I'm the
2 Chairman of the Environmental Commission in Carson,
3 California. I'm also a member of the Coalition for a Safe
4 Environment.

5 To those unfamiliar with the city of Carson, we
6 are the northern neighbor of Wilmington. We have several
7 oil refineries and we're located very close to the ports
8 of Long Beach and L.A. The 90744 four area code resides
9 in the city of Carson and the 90744 area code has also the
10 highest hospitalization rate for children with asthma.

11 Now, the Environmental Commission and city of
12 Carson has enough to worry about concerning our soil,
13 concerning our water, without also having to add worries
14 about our air quality.

15 I'm here to request that the California Air
16 Resources Board not approve and adopt the proposed final
17 supplement to the AB 32 Scoping Plan functional equivalent
18 document. I believe that the ARB staff did not do an
19 adequate job in researching, identifying, and recommending
20 new emerging greenhouse gas reduction alternative
21 technologies.

22 I wish to share with you one zero emission
23 freight transportation technology I believe can contribute
24 to reducing greenhouse gas emissions from goods movement
25 industry trucks, which was not included in the AB 32

1 Scoping Plan. Vision Motor Corp is building a hydrogen
2 gas fuel cell zero emission Tyrano 80,000 pound drayage
3 and a 130,000 pound terminal tractor that can be used at
4 the ports, intermodal facilities, and rail yards and is
5 currently undergoing ARB approval and testing protocols
6 for Executive Order certification.

7 The ports of Los Angeles and the ports of Long
8 Beach have already ordered two trucks. I ask that CARB
9 Board require ARB staff to review this technology and to
10 add the Vision Motor Corp truck freight technology to the
11 list of available technologies to reduce greenhouse gases.
12 I have included a photograph of the technology for your
13 review. Thank you.

14 CHAIRPERSON NICHOLS: Thank you.

15 MR. MARQUEZ: Good afternoon. Madam Chairman and
16 rest of the Board.

17 I approach you guys through a slightly different
18 point of view. I'm a small business owner in a city of
19 Wilmington. There is one little concept phrase that
20 pretty much dictated the 100 percent success of my
21 business and that phrase is "continuous improvement."
22 That means no matter what I do, no matter how great or how
23 wonderful my business is, there's always room to improve.
24 Always.

25 Last year, I spent 70 percent of my entire profit

1 upgrading my business to make sure everything runs more
2 streamlined and to continually improve. What I see here
3 is wonderful and a great step forward, but unfortunately
4 those companies that need to improve aren't improving.
5 It's actually a shame to say that some of these companies
6 are using technology developed in 30s and 50s and say that
7 it's viable in the today's day and age. That's kind of
8 prosperous.

9 If you look in your pockets, how many of us have
10 iPhones that control your garage door, your phone, your
11 telephone, you can find out sports scores. I mean, that's
12 amazing. We're a wonderful, beautiful race, beautifully
13 intelligent. And our technology is beyond what anyone can
14 comprehend right now.

15 Unfortunately, these companies that can be doing
16 this, that do have the money to do this, that have an
17 opportunity to do this unfortunately are not taking care
18 or continually improving.

19 As such, we stand here in front of you almost
20 battling back and forth, like you're on the west side,
21 we're on the east side fighting to the death. Why is this
22 when the people at hand that are responsible aren't here.
23 You know, where is the Board of Chevron? Where is the
24 Board of Arco? Why aren't they here? Why aren't they
25 talking with us?

1 Unfortunately, they have private jets. They have
2 money, and they're still not here. Here we are, the broke
3 little community getting our stuff together. We're doing
4 the best.

5 If I can continually improve and invest 70
6 percent of my profit to improve my business to make me
7 look good to help my surroundings, then why shouldn't
8 they?

9 Again, as my predecessors previously mentioned, I
10 bring forth one piece of technology. And if you can see,
11 it's basically a stack that goes on top of rails and ships
12 that eliminates 95 percent -- 95 percent of everything we
13 are arguing about right now. 95 percent of our war in
14 this room can be eliminated with basic upgrades and the
15 phrase "continuous improvement."

16 As such, I just ask the Board to really consider
17 that we're brilliant, that we do have technology, that
18 it's here and it's proven. And all we have to do is make
19 one phone call. If they can write checks to buy trades,
20 if they can write checks to buy ten lawyers to battle us
21 to the death, if they can write check to fly and buy a
22 villa on a private island, they sure as all heck can write
23 a check to improve -- get this technology.

24 You wouldn't be there. We wouldn't be here. The
25 world would be great. The people who died of cancer would

1 be sitting right next to us. We would be singing
2 lolly-dolly and everyone would be great.

3 But unfortunately, we're here. We are battling.
4 We are arguing. We're attacking you guys. It's the
5 horrible situation, when the fact is there's millions that
6 need to be allocated this should be allocated and
7 continually improved. Thank you.

8 CHAIRPERSON NICHOLS: Thank you. That's great.
9 Good job.

10 C.T. Webber, followed by Vivian Huang.

11 We should give awards for, like, the most
12 interesting testimony.

13 MR. WEBBER: Good afternoon. My name is C.T.
14 Webber. I'm Peace and Freedom Party of California State
15 Chairperson.

16 Today, we've heard many, many very compelling
17 stories as well as some well researched analysts. Many
18 people, especially people of color, have been asking -- I
19 would rather say -- begging you to stop cap and trade.
20 I'm not sure you will. I'm a doubting Thomas.

21 I listened to your staff's explanation as you set
22 up several strawmen called "alternatives" and then knocked
23 them down one by one.

24 Let me give my statement for the day. Peace and
25 Freedom Party supports the state of California's goal of

1 reducing greenhouse gas and emissions. We are opposed to
2 market-based mechanisms, such as carbon credit trading and
3 offset purchases. We believe that only real and
4 measurable regulations combined with alternative energy
5 development and widespread conservation practices will
6 change our current path of increased environmental
7 degradation.

8 The cap and trade policy proposed for adoption in
9 California is fundamentally flawed. It relies on some
10 industry plants which reduce emissions below the cap being
11 able to sell their credits to industrial plants which
12 pollute above the cap. The net result is no reduction.
13 And if the pollution producers cannot find a market for
14 their credits, there will be no incentive for them to
15 further reduce emissions.

16 Another component of the proposal is the ability
17 to purchase offsets. That means that companies can
18 continue to pollute in our state as long as they perform
19 some mitigation, such as planting trees, somewhere else.

20 This is a particular concern for areas which
21 already experience public health problems from high levels
22 of particulates and poisons in the air. And it is very
23 likely scenario since California is planning to partner
24 with six other western states and four Canadian provinces
25 for its cap and trade offset program.

1 The cap and trade system is not a new idea which
2 deserves a chance to work. In fact, it is a proven
3 failure. It was a system established by the Kyoto
4 protocol which, while not adopted by the United States,
5 was embraced by Japan and European companies. Emissions
6 in Japan went up 16 percent, while systems in effect which
7 was well before the Fukushima nuclear disaster. Most
8 European nations also increased their emissions. The only
9 exception is Great Britain, which experienced a
10 flattening, not a reduction, in emissions. That's because
11 the shift from coal to north sea gas.

12 The people of California need a real solution to
13 pervasive and increasing pollution. Childhood asthma and
14 other elements are on the rise, particularly in the
15 Central Valley and the urban areas such as Oakland and Los
16 Angeles. And we all face the specter of catastrophic
17 climate change, which most of us agree is caused by human
18 misuse of natural resources.

19 CHAIRPERSON NICHOLS: Your time is up.

20 MR. WEBBER: I've given you written statements.

21 CHAIRPERSON NICHOLS: Thank you. We have it in
22 the record.

23 MR. WEBBER: Thank you.

24 CHAIRPERSON NICHOLS: Vivian Huang and then
25 Kirsten Schwind.

1 MS. HUANG: Good afternoon. I'm Vivian Huang
2 with the Asian Pacific Environmental Network. We actually
3 work with low income immigrant communities in both Oakland
4 and Richmond, and our mission is to advance environmental
5 justice for Asian American communities across the state.

6 We're opposed to cap and trade because we believe
7 it's a false solution. The communities that we work with,
8 the immigrant Chinese community in Oakland, China Town,
9 and with the Laotian community in Richmond already
10 experience pollution far more disproportionately than most
11 other communities. And cap and trade would must
12 exacerbate an already tough situation harsh conditions.

13 We know that cap and trade also does have harmful
14 impacts on communities abroad. Many of these are in home
15 countries that the immigrants are refugees that we work
16 with come from.

17 As we've seen worldwide, this sort of market
18 solution only serves to really widen the disparities
19 between the rich and poor and to really increase the
20 profits that polluters are making.

21 My community in Oakland China Town is a dumping
22 ground of traffic from several different freeways that
23 surround and basically box in the community.

24 The immigrant community is also suffering from a
25 lack of economic development in the area. And every

1 morning as I go to work, I often see a large crowd of
2 people that are gathered outside waiting for jobs, waiting
3 for opportunities to be able to make money and support
4 their families.

5 And I think instead of looking at cap and trade,
6 there are other alternatives that we could really use to
7 actually support the health of our communities and support
8 economic development. We can look at pairing our
9 communities with renewable energy. We can look at
10 training immigrants for the green job sector that is
11 growing at a rapid rate. We can look at resourcing our
12 communities to protect our own health. And because
13 California needs real solutions, I strongly urge you to
14 oppose the cap and trade and to look at alternatives.
15 Thank you so much.

16 CHAIRPERSON NICHOLS: Kirsten Schwind.

17 MS. SCHWIND: Good afternoon.

18 My name is Kirsten Schwind. I'm Program Director
19 of Bay Localize. We're building a vibrant movement in the
20 San Francisco Bay Area to reduce reliance on fossil fuels
21 and build resilience. We worked very hard to defeat Prop.
22 23. And we stand strongly in support of AB 32.

23 But we think it doesn't go far enough. We've
24 already overshot on our emissions that scientists believe
25 the atmosphere can take. If you believe the number of 350

1 parts per million, we're already at 385. We've overshot.

2 I was surprised to hear your staff say that a
3 risk of option of the carbon tax was it might actually do
4 too much. It might reduce our emissions.

5 Let's be really clear; the risk to California is
6 climate change. It's an amazing risk to our economy, to
7 our beautiful ecology, to our incredible biodiversity, to
8 our community's health as we so poignantly heard this
9 morning. The risk is climate change. The risk is not
10 doing too much about -- the risk is not doing too much
11 about it. The risk itself is climate change. I can't
12 emphasize that too much.

13 We are extremely concerned about cap and trade.
14 We submitted comments to the Board supporting a tax and
15 regulate option number five option. I was also surprised
16 to see the staff call our comments irrelevant. I believe
17 it was actually incredibly relevant what the people of
18 California want as their climate policy. This, in fact,
19 is the very point.

20 We are incredibly concerned about the experience
21 the European Union had with cap and trade that generated
22 windfall profits for industry, rising utility prices for
23 consumers, and did not reduce any emissions. I would hate
24 to see that happen in California. What we really need is
25 real climate solutions.

1 You're probably concerned about the need for
2 two-thirds vote to pass a new carbon tax in California. I
3 want you to think about the huge margin for which we
4 defeated Prop. 23. There is political support in this
5 state for strong climate action. There is not political
6 support in this state for cap and trade. I think you see
7 this from the comments that were submitted this round.
8 And also last December when over a thousand comments were
9 submitted and the vast majority of them opposed cap and
10 trade. Many of them because they thought it wasn't strong
11 enough. That's where the political support in this state
12 is. California is speaking. Air Board, are you
13 listening?

14 CHAIRPERSON NICHOLS: Marcie Keever and then
15 Michelle Passero.

16 MS. PASSERO: Good afternoon, Board members and
17 Chair Nichols. My name is Marcie Keever. I'm the Legal
18 Director at Friends of the Earth US. Friends of the Earth
19 fights to defend the environment and create a more healthy
20 and just world. And we are part of Friends of the Earth
21 International, a federation of grassroots environmental
22 groups working in 76 countries around the world.

23 Also speaking today on behalf of the Rain Forest
24 Action Network, which has been campaigning to protect rain
25 forests and the rights of forest dependent people since

1 1985 and is based here in California.

2 Like many groups here, we assert it is
3 inappropriate for the ARB to move ahead with amendments to
4 or approval of these cap and trade regulations. The
5 original regulation failed to meet the criteria set out by
6 AB 32 and the modifications do not cure these defects.

7 We are particularly concerned about the impacts
8 the cap and trade program will have on low income
9 communities of color and over-burdened communities, a
10 concern that many people and groups have expressed today
11 and you have already heard.

12 One of the reasons the program will be so harmful
13 to local communities is because of its heavy reliance on
14 offsets. Not only will companies be able to buy offsets
15 instead of reducing their pollution, but in the latter
16 part of the program, up to half of these offsets could
17 come from outside of the United States. In particular,
18 these ARB rules allow for REDD credits to enter
19 California. REDD stands for reducing emissions from
20 deforestation and degradation. And it refers to carbon
21 offsets from tropical forests, forests in places like
22 Nigeria, Indonesia, and Mexico.

23 It is notoriously difficult to measure emission
24 reductions from REDD projects, and California has no
25 jurisdiction in these countries. So we will not be able

1 to ensure the environmental integrity of REDD credits.
2 Plus, REDD credits are prone to fraud and corruption, and
3 they can seriously threaten the rights of indigenous
4 peoples who inhabit these forests. That's why no other
5 carbon trading system in the world, including Europe, has
6 accepted REDD offset credits. REDD credits are the most
7 dubious, riskiest type of offset in the world, and
8 allowing them to into the system would be a grave mistake.

9 The fact that ARB has proposed rules contemplate
10 including REDD credits is a prime example of just how
11 little environmental integrity the cap and trade program
12 has.

13 We strongly urge the ARB to take the opportunity
14 provided to examine real alternatives the cap and trade
15 and to implement a robust program to reduce emissions and
16 to protect the lives and livelihood of Californians and
17 those around the world. Thank you.

18 MS. PASSERO: Good afternoon. Michelle Passero
19 with the Nature Conservancy.

20 The Nature Conservancy supports the proposed
21 Scoping Plan and the full implementation of AB 32. Its
22 adoption is important for our climate ecosystem and
23 overall quality of life. It's also important from the
24 standpoint of maintaining policy momentum to reduce
25 emissions and maintaining public confidence in

1 California's climate leadership. Therefore, we urge the
2 Board to adopt the proposed Scoping Plan and its portfolio
3 reduction measures.

4 We also look forward to continue working with you
5 and with staff to ensure that we meet our greenhouse gas
6 reduction target and continue to inspire climate action
7 elsewhere. Thanks.

8 CHAIRPERSON NICHOLS: Thank you.

9 Veronica Trujillo and then Nita Sisamouth.

10 MS. TRUJILLO: Hello. Good afternoon, members of
11 the Board.

12 My name is Veronica Trujillo. I'm currently a
13 student at UCLA and member and intern with Coalition for a
14 Safe Environment. I'm also a life-long resident of the
15 city of Wilmington.

16 I'm here today to request that the California Air
17 Resources Board not approve and adopt the proposed final
18 supplement to the AB 32 Scoping Plan Functional Equivalent
19 Document.

20 I believe that the ARB staff did not do an
21 adequate job in researching, identifying, and recommending
22 new emerging greenhouse gas reduction alternative
23 technologies.

24 I wish to share with you one technology I believe
25 can contribute to reducing greenhouse gas emissions from

1 older diesel trucks, which was not included in the AB 32
2 Scoping Plan. The company, Miracle Mile Solutions, has a
3 pending application for its advanced technology system
4 called Diesel Truck Vehicle Additive Technology Solution
5 Systems, also known as VATS. VATS is currently undergoing
6 ARB testing protocol for Executive Order certification.
7 VATS is a retrofit for older 1985 through 2006 diesel
8 trucks, which creates an on-demand and on-board cleaner
9 hydrogen oxygen gas that dramatically increases combustion
10 efficiency, increased gas mileage, reduces emissions,
11 reduces fuel consumption and decreases fuel cost.

12 I'd ask that the California Air Resources Board
13 require ARB staff to review this technology and add VATS
14 technology to the list of available technologies to reduce
15 greenhouse gases. I have included a photograph of the
16 technology for your review. Thank you.

17 CHAIRPERSON NICHOLS: Thank you.

18 MS. SISAMOUTH: Good afternoon, members of the
19 Board. My name is Nita Sisamouth. I'm a Richmond
20 resident and community organizer for the Asian Pacific
21 Environmental Network.

22 I'll be brief. I support AB 32. I oppose cap
23 and trade because clean air is a basic vital necessity for
24 all living beings and should not be traded for profit.

25 California needs real solutions to combat global

1 warming, climate change and ecological crisis exacerbated
2 by human activity.

3 AB 32 should create alternative use of renewable
4 clean energy to power currently polluting plants and
5 prevent processing of dirtier crude that would improve
6 public health, especially in communities most affected.
7 We not only going to be affected in California. Offsets
8 will affect other countries, for example, where my parents
9 are from, with the forestry projects.

10 I will kind of end by saying that California is
11 one of the most influential innovative places. The
12 United States look at us. And I think that if we can make
13 the right decision that we can change the world. Thank
14 you.

15 CHAIRPERSON NICHOLS: Thank you.

16 Alex Jackson, NRDC.

17 MR. JACKSON: Good afternoon, Chair Nichols,
18 members of the Board. I'm Alex Jackson with NRDC.

19 First just want to thank you for staff and the
20 Board's ongoing commitment to a public process. It's been
21 important and we really appreciate all the opportunities
22 we've had to weigh in in your consideration of our views
23 and those of everyone here today.

24 NRDC is a strong supporter of the scoping plan.
25 We were back in 2008 and we are today. And we fully urge

1 the Board to move forward with the proposed Scoping Plan
2 as reflected in the new analysis presented by staff.

3 It's been a long day, so I'm going to just focus
4 on two points. The first is really if the question is how
5 can we best design a portfolio program to meet AB 32,
6 which I would suggest is the task before you today, the
7 question is not whether we should pursue only direct
8 measures or market-based programs. Really, the answer is
9 we need both. We need both for a number of reasons. And
10 I think that portfolio approach is what NRDC supports. We
11 see that reflected in the proposed Scoping Plan. We'd ask
12 that to move forward.

13 The cap and trade program is one tool in our
14 toolbox. And it's a growing -- you know, on ARB's new
15 numbers, it's presented to be now smaller than we
16 originally thought. It's projected to achieve about less
17 than one-fifth of our anticipated emission reductions.

18 It is critical for a number of reasons. First is
19 that it provides an absolute certainty that the other
20 intensity based measures of the scoping plan do not
21 provide. Population growth is more than we think.
22 Economic activities is more than we think. Those
23 estimates that we see laid out in those charts can be
24 somewhat misleading, and I ask that we don't over rely on
25 them.

1 Cap and trade provides that emission certainty,
2 provides the backstop for those other measures, which is
3 really critical to ensure we comply with AB 32. It's also
4 enforceful against individual emitters, which is
5 important. Enforcement is going to be key. It sends a
6 stable market signal to drive innovation and spur
7 long-term reductions. This is really important. This
8 program is designed also with the long-term objectives in
9 mind, our 2050 climate goals in mind. With ARB's auction
10 price floor of \$10 a ton, I think we can guarantee we are
11 going to have a stable market signal. We are going to see
12 innovation occurring.

13 What it will not do is dictate where emission
14 reductions occur within the economy. For that reason,
15 NRDC has never been supportive of relying on cap and trade
16 alone to meet AB 32's target. That's where the host of
17 direct emission reduction measures under the scoping plan
18 come in and that's why again we support the policy of a
19 package of policies.

20 The other point I would just want to make is that
21 AB 32 implementation does not seize today whenever we wrap
22 up. Hopefully, that's not too much later for members of
23 the Board and staff. Really, it's envisioned as an
24 ongoing process. In the statute itself, it directs ARB to
25 update the scoping plan every five years. And we've heard

1 from staff their commitment to do that, and I think that's
2 something that's going to be important moving forward.

3 Thank you.

4 CHAIRPERSON NICHOLS: Thank you.

5 Eric Eisenhammer -- excuse me. I overlooked
6 somebody. I thought there was a line through the name.
7 It was a mistake. It's Fred Main.

8 MR. MAIN: Thank you, Madam Chairman and members
9 of the Board.

10 My name is Fred Main, today representing the
11 Western Independent Refiners Association, WIRA, speaking
12 on the cap and trade program. WIRA represents Paramount
13 Oil, Kern Oil, and Lunday-Thagard. And in the attempt to
14 save your time, we'll be testifying on behalf of all of
15 the members of WIRA today.

16 WIRA members have been working with CARB for
17 months on the details of the refinery benchmarking
18 approach under the cap and trade and have been encouraged
19 by CARB staff to do so. WIRA supports the simple barrel
20 approach as currently outlined in the regulatory language
21 and has been working with the CARB staff on these details.

22 However, in the last few days, we've been given a
23 verbal heads-up there could be major changes in the works
24 with this issue. And according to the staff, the next set
25 of revisions to the regulation that could be out next week

1 could contain a major shift in policy as it relates to
2 this refinery allocation. As of today, we have not been
3 able to see the details.

4 I don't want to underestimate the significance of
5 this change to our members and the relatively short time
6 we would have to digest its implications.

7 What appears to be a CARB reversal on the
8 position on this issue has cost WIRA and its members weeks
9 of time that could have been used to understand and
10 comment on the proposal.

11 The only alternative approach that we've been
12 made aware of today is the adjusted EII. This approach
13 clearly is detrimental to California's small refineries.

14 If CARB withdraws its support for the simple
15 barrel approach this far into the process, WIRA members
16 are gravely concerned there would not be ample time prior
17 to the Board's October meeting to fully and properly
18 understand, analyze, and provide input to a new currently
19 unknown methodology.

20 We hope that the CARB staff and CARB will
21 continue to maintain the simple barrel approach and at the
22 least insist that WIRA member concerns be addressed by the
23 CARB staff prior to the release of the next 15-day
24 package.

25 Thank you very much for your attention.

1 CHAIRPERSON NICHOLS: Eric Eisenhammer and then
2 Lillian Alvarez.

3 Is Eric here?

4 Lillian Alvarez.

5 MS. ALVAREZ: Hello. Thank you for taking my
6 comment.

7 I'm here to present concerns for international
8 forest offsets and reducing emissions from deforestation
9 and degradation. I know that the REDD offset working
10 group is here for me to address these comments as well. I
11 will do that when the time comes.

12 I wanted to just say that I have not seen any
13 assessment of what is going on in these states and Chiapas
14 and Brazil and Mexico, what forest governance looks like
15 in these states, how will you be addressing the
16 allegations of corruption, the fact that many rural
17 activists have been killed in these regions. And I'd like
18 to see what improved forest management techniques you are
19 pressing forth in this Memorandum of Understanding.

20 So prior to, you know, continuing your
21 conversation of what REDD forest offsets will look like, I
22 would like to see this assessment prior because I think
23 that's very important. Otherwise, right now, we have
24 organizations like the Global Justice Ecology Project that
25 are taking upon that task, going to the Chiapas to how see

1 REDD will or will not help the communities there. I think
2 that's something ARB could be pushing forward for. And
3 otherwise, we run the risk of committing serious human
4 rights violations. Thank you.

5 CHAIRPERSON NICHOLS: Gary Gero.

6 MR. GERO: Good afternoon, Chairman Nichols and
7 members of the Board. My name is Gary Gero, the president
8 of an environmental nonprofit organization known as the
9 Climate Action Reserve.

10 We are very pleased to be here today to
11 congratulate you and your staff on the continued progress
12 on implementing AB 32. This is just another example of
13 California's longstanding environmental leadership, and we
14 urge your adoption of the FED today.

15 Our comments -- and I'll make them brief -- focus
16 on the cap and trade program itself, and in particular,
17 the offset provisions. I'd like to take a moment just to
18 highlight the important role that offsets can play in
19 these kinds of programs.

20 First, I think it has to be clearly stated that
21 offsets can and do create real emission reductions. They
22 do that at sources that are not traditionally part of the
23 regulatory program, such as forest and farms. And they do
24 that in a way by using the market rather than a direct
25 mandate. I think all of that is important because a

1 substantial amount of the emissions actually occur outside
2 of the cap. And offsets allow us a way of getting at
3 those emissions and actually reducing them. It also
4 allows us to bring a much broader segment of our economy
5 and our society into this fight against global climate
6 change, a fight that we are all dedicated to fighting.

7 Second, I'd say real high quality offsets reduce
8 greenhouse gas emissions at a lower cost. And that
9 minimizes the overall program's impact to California's
10 consumers, and it makes the cap and trade system with
11 offsets not only the most cost effective approach to
12 achieving our environmental goals, but the most
13 sustainable goals. What we need is a program that we can
14 stand behind over the long term.

15 And last on offsets, just to say that the carbon
16 market, in particular, offsets -- and we've heard this
17 from previous commentor -- provide opportunities for new
18 and innovative ways to reduce emissions, and that helps us
19 create green jobs and a green economy.

20 I'm proud that the Climate Action Reserve is now
21 the largest and most highly respected offset registry in
22 north America. We issued some 16 million tons of credits
23 from 100 projects across the United States.

24 And in doing so, we have demonstrated that it's
25 possible -- not only is it possible to set the highest

1 possible most rigorous standards, but you can also do that
2 and establish a market. There is an active market today
3 for the credits you created.

4 We are proud you're building on our knowledge and
5 our experience. We urge you to adopt today. We urge you
6 to adopt today with setting very high standards for the
7 offsets program and for the registries that seek to be a
8 credit under that program. Registries where you're on the
9 ground, front line, overseeing projects and verifiers. I
10 think that you need to make sure they're knowledgeable,
11 competent, experienced and free of conflict of interest.

12 So with that, I thank you for your time.

13 CHAIRPERSON NICHOLS: Thank you.

14 Diane Bailey.

15 MS. BAILEY: Good afternoon, Chairman Nichols,
16 members of the Board and staff. My name is Diane Bailey.
17 I'm a senior scientist with the Natural Resources Defense
18 Council.

19 I'm here today in very strong support of all the
20 great work this agency has done towards the important
21 climate goals of AB 32. ARB continues to live up to its
22 reputation as a global leader on cutting edge, yet
23 pursuing very sound environmental policy in this arena.
24 And I commend you for that.

25 I also want to commend you for your renewed

1 commitment to meaningful reductions within the industrial
2 sector, particularly related to the industrial audit
3 measure.

4 I want to talk to you for a minute today about
5 the role of industrial sector within cap and trade. And
6 this is the area that my colleague Jasmin Ansar discussed
7 with you, as well as the gentleman from WIRA, the
8 independent oil refiners.

9 California has the opportunity to take the high
10 road or the low road with its design of the cap and trade
11 program, particularly for refineries which are the largest
12 industrial greenhouse gas emitter in the state. One of
13 the key features of the trading program that ensures
14 incentives for its lower carbon products are the
15 greenhouse gas performance benchmarks. And here we
16 strongly support the existing staff proposal with some
17 very few minor adjustments. This is still the superior
18 approach for towards benchmarks in cap and trade.

19 However, industry has proposed an alternative
20 approach for the refining sector called the Solomon Energy
21 Intensity Index. And this is something that we really
22 ought to watch out for. It fails to include appropriate
23 signals towards a cleaner market with the potential to
24 seriously undermine our climate programs. A good
25 greenhouse gas performance benchmark accomplishes the

1 following tasks. It's transparent and based on publicly
2 available information. It's output, or product-based,
3 ensuring that California production remains maximized.
4 And it also relies on best in class to maximize carbon
5 reductions and minimize other pollutants.

6 The staff proposals accomplishes all of these
7 things to the greatest extent possible and can do so
8 better with the following slight modifications, which
9 would be more consistent with the best in class approach
10 and also to adjust for outliers so that refineries with
11 higher carbon intensity are not penalized from the outset.
12 And we think these adjustments again are very minor and
13 strongly support the current staff approach.

14 On the other hand, the industry proposed Solomon
15 Energy Intensity Index as a performance benchmark is
16 fundamentally flawed. For one thing, it's a priority
17 industry methodology that lacks transparency and
18 accountability. And not all of the refineries in
19 California have participated in this program, which
20 presented a serious problem. They don't have the index
21 and a separate approach would have to be formulated for
22 these facilities.

23 Secondly, the Solomon Index relies on energy
24 rather than carbon efficiency. We believe this is a very
25 fundamental flaw. We thank you for your hard work on this

1 sector and hope to continue to work with you. We hope
2 that you will draw inspiration from some of the very
3 heartfelt testimony today, particularly this morning,
4 related to communities health benefits. This is an
5 opportunity to really achieve those health benefits and
6 achieve a lower carbon intensity and lower emissions from
7 our industrial facilities throughout California.

8 Thank you.

9 CHAIRPERSON NICHOLS: Thank you very much.

10 And now Julia Souder.

11 MS. SOUDER: Thank you very much, Chairman
12 Nichols and the Board and the staff very much for all your
13 hard work.

14 My name is Julia Ann Souder, and I'm a developer
15 at Clean Line Energy Partners. Clean Line Energy Partners
16 develops high voltage direct current transmission lines
17 around the country and our projects all bring renewable
18 resource to market centers. And what I just want to
19 promote today is that our project will decrease tens of
20 millions of tons of emissions from the air and invest
21 millions of dollars in local communities around the
22 country.

23 We support the language that the staff has
24 introduced and the proposal outlining the need for
25 transmission lines as part of the solution.

1 We ask for a little bit of flexibility, as the
2 Governor Brown has stated, that 33 percent for renewable
3 portfolio standards is the floor and not the ceiling. And
4 we hope that as we continue to move forward to continue to
5 bring renewables to market we look both in state and out
6 of state. By doing this, transmission is a key aspect to
7 bring the renewables to market.

8 So thank you again for incorporating transmission
9 as part of the solution. We're all looking to decrease
10 emissions and toxins in the air and we believe that
11 transmission line and especially high voltage transmission
12 lines can be part of the solution.

13 CHAIRPERSON NICHOLS: Thank you.

14 That concludes our list of witnesses on this
15 item.

16 I believe that the staff, and the court reporter,
17 need a few minutes to assess what they heard and regroup a
18 little bit before they engage in what I know is going to
19 be a lot of questions and answers with the Board. So is
20 15 minutes enough for you? All right. I'd like to
21 recess.

22 I want to ask our counsel, we have two people
23 that signed up for open comment period who are here. And
24 I would just as soon listen to them and have them heard
25 now and get that done so we have more time at the end.

1 CHIEF COUNSEL PETER: That's fine, Your Honor.
2 But then the court reporter doesn't get her break. Why
3 don't we do the open comment now while the staff goes out
4 and then the court reporter can have a ten minute break.

5 CHAIRPERSON NICHOLS: All right. We're going to
6 call up Tim Haines and Gloria Stockmeyer and then the
7 court reporter can have her break.

8 Tim Haines, are you here?

9 Gloria Stockmeyer, are you here?

10 If neither of them is here, then I guess we'll
11 just go on break. All right. Let's try to be back here
12 at 20 past.

13 (Whereupon a recess was taken.)

14 CHAIRPERSON NICHOLS: Our two public speakers are
15 here. We're going to do this now before our discussion
16 about the Scoping Plans.

17 Tim Haines, are you here? Come on down.

18 MR. HAINES: Thank you, Madam Chair. I apologize
19 for being out of the room.

20 CHAIRPERSON NICHOLS: No problem. You weren't
21 expecting us.

22 MR. HAINES: I'm Tim Haines with the State Water
23 Contractors. The State Water Contractors is an
24 association of 27 water agencies. We receive water from
25 the Department of Water Resources through its State Water

1 Project and redistribute that throughout the state of
2 California to 20 to 25 million water customers. Included
3 in that are about 750,000 acre feet of agricultural land.

4 What I would like to do is give you our
5 perspective on the current status of the allocation of the
6 emission allowances and encourage you to remain involved
7 in the discussion as it unfolds.

8 If you remember, back in December when you
9 approved the regulations associated with cap and trade,
10 you authorized staff to work with the Department of Water
11 Resources, Metropolitan Water District of Southern
12 California, and the State Water Contractors to address
13 inequities that we had identified that was associated with
14 the allocation of allowances. Those inequities arise
15 because the allocation doesn't follow how the costs for
16 the State Water Project water deliveries are incurred.

17 To try to just put a finer point on that, the
18 allocation of allowances provides 30 percent of the cost
19 that's associated with State Water Project -- I'm sorry --
20 30 percent of the allowances that would be associated with
21 State Water Project to utilities in northern California.
22 Our costs that will be borne by our customers in northern
23 California only represent about nine to ten percent of our
24 total state -- of our total cost structure. So the
25 inequity is the windfall that arises for the electric

1 utility customers in northern California of around 20
2 percent.

3 The question becomes: Where does that windfall
4 come from? It comes from southern California. And so
5 what we've identified and included in the comments that we
6 had submitted is that there is a significant wealth
7 transfer associated with the allocation of allowances from
8 the south to the north. And of those costs, about I think
9 50 percent are associated with the citizens and businesses
10 of the San Diego County.

11 What we'd like to do is continue to work with
12 members of the Board, with the staff in order to be able
13 to address inequities that I just described.

14 CHAIRPERSON NICHOLS: Okay. Just to be clear,
15 the procedural basis for that is in amendments to the
16 proposed cap and trade rule. Okay. Thank you.

17 BOARD MEMBER ROBERTS: Mary?

18 CHAIRPERSON NICHOLS: Yes.

19 BOARD MEMBER ROBERTS: Based on what he just
20 said, if I'm going to make it alive through the next week,
21 we better have a good answer for that.

22 CHAIRPERSON NICHOLS: Okay. This discussion is
23 going to come forward. Do you want to ask him a question
24 right now?

25 BOARD MEMBER ROBERTS: I'd like to hear somebody

1 addressing -- if there is even a modicum of truth in what
2 I just heard, I'm just about ready to jump out of my
3 chair.

4 CHAIRPERSON NICHOLS: Okay. It's a timing
5 question as to when this will come back to the Board to be
6 discussed.

7 I think Mr. Haines wants you to get excited, and
8 he has. And now you can follow up with him either after
9 the meeting or at some other point.

10 But it's part of what staff is working on with
11 respect to the next round of proposed amendments to the
12 proposed cap and trade rule. So it's not in front of us
13 right now, but it is an issue.

14 I mean, it obviously is a big issue for them.
15 That's why they're here.

16 My recommendation would be that you meet with
17 staff and Mr. Haines and try to become satisfied or not,
18 as the case may be, that this needs to be fixed.

19 BOARD MEMBER ROBERTS: Okay.

20 EXECUTIVE OFFICER GOLDSTENE: So we'll follow up
21 with Supervisor Roberts on this issue.

22 CHAIRPERSON NICHOLS: Okay. If you would do
23 that, that would be great.

24 BOARD MEMBER ROBERTS: Let me register my intense
25 interest.

1 CHAIRPERSON NICHOLS: Duly noted. Thank you.

2 Gloria Stockmeyer, are you here? I thought I was
3 told she was here also, the other public commentor. Not
4 here. Okay.

5 I guess we're ready to go back to our discussion
6 about the Scoping Plan. And just to kind of reframe what
7 we're doing here, we are here because we want to consider
8 the possibility of improving the environmental
9 documentation and also of re-adopting the Scoping Plan.
10 So the final resolution at the end is going to be sort of
11 a multi-part resolution to the withdraw the Scoping Plan,
12 adopting a supplement, re-adopt the Scoping Plan. All of
13 this is sort of hinged. It all hooks together.

14 A lot of the comments that we've heard were about
15 details of cap and trade -- the cap and trade rule or
16 criticisms of the cap and trade rule, which is an element
17 of that Scoping Plan. But as I think you heard in the
18 beginning presentation, it is only one element and not by
19 any means the largest piece of the emissions reductions
20 that we hope to get from AB 32.

21 We also heard from a great number of witnesses of
22 people who took the time and trouble to come here today
23 because of their concern about air pollution in their
24 local communities. And I think the connection between AB
25 32 and air pollution and the connection between ARB and AB

1 23 also probably needs more discussion. And I suspect
2 other members of the Board are going to want to talk about
3 these things, too.

4 But I think it's really important for us and it's
5 unfortunate that we have not had a dialogue with some of
6 the people who were here today around all of the things
7 that this Board and the local air districts are doing in
8 pursuit of reducing exposure to both conventional air
9 pollution and toxic air pollution in their communities
10 between the various toxic rules for air, the SIPs, the
11 State Implementation Plan, and the Board's vehicle rules
12 and our heavy duty rules and our rules relating to goods
13 movement and so forth. We probably take it for granted
14 there's so much going on that everybody knows about.

15 And it's sort of a bit of a shock when you
16 realize that for many people AB 32 seems to be the only
17 thing that the Board is doing. It's true that AB got an
18 awful lot of press at the time it passed. And there are
19 people who I think may think that AB 32 is the main thing
20 that ARB works on. Even if you work on our agendas,
21 except for this meeting, I think people would realize it's
22 only one of many things that we're working on.

23 But the other thing that makes it a little bit
24 confusing is that some of the sources that are covered by
25 AB 32 are the same sources that we are regulating for

1 other pollutants. That certainly includes large
2 industrial facilities. And the role that AB 32 can play,
3 should play in furthering our interest in, our desire to,
4 make good on the kinds of comments that people were making
5 about the right to breathe clean air is a very, very
6 important issue.

7 I don't think there's anybody who serves on this
8 Board who doesn't believe that breathing healthy air is a
9 right that every Californian should have. I don't think
10 there's anybody here who comes to these meetings not
11 intending to do everything they feasibly can do to make
12 that a reality.

13 We do have some constraints. We have legal
14 constraints. We have measures that are written into the
15 law concerning cost effectiveness, concerning technology,
16 et cetera, that we also have to observe.

17 But in putting together the Scoping Plan -- and I
18 think everybody here who was here was here when that all
19 happened recalls that one of the criteria that we used in
20 looking at all the measures in the plan was this sort of
21 an overarching desire to make sure that the measures that
22 we were pursuing for global climate purposes also as much
23 as possible in every way supported our air quality goals.
24 So I just want to be clear that this notion of continually
25 working to improve air quality is imbedded in what it is

1 that we try to do.

2 There are certainly, you know, in terms of
3 prioritizing programs, there are some that we jumped onto
4 at the very beginning, for example, port goods movement
5 rule, the port truck rule, which were wonderful because
6 they really dealt both with a very high priority health
7 issue and also had benefits from an AB 32 perspective. I
8 can remember having to deal with that argument when we
9 move forward with that regulation that we included
10 benefits for reducing CO2 as we considered the cost
11 effectiveness of that rule, which is a costly rule. But
12 we counted the fact we were going to get benefits from CO2
13 from doing something we were also doing because it had
14 important health benefits as well. And we've done that
15 with other regulations along the way. So that's just sort
16 of an overview of where we are.

17 There were several people who testified who are
18 lawyers, who are litigants suing us either on their own or
19 on behalf of other organizations and individuals who
20 commented about the adequacy of our CEQA analysis.
21 Obviously, that is an issue which is in litigation.

22 But I wanted to make sure that the Board heard
23 from our legal counsel with respect to the issue of how
24 we've dealt with comments and how we're dealing with the
25 process going forward, just because I want to make sure

1 there's not any questions about that issue.

2 So Ellen, could you just --

3 CHIEF COUNSEL PETER: Yes.

4 As you recall, the lawsuit was filed in
5 San Francisco Superior Court on the Scoping Plan
6 litigation. The Air Resources Board actually won most of
7 the issues in that litigation.

8 The community groups appealed those issues to the
9 Court of Appeal, and ARB appealed the issue its lost,
10 primarily alternative analysis, to the Court of Appeal.
11 That's pending. It's going to take a number of months get
12 that resolved. We could have just stopped then and not
13 done anything. But the Air Board decided to go ahead and
14 actually do what the trial court asked us to do about
15 re-examining those alternatives analysis that were laid
16 out in the Scoping Plan.

17 So that was the lengthy document that was
18 released in June of 2011. There was the response that
19 came out. And we spent a lot of staff time working on
20 that. We consulted with the attorney general's office and
21 also with the contractor that helped us with the
22 environmental document. And in our view, the document is
23 legally adequate in terms of what was presented to and
24 also the responses.

25 So if there is any questions about that, I just

1 want to reassure you we had done a very complete analysis
2 of it, and we think it is far and above the minimum
3 requirements of the statutes.

4 CHAIRPERSON NICHOLS: As far as the issue of
5 offsets that was raised by several different speakers, we
6 are not -- the Scoping Plan itself doesn't say anything
7 about offsets in how they would factor into a cap and
8 trade rule. That will come back if there are any proposed
9 changes when the cap and trade rule --

10 CHIEF COUNSEL PETER: Right. Every single
11 regulation -- the Scoping Plan -- in some environmental
12 documents it's called tiering off. And you rely on that
13 to go forward. That's not how we proceeded with this
14 particular environmental document. Every single
15 regulation has its own separate environmental analysis and
16 they all stand on their own. And they all are, we
17 believe, adequate.

18 So with respect to the cap and trade regulation,
19 there is a separate environmental document that will be
20 actually considered by the Board. And if they choose to
21 go ahead with the Scoping Plan and pursue the cap and
22 trade regulation, that will be later this year.

23 Similarly, there's other environmental documents. In
24 fact, the cap and trade rule that's out there right now
25 does not have any action on REDD offsets. And one of the

1 things that people mentioned. If the Board choose to
2 pursue cap and trade, if the Board chooses to proceed with
3 the rulemaking that's out on the street right now on cap
4 and trade, you still -- there's nothing on REDD in that
5 current -- there is a reference to it, but there's no
6 action on that.

7 So all of those things would be done in separate
8 rulemakings, which would be amendments to the cap and
9 trade rule if you chose to go down with the scoping plan
10 and with the cap and trade rule. So there will be
11 additional environmental review of the offsets and
12 particular of the REDD program as mentioned here today.

13 BOARD MEMBER SPERLING: I guess I didn't fully
14 understand that. When do we actually take action on
15 offsets? What is the actual -- so what you are saying is
16 we have not -- I thought we had taken action on offsets.

17 CHIEF COUNSEL PETER: On the offsets, the ones
18 that are already in the program with the protocols that we
19 considered, how those protocols fit into the cap and trade
20 and if they get credit for it, those will be part of the
21 next rulemaking. If you add different offsets to it, in
22 particular, REDD, you would have to do an additional
23 rulemaking and that would allow those to come into the
24 program. And there would be an environmental analysis for
25 that action separately that is different and new based

1 other than the one you have before us.

2 CHAIRPERSON NICHOLS: I think the staff had a
3 couple of comments that they wanted to make just to wrap
4 up some of the issues that were raised during the public
5 comment. And if Edie you want to do those, then I'd like
6 to throw it open to the Board members.

7 ASSISTANT CHIEF CHANG: Okay. We heard a lot of
8 comments today, and we believe that we responded to all of
9 these issues either in the supplement or in the response
10 to comments. But there were a couple ones I just wanted
11 to highlight because they were areas that either came up
12 very frequently or folks were very passionate about them.

13 One was the increase in co-pollutants. And as we
14 mentioned in the supplement and in our response to
15 comments, we have done an analysis. We believe it's very
16 unlikely that with existing air quality programs that we
17 would see increases in co-pollutants as a result of the
18 cap and trade regulation or as a result of the proposed
19 Scoping Plan.

20 With regard to localized CO2 emissions, reducing
21 CO2 emissions would have a small impact on ozone and PM2.5
22 levels, on the order of about half a percent compared to a
23 30 or 40 percent reduction that we've seen over the past
24 10 to 15 years in California's urban areas.

25 I also want to mention -- I think I mention

1 announced the presentation we're looking at a regulation
2 to take the results of the industrial efficiency audit and
3 make sure that the cost effective measures that we've
4 identified in that audit are implemented and that we see
5 the localized air quality reductions from the industrial
6 facilities that are covered by that audit.

7 Lastly, as we mentioned in the presentation and
8 as some of the speakers mentioned, we're also committed to
9 an adaptive management program to look to see if we are
10 wrong -- we don't think we are. We think it's a remote
11 possibility. If we are wrong, we want to make sure we're
12 monitoring so we can catch that and figure out what we
13 need to do. We're going to be working with some
14 stakeholders here to come up with a robust plan for
15 adaptive management plan for localized air quality
16 impacts.

17 CHAIRPERSON NICHOLS: When would the details of
18 that come back to the Board?

19 ASSISTANT CHIEF CHANG: In the fall.

20 BOARD MEMBER BALMES: In the fall, so
21 specifically which meeting?

22 ASSISTANT CHIEF CHANG: In October. We need to
23 have the plan done in October.

24 In terms of the alternatives that we chose to
25 evaluate, we heard some discussion about other

1 technologies that are out there that we might want to
2 evaluate. We think the range of alternatives that we
3 picked was a reasonable range. It sort of bracketed the
4 different policy options that you have in the Scoping
5 Plan.

6 I did want to emphasize that the Scoping Plan is
7 a very flexible document. We will continue to always look
8 for new options and new technologies that can reduce
9 emissions. I think we mentioned there are a lot of pilot
10 programs that we are funding, a lot of different things
11 we're following in terms of research and deploying pilots.
12 And to the extent that we can deploy them on a larger
13 basis, that's something we're always interested in and
14 it's something that the Scoping Plan and the structure of
15 the Scoping Plan allows us to do.

16 CHAIRPERSON NICHOLS: Just to be clear, it's not
17 the Scoping Plan that limits us. So if you find a
18 technology or someone brings you a technology and we think
19 it works and it's cost effective, we can adopt it
20 regardless of whether it was within the Scoping Plan or
21 not.

22 ASSISTANT CHIEF CHANG: Yes, ma'am.

23 With regard to offsets, should you decide to
24 proceed -- we did hear some discussion about offsets. And
25 should you decide the proceed with the Scoping Plan and

1 the cap and trade approach, we are considering some
2 modifications to reflect some of the concerns that you
3 heard today regarding additionality and also with regard
4 to additional review of protocols as we move forward. So
5 we're continuing to work with the stakeholders who express
6 concern about offsets.

7 Chief Counsel has already discussed REDD. It
8 came up a couple time. I want to emphasize there is a
9 placeholder in the regulation for REDD. Right now, if you
10 decided to go forward and we went forward with the
11 regulation as it is proposed right now, you cannot use
12 REDD credits. You would not be able to use REDD credits.
13 That would be a new program that we would have to bring
14 back to the Board. We're aware there is activity going
15 on to try to scope out that program. And if we decided to
16 move forward with that, that would be a new Board action
17 with a new environmental analysis.

18 And then the last thing I wanted to address was
19 the EU emission trading scheme. It came up a couple times
20 in the testimony today. Folks basically saying this is a
21 program that hasn't worked in Europe and why should we
22 take the same path they have when it doesn't work. It's
23 simply not true that the EU ETS has not reduced emissions.
24 It has reduced emissions. They've seen a 500 million
25 metric ton reduction from 2005 to 2009.

1 There have been some problems with the EU ETS.
2 The two biggest problems were over-allocation of
3 allowances and the windfall profits. And on both of those
4 points, we've taken a different path.

5 On the over-allocation of allowances, you all
6 adopted a mandatory reporting regulation in 2007. So
7 we've been receiving emissions information or two or three
8 years now. So as we are allocating our allowances, we are
9 not going to over-allocate because we know what the
10 emissions are in California.

11 On the second point of windfall profits, we're
12 moving from a program and transition from a program that
13 relies on free allowances at the beginning into an auction
14 program. And we are not allocating freely to the electric
15 generation utilities as they did in the EU ETS. Other
16 programs are also moving more to auction to try to avoid
17 these problems, but we have learned from them.

18 So I think these are all the issues that we have.

19 CHAIRPERSON NICHOLS: Okay. Thank you.

20 So now it's back to the Board really to talk
21 about the alternatives, the proposed Scoping Plan versus
22 the other alternatives that were identified and evaluated.

23 And maybe I'll just kick off the discussion by
24 saying that from my perspective, I did not start out my
25 time at the Air Resources Board as a fan of cap and trade.

1 I had a lot of doubts, as I think most of us have had.
2 And I still do because I think it's a complicated and
3 difficult program to administer.

4 I feel like we have reduced the size of it to the
5 point where the risk that's involved frankly one way or
6 the other is not that overwhelming because we have so many
7 other direct regulations that we're really relying on in
8 the plan to get us the reductions.

9 But still, it is something that we're launching
10 that's new. It's a form of California leadership that
11 also involves some risk that it might not work or that it
12 might be more expensive or less effective than we intended
13 it to be or even -- although we don't think so, staff
14 certainly does not think so -- could have consequences
15 that are not completely capable of being understood at
16 this time.

17 But I feel like the analysis that's been done and
18 the work that's been done on the program overall has
19 substantially decreased those risks. However, we're not
20 finished with the design of that program again. If the
21 Board adopts the Scoping Plan, we still have some very
22 major pieces of work to be done before the end of the year
23 to even begin to move forward with the cap and trade rule.
24 And those include the design of the market oversight and
25 monitoring program. They include the design for what to

1 do with the revenue from the auction, including the
2 community benefits fund notion that we've talked about in
3 the past, as well as ways of investing revenue in
4 protecting rate payers and incentivizing new technologies,
5 which is where we all know we have to go to achieve the
6 results.

7 And we have some other pieces of the allocation
8 work. We heard some stakeholders today who have issues
9 about how allowances would be allocated under this
10 program, including recently just now in the public comment
11 period from the water agency. So a lot of work left to be
12 done if that program is to go forward. The Board will
13 have it back before it for further review.

14 But the fact is this is a time to consider
15 whether there is some other combination of measures or
16 some other measure or combination of measures that would
17 do a better job of getting us those reductions without the
18 kind of concerns that have been raised here. Because if
19 you were just going by public response to the term cap and
20 trade, you'd have to say that would not be a winner. That
21 would not be a winner, although I don't think anybody has
22 done any polling on cap and tax to see whether that one
23 would be more popular. But be it as it may, the whole
24 notion of anything that involves a market-like approach in
25 a pollutant obviously raises major concerns for a lot of

1 people as to whether that's the right thing to do.

2 And I think if we were dealing with a localized
3 air pollutant directly, if we were regulating toxics, for
4 example, I don't think we would be in the position of even
5 talking about this as a possible approach.

6 So for me, the thing that is the factor that I
7 tend to gravitate towards is the notion that by creating a
8 program that the Air Resources Board itself can implement
9 that puts a price on carbon, we are doing the one thing
10 that developers of alternative technologies, people who
11 are in the business of trying to and have been for many,
12 many years of proposing alternative technologies tell us
13 time and time again, which is that none of these things
14 will become cost effective. None of them will actually
15 get implemented to the full extent they could without some
16 mechanism to put a price on carbon. There are just not
17 enough ways to regulate or force people to give up
18 business as usual. And business as usual is very deeply
19 imbedded with our addiction to oil, our current addiction
20 to using gas and oil to fuel our economy. And where we
21 need to go is to a place where they do not, where our
22 economic success is not dependent on oil and gas.

23 And so by adding that piece onto the program,
24 what we were told by all of our economic experts was this
25 is the way to achieve that result, in combination with all

1 the other things that you're trying to do in this plan,
2 that that element is a critical piece.

3 So that's why I have come to the conclusion that
4 this is still the most viable of the alternatives for
5 achieving the overall goals of AB 32, which I think
6 everyone who spoke today remains very committed to.
7 California's leadership on this issue of reducing our
8 impact on the global climate is something that
9 Californians rally to.

10 So the question is are we doing it in a way that
11 actually gets those results with the fewest possible
12 unintended consequences.

13 So I guess I could just start anywhere. So do
14 you all want to speak or raise your hands? I'll just
15 start down at the end. John.

16 BOARD MEMBER BALMES: You want me to go first?

17 CHAIRPERSON NICHOLS: Yes.

18 BOARD MEMBER BALMES: Well, I, too, came into
19 this not being particularly convinced that cap and trade
20 was the way to go for the portion of the Scoping Plan
21 approach to the overall reduction of greenhouse gas
22 emissions.

23 Again, I emphasize as our Chair just did the
24 market mechanism is only a portion, and actually a
25 relatively small portion of the overall greenhouse gas

1 emission reduction approach that we have in the Scoping
2 Plan that's before us.

3 In just listening to the testimony today, I
4 remain concerned about a lot of the complexity of cap and
5 trade. I think it's no secret that I really prefer a
6 carbon fee approach because I think it's simpler. I
7 realize there are conceptual problems in that we
8 wouldn't -- under a carbon fee approach, we wouldn't
9 necessarily know what kind of emission reductions we would
10 get. Where, with a cap program, we do.

11 But to me, the fact that it's simpler I think to
12 administer is -- and I think less easily gamed is a
13 strength of the carbon fee approach.

14 However, I think politically a carbon fee
15 approach is unfeasible -- infeasible in the current
16 political and economic environment, even though I think if
17 it was a cap and dividend kind of approach or a fee and
18 dividend approach, like in British Columbia, it
19 potentially could be sold politically.

20 But I think my assessment of the realities in
21 California with regard to both politics and economics
22 given the downturn we're all experiencing is that it's not
23 feasible. So even though I'm attracted to that over cap
24 and trade, I actually do think that cap and trade is the
25 viable alternative. And I think direct regulation is not

1 the way to go and also would be fairly politically
2 infeasible.

3 So with the big picture, I like -- I shouldn't
4 say I like, but certainly lesser of evils -- seems like
5 the usual political choice these days -- so I'm okay with
6 the Scoping Plan with a cap and trade mechanism.

7 To my environmental justice friends, I consider
8 the environmental justice community an important
9 stakeholder for me in particular as a Board member, since
10 I'm the public health member -- I really think you guys
11 have it wrong about the impact of the cap and trade on
12 local pollution. I'm as concerned as anyone about local
13 pollution being increased as a result of cap and trade. I
14 just don't see it to be the issue that you seem to think
15 it is. I think you guys should continue to fight for
16 environmental justice and to reduce co-pollutants in your
17 communities, and I stand with you in that fight. But I
18 just think cap and trade is the wrong battle ground.

19 And I really appreciate what Edie just said about
20 the adaptive management approach. I would like to see us
21 do periodic reviews of the entire cap and trade program at
22 every compliance period. Not just local pollutant
23 concerns, but you know offset concerns, carbon price,
24 market gaming concerns. So I would like to see, as we
25 usually do with regulations, having a periodic review,

1 this Board and agency prides itself on trying to base
2 regulation on evidence. So evidence, you know, this -- we
3 are starting something new. We need to have evidence as
4 experience develops before us to make changes when
5 necessary.

6 And I also appreciate what Edie said about the
7 industrial audit, which is something -- it's a feature of
8 the Scoping Plan that I was very supportive of, strongly
9 supportive of. And it gives us a chance to get data about
10 the pollutants that are being emitted by the greenhouse
11 gas heavy emitters.

12 Armed with that information, we can take action
13 to remediate if there turns out to be what I don't expect
14 to see, but could happen, increased local pollutants.

15 So I'll try to wrap up my comments. But even --
16 I'm a little bit unclear about when the Board gets to
17 really wrestle with issues regarding offsets, for example.
18 But just since the staff's --

19 MR. NEWELL: Dr. Balms, I just want to point out
20 you can disagree with us about it increasing pollution.
21 Our point is that it avoids an opportunity to reduce
22 co-pollutants because offsets and allowances --

23 CHAIRPERSON NICHOLS: I think that was made
24 clear, Mr. Newell.

25 MR. NEWELL: Excuse me, but I just want to make

1 the record clear.

2 CHAIRPERSON NICHOLS: I'm not excusing you.
3 You're out of order.

4 BOARD MEMBER BALMES: I appreciate your comment,
5 and I agree with you. We should be trying to reduce
6 pollution. That's actually in AB 32. And I think that's
7 the intent of the industrial audit is to give us
8 opportunities based on data to try to reduce co-pollutants
9 to make sure they're not increased. I think your point is
10 well taken, even if you were out of order.

11 So just some general points about offsets to help
12 guide the staff at least how this Board member is
13 thinking. You know, probably because of political
14 pressures and the economic downturn, we're being pretty
15 generous about offsets. We're also being generous
16 initially about free allowances, except in the electrical
17 utility sector initially. I realize we're ramping them
18 up. That means I think we have to be very careful about
19 the quality of offsets, number one, which I think staff
20 appreciates.

21 And I think we need to do periodic review of
22 protocols. We need to track how well we're doing because
23 I'm concerned about additionality above business as usual.
24 And I actually don't understand why we can't lower offsets
25 over time in different compliance periods. To me, offsets

1 are there to allow business to be able to deal with cost
2 containment early on in the program. But it seems like if
3 we are trying to incentivize people to make the big
4 investments to stop relying on fossil fuels, which our
5 Chair pointed out is one of our goals, that in the later
6 compliance periods, we ought to be able to have lower
7 offsets.

8 So I guess those are my overarching comments.

9 CHAIRPERSON NICHOLS: Great. As far as the
10 opportunity to re-shape or further shape the cap and trade
11 rule, that does have to come back before the Board. It
12 cannot be implemented until the Board actually finalizes
13 work on it. So your comments are well taken and timely.
14 And I trust that the staff will respond to them as part of
15 any preparation that they will be doing after today.

16 EXECUTIVE OFFICER GOLDSTONE: Chairman Nichols,
17 I'm wondering if it might be helpful to ask Rajinder to
18 talk a moment about the quality. You can do that later.
19 We can collect all the comments or we can comment as we go
20 if Board members want a response.

21 CHAIRPERSON NICHOLS: Okay. Do you want to hear
22 what the staff is thinking about the offset quality issue
23 right now? We can do that. That's okay.

24 BOARD MEMBER BALMES: As long as it doesn't take
25 too long.

1 CHAIRPERSON NICHOLS: It might be helpful because
2 other people may have comments as well.

3 PROGRAM OPERATION SECTION MANAGER SAHOTA: I'll
4 keep it very brief.

5 When the Board endorsed the regulation back in
6 December 2010, you endorsed the concept of offsets as an
7 important cost containment mechanism for the overall
8 program. AB 32 lays out very strict criteria for the
9 quality of offsets. We believe the rule when it was put
10 forth in December embodied those principles and had set a
11 high standard for offsets.

12 As we continue to move forward, we're going to
13 refine those quality criteria just to make sure that we
14 alleviate some of the concerns that the stakeholders have.
15 We are going to continue that process and try and strive
16 for even better than what we brought to the Board in
17 December.

18 BOARD MEMBER BALMES: My comment is the devil is
19 in the details. I accept the staff wants to have a high
20 quality program with regard to offsets. But you know
21 again, we have to see the details to judge it.

22 CHAIRPERSON NICHOLS: The one that's probably the
23 most difficult is the one they be additional. What is the
24 base line that, of what you're additional to. The other
25 aspects of other offsets are relatively straight forward.

1 You can judge whether they're okay or not okay. They're
2 pretty objective criteria. The one that has proven to be
3 the hardest is the one to say is this really something
4 that wouldn't have happened but for the existence of this
5 project that you're trying to give offsets to. It is
6 hard, especially in the area of biological offsets.

7 DeeDee.

8 BOARD MEMBER D'ADAMO: Okay. I supported the
9 Scoping Plan when it was before us. I think we all did.
10 And I came into this actually fairly intrigued about cap
11 and trade and felt it was a mechanisms that could be used
12 to create a successful program. So I was sort of
13 pre-disposed in favor of cap and trade every step of the
14 way.

15 I feel that it's extremely complex. I feel sorry
16 for what staff is going through. But I think they've done
17 a terrific job trying to be nimble and work with so many
18 other experts to try to put together a program that will
19 be successful.

20 But I did take today's assignment very seriously.
21 I felt it was important to be open-minded to all of the
22 different alternatives.

23 And I just want to say for the record I've
24 reviewed the staff report. I reviewed the alternatives,
25 and I'm still convinced that we're headed in the right

1 direction. So I support the proposed Scoping Plan.

2 Looking right now at page nine and ten that goes
3 through, it's that chart we're all using. And what I
4 really like about the Scoping Plan is that it's so
5 comprehensive. And I agree with what Dr. Balmes said.
6 Cap and trade is just a portion of it. And it's important
7 that we get that right.

8 But in the mean time, there's all these other
9 tools in the toolbox. For those that favor regulation,
10 there's some direct regulation. For those that favor
11 voluntary measures as a way to move forward -- and I'm a
12 strong believer in voluntary measures. And I think that
13 if the offset program is done correctly, we're going to
14 see a lot of emission reductions in that area. And then,
15 of course, all the programs that we're doing with our
16 sister agencies that will get us toward the emission
17 reductions.

18 With respect to the specific alternatives, my own
19 criteria was just looking at each one, the likelihood to
20 achieve the emission reduction targets, how cost effective
21 the alternatives were. And a big issue for me is leakage
22 because it's becoming sort of a term of art but of course
23 I think that we're all very sensitized as we adopt
24 regulations about the concern, especially in this
25 environment of businesses going out of state. So that was

1 a big one for me as I went through. I just don't think
2 any of them meet that criteria, except for the proposed
3 Scoping Plan.

4 And I do want to call out on alternative two
5 removing the advanced clean car program. That's a crucial
6 component of the Scoping Plan. I can't see going forward
7 without that.

8 And then with respect to the carbon tax or fee, I
9 agree with what Dr. Balmes said as far as the
10 feasibility -- political feasibility and economic
11 feasibility. But then in addition, we don't have the
12 authority to adopt a tax. That authority exists with the
13 Legislature. And just going through the budget, we know
14 that is just not going to happen. So if we want to call
15 it a fee, then we are constrained with how we collect that
16 fee and how we distribute the proceeds from that fee. And
17 so what may appear to be very flexible quickly becomes a
18 very inflexible tool. And I think we need to be very
19 flexible and be moving forward on a program where we're
20 actually going to see the emission reductions. Again,
21 that's the proposed Scoping Plan that's before us.

22 So thank you, staff, for your excellent job in
23 going through the alternatives. And I look forward to
24 moving forward in October as we talk about the issues
25 that's not before us today, and that is finalizing the cap

1 and trade rule. And all I will say on that is there are a
2 number of items that I'm working with staff on and just
3 want to make clear for those stakeholders that are
4 concerned as we go forward with this next round of 15-day
5 change, I'm open to hearing from any of you directly and
6 want to do what we can to get that rule in the best shape
7 possible when it's before us in October.

8 CHAIRPERSON NICHOLS: Thank you.

9 Dr. Sperling.

10 BOARD MEMBER SPERLING: So I want to emphasize
11 even more the accomplishment of the staff in creating this
12 process. And it's been a multi-year process to get where
13 we have. I remember all those delegations that have come
14 in from Europe, all those meetings that have happened over
15 years to try to figure this out. And the amount of work
16 that went into it, the amount of creativity is
17 extraordinary. And so it's very impressive.

18 Now, having said that, you know, I think we've
19 learned a lot. I think the staff has learned a lot.
20 We've all learned a lot from Europe. As we just heard
21 before, they've -- I think overall you call it a success,
22 but they have had some problems along the way. We've
23 learned from that.

24 So in the end, I see what we have here is a mix
25 of regulatory instruments and market instruments. And I

1 think if there's anything we've learned, you know, over
2 these years is that's the way to go. Even if we had a
3 full-blown carbon tax, a huge carbon tax, we'd still need
4 some kind of regulations to deal with particular
5 industries or technologies where there is market barriers,
6 where the market is not working well. So I think the
7 discussion should not be, you know, all regulatory.

8 On that end, I think there was this little
9 experiment that took place over 70 years in another part
10 of the world called the Soviet Union where they tried to
11 create an economy based on rules. And I think that was
12 well agreed that was a total failure. And so when you're
13 moving into dealing with the economy, there's just no way
14 you can't have market instruments. It just doesn't make
15 sense in any way whatsoever.

16 Now, the difficult part, of course, is coming up
17 with that mix of market instruments and regulatory
18 instruments. And there's no way -- there's no definitive
19 answer how to do that.

20 My take on it is that I'd like to make sure that
21 we do stay focused on making sure we are sending strong
22 market signals and creating policy that will lead to --
23 will stimulate innovation, will lead to more investment in
24 better technologies and changes in behavior. And the
25 best, you know, way ultimately is through market signals.

1 So, you know, I can see as we go through this
2 process that we are going to want to maybe not in the next
3 few months, but as we go through this be thinking about
4 how to do that even better. So I can see ideas like fee
5 bates, which is the idea of where, like, with the vehicle
6 but you can do with other product where if it's high
7 polluting, high energy using, then you pay a fee. It's
8 low polluting, you get a rebate. And that sends a strong
9 market signal.

10 And we have regulations in place with vehicles,
11 so in the near term I think we are in good shape. It's
12 been a great role that ARB played with the White House and
13 the federal government in vehicle regulations. But I do
14 think we need to keep that on the table and come back to
15 that.

16 So in that sense, I'm a little more positive
17 about Dr. Balmes' about the role of market instruments.
18 But I think he grease in some part on that.

19 So a few specific things. With the offsets, you
20 know, kind of using that same way of thinking, my concern
21 with the offsets is more -- the quality issue is an
22 important one. Additionality is really important. Got to
23 get it right. Some of the international CDM process that
24 was used internationally had some -- has some problems and
25 flaws in it. We got to do it better. So additionality is

1 an issue.

2 But at the same time, I'm concerned we don't have
3 enough offsets, that they're not going to lead to new
4 investments and new technology. What we want to be doing
5 is unleashing innovation. We want to be unleashing the
6 marketplace, creating entrepreneurs that are going to come
7 up with creative solutions that we can't imagine. And we
8 want to create a framework for them that will enable even
9 to facilitate that.

10 Another thought: Updates. Because this is so
11 complicated, I think we're building into the process, you
12 know, reviews and so on. But we've got to really be
13 diligent about that. And partly it's to having a process.
14 I'm not even sure the answer to this. But the extent to
15 which tweaks can be made by the Executive Officer when it
16 goes to the Board. And I guess I haven't been deeply
17 involved in that discussion. But hopefully someone has
18 been, and that's in good shape.

19 And last, the last point is about on the revenue
20 side, I'd like to suggest -- and I don't know if this has
21 been formally done or not. But I'd like to make sure that
22 the staff does put together a proposal for how the revenue
23 from cap and trade could be used. Of course, that's going
24 to be -- the Legislature is going to make that decision in
25 the end. But we should weigh in on that. I think we've

1 come across here some ideas today. You know, there's been
2 work in the past where disadvantaged communities for
3 research for cities through the SB 375 process that could
4 be rewarded. So I think that we could actually contribute
5 a lot to that. So I look forward to that. And I have
6 lots more ideas but --

7 CHAIRPERSON NICHOLS: Good. Okay.
8 Mayor Loveridge.

9 BOARD MEMBER LOVERIDGE: Three excellent
10 statements. Let me not repeat what they've emphasized
11 other than to say, to start, I support the recommendations
12 before us and agree with Dan Sterling about the good work
13 of staff and the confidence in it.

14 Just five very quick comments.

15 One, the Scoping Plan, at least in my context, is
16 really an historic plan. I've been teaching state and
17 local politics now for a long time. I don't think we've
18 had anything like the Scoping Plan adopted by the State of
19 California. I mean, it's a big deal. It's just not
20 another plan. This is a big deal. It's sort of an
21 environmental and economic kind of game plan for the
22 state.

23 Seems to me we need to go forward with the cap
24 and trade. I think may not be perfect. It may be
25 complex. But it's very clear there are many eyes on this.

1 And it's obvious it will be reviewed and monitored. There
2 will be a number of changes as we go forward. And I think
3 we've learned from other experiences.

4 On offsets, in addition to the comments raised, I
5 asked a question before. I'll just ask publicly. There
6 was some comment about having local districts work on
7 protocols for offsets. Is that invitation still there or
8 is that closed? I just --

9 PROGRAM OPERATION SECTION MANAGER SAHOTA: We've
10 talked with air districts about involving protocols.
11 We'll continue our discussions with them.

12 The challenge is coming up with a protocol for a
13 project where we are not already regulating that source in
14 some capacity. So we are continuing those discussions.
15 We do want to partner with them where we can.

16 BOARD MEMBER LOVERIDGE: So there are district
17 conversation going on on this issue.

18 Last just two things. The one thing
19 disappointing about AB 32 and what the Scoping Plan
20 represents is that I think what we talked about here today
21 should also be connected with the good work with the state
22 administration and its different agencies and departments.
23 So this is not simply something that the CARB Board is
24 doing, but this is really an approach to make California a
25 green state. And I think that needs to be framed not so

1 much by our Chair, but outside of the Chair.

2 The last is just there is a lot of criticism of
3 what California is doing is having a heavy hand of
4 regulation. I think as we go forward in this, we ought to
5 figure out ways to celebrate successes. Not just adding
6 new regulations. But there are good consequences in
7 health and the economy and community that need to be
8 celebrated.

9 CHAIRPERSON NICHOLS: All right. We'll start
10 down at the other end now, Supervisor Roberts.

11 BOARD MEMBER ROBERTS: I was so sure you were
12 going right in order.

13 CHAIRPERSON NICHOLS: I know. Shook you up.

14 BOARD MEMBER ROBERTS: There will be absolutely
15 nothing left to say.

16 Well, Mary, your initial comments about being a
17 little cynical toward cap and trade when we started I
18 think mirror my own feelings 100 percent. I think it
19 probably causes us to feel we need to be really vigilant
20 as we're going forward with any type of cap and trade
21 program.

22 I looked at the alternatives. And I was kind of
23 ambivalent about -- it was a combination things that maybe
24 you take a little bit of this and a little of that. And
25 at the end of the day, you know, that's -- maybe we're

1 taking the worst of everything too and combining it.

2 I know some of us are afraid to say carbon tax.
3 We say carbon fee, like it's something different. And
4 therefore we're not guilty of having a new tax. If I
5 thought that was a solution, I think I would say let's do
6 it.

7 I do have concerns about this as we go forward.
8 I don't feel uncomfortable with the 8 percent offset. I
9 do feel a little uncomfortable maybe in how we control
10 that and where those things are occurring. I'd almost
11 like to think maybe offsets shouldn't qualify unless
12 they're in a state or a province that we have an agreement
13 with and that they have a similar program. So we restrict
14 the region of the world where we're going to be doing
15 those. I don't know if any thought has been given to
16 that.

17 But I feel uncomfortable sometimes with dealing
18 in far away places with governments that are not real
19 dependable and circumstances could change overnight. I
20 don't know what you would do in those cases. But I think
21 we need to really give some thought to that, not only
22 transparency and viability but really sustainability is I
23 think very important.

24 You know, when all is said and done, the health
25 benefits are going to come out of the other parts of the

1 world that we are dealing with. I should say the other
2 policies decisions that we're going to be making as we
3 look at those specifically and directly at those
4 pollutants that are affecting health and areas throughout
5 the state.

6 I heard the testimony and I think some of you
7 know from my prior comments to the Building Association in
8 San Diego when they said you don't have to worry about
9 asthma, asthma is being shown it's just for people who are
10 overweight. Well, that may be the case for me because I
11 do have asthma, I don't think that, you know, that's the
12 solution. I think there are things that are environmental
13 things that are contributing to that. But I think that
14 more directly and being an Air Board, a District Air Board
15 member as opposed to Air Resources Board, I know we're
16 dealing with those things every single day. And our
17 actions and our policies at the local level make a big
18 difference.

19 One of the reasons why this Board has been so
20 successful, it has had significant incremental change
21 sustained over a long period of time. We don't change a
22 road overnight. We haven't had -- I guess depending on
23 where you sit and how you look at it, I wouldn't say we've
24 been draconian in the policies. We've tried to work with
25 industry. We've also looked at how we can change and get

1 measurable results.

2 I think the same is true here at the end of the
3 day. We want to know we're getting the measurable
4 results. And I think the cap and trade program is going
5 to give us the best opportunity to do that, at the least
6 cost. And it's not just letting, you know, corporations
7 off the hook and doing this on the cheat. That affects
8 all of us. We got to stop thinking that, you know, if our
9 businesses are able to do business at, you know, lesser
10 cost, that's a benefit to us. That's part of what's wrong
11 with California today. We're ignorant of that fact and
12 we're losing too many businesses because we are willing to
13 say that's okay. And it's not okay. If there is a way
14 that we can get the benefit at a less cost, than we ought
15 to do it. We ought to have those most effective rules.

16 I think this gives us the opportunity to do that.
17 And I think a lot is going to depend how we go through the
18 next steps and stages. As you saw, my ears perked up when
19 I heard that San Diego might pay a disproportionate amount
20 and money might get shifted from San Diego to northern
21 California. You will hear an explosion here if we don't
22 have good answers to things like that.

23 But I'm willing to -- I'm expecting that we'll
24 work through with staff and we'll find solutions that are
25 equitable. At the end of the day, what we want to know is

1 that in every community we're seeing improvements in not
2 only in health-related pollutants, but in this case
3 specifically in a lowering in emissions of CO2. The
4 collateral benefits are going to be there. There's no
5 question. Even with offsets, the collateral benefits are
6 going to be there. Because there's still a significant --
7 as that cap gets lower and lower and lower, it's going to
8 happen. And I think that's the thing -- this gives us, it
9 seems to me, a process that is manageable from the
10 standpoint of performance and results that we would like
11 to see.

12 So I feel comfortable in going along with the
13 recommendations that are here before us today. And I
14 think as more people understand what is actually proposed
15 and what the options are, I really think that this is the
16 best by far of any of the things before us.

17 CHAIRPERSON NICHOLS: Ms. Kennard.

18 BOARD MEMBER KENNARD: Thank you.

19 Firstly, I'm different from some of my fellow
20 Board members. I came in with no pre-conceived notion
21 about the value or lack thereof of cap and trade.

22 I'm very troubled about the level, the breadth,
23 the number, and the passion of people that testified
24 against cap and trade, particularly from the communities
25 of color. And I listened intently to all the testimony.

1 And I had a lot of initial questions, many of which have
2 been answered by staff, particularly the failure of EU
3 system. I think that the cap and trade program there,
4 although not perfect, I think that ours may be constructed
5 to tackle some of those vulnerabilities. And I thank
6 staff for really looking at that, the failures and the
7 successes of the European program, because it's really one
8 of the few models that we have.

9 I think it was best said -- and I'm going to give
10 credit to Alex Jackson and NRDC that this is really cap
11 and trade is just one of the many tools in the toolbox.
12 And so I think it is in large measure is a valuable tool.
13 And if we take it in the context of the entire toolbox, it
14 is just a small component of it. And if you take that
15 whole toolbox, the aggregate gives us the best chance of
16 reaching our collective goals.

17 So I'm very comfortable with where we are today,
18 although it as very challenging. It's very complex. I
19 think there are a lot of pieces that still need to be
20 addressed.

21 And I do want to in one way very much applaud
22 staff for getting us to where we are now. And I probably
23 am, as the Board members, the most compassionate towards
24 staff, because I've been on your side, as I mentioned
25 before. And I know how difficult it is to work in the

1 trenches and do this very, very hard work and come to a
2 public hearing and hear not so positive things every day
3 when you know you're making a really, really significant
4 impact.

5 But if there is one failure, I will say that we
6 collectively have not communicated well the program. And
7 I say that because of the amount of people that I think
8 really didn't understand what we were trying to accomplish
9 here, we will hopefully accomplish here based on a
10 theoretical vote of this Board. I know there's been lots
11 of attempts to communicate well and differently. But
12 nonetheless, it was a failure of communication because I
13 think there's a lot of misperceptions about what cap and
14 trade is and what it isn't and the relative impact it may
15 have on certain communities.

16 And then the other part of what we're trying to
17 accomplish that will solve some of the problems and
18 concerns that these communities have. So I just encourage
19 you to continue the dialogue and reach out to those
20 communities so maybe going forward they have a better
21 understanding of what the benefits of cap and trade will
22 be and the entire Scoping Plan.

23 CHAIRPERSON NICHOLS: Supervisor Yeager.

24 BOARD MEMBER YEAGER: Thank you.

25 It's been a very educational day, certainly with

1 all the comments from the public and comments from Board
2 members. And I think it just shows how much our state,
3 our residents, and this Board take these issues that are
4 before us as seriously as we do. I think it's been an
5 excellent discussion.

6 I'm the newest Board member. I know that the
7 Board approved the Scoping Plan in December of 2008. And
8 I came on board January of 2009. So I can't take the
9 credit or the blame I suppose. So I certainly don't come
10 into this with any pre-conceived notion, not having voted
11 on it before.

12 And whether it's a fee or a tax -- I think I
13 would probably lean towards more a carbon fee. It's just
14 easier to do. But that isn't what is going to happen.

15 And so as we look at the various alternatives, it
16 seems that cap and trade will enable us to meet many of
17 our objectives.

18 I thought someone else mentioned it, so I'm going
19 to keep my comments on different aspects. The partners
20 from Canada here, congratulations. I think it just
21 reminded us that the whole world is watching. And
22 particularly with cap and trade, we do need other
23 countries. We need other states to be involved in this.
24 Oftentimes, we get very focused on neighborhoods or
25 different parts of the state, but this is a worldwide

1 issue that we are all dealing with. And cap and trade
2 allows us to once again be on the forefront to try to do
3 it right. Learn from the EU and to get more partners
4 involved. And we certainly want our Canadian friends to
5 know that we are with them in this endeavor.

6 And I think that's one of the things we get with
7 cap and trade we don't get with the other alternatives. I
8 just thought it was very important to mention that.

9 Certainly when you think of what we're doing with the low
10 carbon fuel standard, just a lot of things that we are
11 front and center on. And it's got to be exciting for
12 Board members, for staff to know that we're taking the
13 lead. Other people are much too nervous or worried about
14 political consequences or just disagree whether there is
15 even any issues with global warming. We are foraging
16 ahead.

17 I think my one biggest concern -- and I certainly
18 talked with staff yesterday. And maybe you might want to
19 mention it a little bit more -- that the time is short
20 between now and our October meeting. And certainly we've
21 heard many of the issues that are going to be involved
22 with cap and trade. Certainly the offsets and monitoring
23 and verification, all of those types of issues. I am just
24 wondering if somebody could spell out in a more public way
25 what the process is going to be, when is staff going to

1 respond to the first 15-day issues, and then when is the
2 next round of the 15-day changes so we can, as Board
3 members, give input back to the public as well.

4 I mentioned a lot of this is going to change.
5 It's so important we do it right, that all this is vetted
6 as much as possible ahead of time. Because I'm afraid as
7 some of our friends in the environmental community have
8 mentioned to me, that if there is just one or two aspects
9 that are wrong or that people don't take very seriously,
10 the press will focus on just those issues. So I just
11 think the next two months are going to be very important.
12 And I think we all need to know at what point we can weigh
13 in.

14 CHAIRPERSON NICHOLS: I think I can see where
15 this is headed. And I'd like to sort of bring this part
16 of it to a conclusion and then have staff sort of explain
17 what they're thinking is, assuming that the Board does
18 adopt the Scoping Plan. Because if we -- October is the
19 next time this rule is coming -- this rule, meaning the
20 cap and trade rule, is coming back to the Board. But it's
21 not the end of the process of adopting the program.

22 EXECUTIVE OFFICER GOLDSTONE: That's right. We
23 can go through that now. I don't now if you want to have
24 Ms. Berg make comments.

25 CHAIRPERSON NICHOLS: Let's just finish this and

1 then we'll go the staff.

2 BOARD MEMBER BERG: Thank you, Chairman.

3 I'm very appreciative of the very thoughtful
4 comments that my fellow Board members have made. And I'm
5 in agreement with those comments.

6 I would like to take a little different approach
7 on my comments. What I felt today was a real frustration
8 from a handful of communities who are living day to day
9 with an unfair disproportionate exposure to pollution.
10 And this keeps coming up in front of our Board from time
11 to time over various issues, when there is the railroad
12 MOU, whether it's the diesel discussions, and now AB 32.
13 I think that what we see from the very thoughtful comments
14 from the community that they were very hopeful that AB 32
15 might be a silver bullet that would address not only
16 greenhouse gas but those co-pollutants that are needed in
17 that communities.

18 And we've talked from time to time before on
19 these very effective communities and what we can do for
20 them. And I think that outside of AB 32 -- AB 32 is one
21 tool in the toolbox to this entire fight for these
22 communities. And I think through things like the energy
23 efficiency and co-benefit assessment that you referred to,
24 Chairman, on the large industrial facilities, that we're
25 going to be looking at, I think that when I look at the

1 Coalition for a Safe Environment, their myriad of
2 suggestions here, I think that they had I think about six
3 pages. Every one of these are good movements, both diesel
4 oriented with probably greenhouse gas co-pollutant
5 benefits.

6 I think we have to find a way -- and I agree with
7 you, Ms. Kennard, on being able to review these things and
8 communicate to these communities what we're doing more
9 effectively. And I think as best as we can -- like, we
10 have an Ombudsman for the small business, maybe we need to
11 look at some sort of mechanisms to be working with the EJ
12 communities on a holistic approach. And maybe it is a
13 one-on-one approach rather than one-size-fits-all. And I
14 don't know what the answers are.

15 But I'm challenged every time we have a meeting
16 like this and to be able to celebrate the successes like
17 Mayor Loveridge said and identify where we are winning the
18 battle. But likewise to identify where we're not and
19 figuring out what truly the options are.

20 So even though these comments are outside really
21 of the Scoping Plan, I guess I wanted to make the point
22 that we once again did hear the communities, that we
23 understand the frustration. I won't say we understand
24 because we don't live in those communities. And we'll
25 stand vigilant to try to keep figuring it out.

1 So with that, I'm also in support of the Scoping
2 Plan where we're going today.

3 CHAIRPERSON NICHOLS: Okay. Well, thank you.
4 Let me just add a couple of things that maybe tie a few
5 loose ends together.

6 First of all, to Dr. Sperling's point about the
7 revenue issue, the staff is working on a position paper.
8 And I'm hoping that the audience for that will be as part
9 of the Governor's budget, because I think that although if
10 the program were to begin in 2012, there wouldn't be any
11 significant revenue coming in until, you know, end of
12 2012, beginning of 2013. It's not that far off. And it
13 would be good to start planning for what to do. And
14 certainly part of the key to success of the program will
15 be if the allowance value gets redirected in places where
16 it needs to go, which certainly does include communities
17 that are identified as being in particular need of help
18 from an environmental perspective.

19 To Ms. Berg's comment about what else could we be
20 doing and also tying into Mayor Loveridge's comment, I
21 just wanted to mention that one of the things that the
22 Governor I know has been working on and has directed his
23 new Cal/EPA Secretary to work on is creating a more
24 comprehensive environmental justice approach. And
25 although there has not been a person yet chosen for this

1 position, there is a slotted position for a Deputy
2 Secretary of Cal/EPA for environmental justice. And the
3 goal of that position I believe is to really develop a
4 more holistic program. Because as I think a number of
5 people who came here and testified today pointed out, air
6 quality is not the only environmental issue that people
7 are dealing with in many of these communities. It may be
8 the most important in some. In others, maybe water
9 quality is more important and direct exposure to toxins.
10 So it wouldn't behoove us to develop separate programs in
11 each Board and department if there are more efficient ways
12 we can work together.

13 I think one piece of that that has been
14 identified over and over again both in environmental
15 justice communities and in tribal communities and on
16 tribal land is enforcement of existing rules and
17 regulations, which are oftentimes not so aggressively
18 enforced in some of the places that need it the most. So
19 I think that is an important piece of business, which we
20 will be involved in, but not necessarily at the head of.

21 So just with those last comments, I think we
22 should give the Board a feeling of what will happen,
23 assuming that we do vote to adopt the Scoping Plan. Do
24 you want to talk about what the next steps would be?

25 EXECUTIVE OFFICER GOLDSTONE: We can do that now

1 or you can act first.

2 CHAIRPERSON NICHOLS: Why don't we just do it.
3 So we have a resolution in front of us, which is a
4 multi-part

5 BOARD MEMBER D'ADAMO: Move adoption.

6 BOARD MEMBER SPERLING: Second.

7 CHAIRPERSON NICHOLS: And seconded. All in favor
8 please say aye.

9 (Ayes)

10 CHAIRPERSON NICHOLS: Any opposed? Okay.

11 Now, to the staff. What comes next, Mr.
12 Goldstene?

13 EXECUTIVE OFFICER GOLDSTENE: We have just
14 finished a first 15-day change process. And we hope by
15 the end of next year to begin the second 15-day change
16 process on the rule that you considered and acted on last
17 December.

18 We have, I think as you all know, one year to
19 complete a rule and the deadline to complete the cap and
20 trade rulemaking is October 28th. And our meeting is
21 October 21st. So when we bring the rule to you, there
22 won't be an opportunity to make changes at that time at
23 this point. So we're right now in that process during the
24 15-day change process where we can make adjustments. And
25 I know working with many of you and stakeholders to fine

1 tune the rule as well as we can.

2 But, of course, that's not the end. The October
3 action would not be the end of the process. We do plan to
4 come back to the Board in mid 2012 sometime to bring to
5 you linking proposals with our WCI partners if they're
6 ready. And then also there might be other things, if they
7 want to make adjustments, too, which would include making
8 the process more stringent or other things where we're
9 going to have to come back to the Board and have you act.

10 I don't know if Edie Chang wanted to add
11 anything.

12 ASSISTANT CHIEF CHANG: The only thing I would
13 add is as Executive Officer Goldstene mentioned, there are
14 aspects of the regulation that were finalized which we
15 would propose to the Board in October that would take
16 effect on January 1st, 2012.

17 There is also a significant portion of things
18 that we have some flexibility as we continue to move
19 forward in the implementation. And my example would be
20 something like the low-carbon fuel standard. We have the
21 regulatory requirement. As we move through the
22 implementation, there are lots of details about how those
23 things get done. I'll give you a couple of examples. One
24 of them would be offsets. The regulation already calls
25 for the offsets to be additional, real, verifiable,

1 enforceable, all of the things that are in AB 32. We're
2 working with stakeholders to try to beef up some of those
3 provisions because of the concerns. As we implement
4 offsets, as we develop new offset protocols, we can always
5 go above and beyond. We have the opportunity and
6 implementation documents to lay out our process, provide
7 more information about how we're going to do those
8 analyses, and provide the transparency that folks are
9 asking for.

10 I think another aspect is the market oversight
11 that we talked a little bit about. Those are things that
12 we want to work with U.C. on developing some market
13 surveillance committees, taking information from the
14 monitoring. There are components that we will continue to
15 have some flexibility.

16 I think Dr. Balmes asked about reviews and
17 reports to the Board. We regularly report to the Board on
18 all kinds of things. I can't imagine that we wouldn't be
19 reporting to the Board on a very regular basis,
20 considering how big this regulation is and how important
21 it is to the folks that are on the Board as well as the
22 stakeholders. So I expect we will be back very frequently
23 to update the Board on what's happening and to the extent
24 that we need to make regulatory modifications. That's
25 something that can be done maybe not as part of this

1 proceeding but as part of another proceeding next year as
2 Mr. Goldstene mentioned.

3 CHAIRPERSON NICHOLS: But to anybody who thinks
4 that a tax or a fee is simple, I would just invite them to
5 look at the Internal Revenue Code or at the State budget.
6 Anything looks simpler in comparison to what's in front of
7 you at the moment until you actually start working on it.

8 So yeah, it is complicated. But it's complicated
9 because it's important as well.

10 So any other additional comments that anybody
11 wants to make at this time? If not, I believe we're ready
12 to adjourn. Thanks very much.

13 (Whereupon the Air Resources Board meeting
14 adjourned at 3:42 PM)

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CERTIFICATE OF REPORTER

I, TIFFANY C. KRAFT, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing hearing was reported in shorthand by me, Tiffany C. Kraft, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of September, 2011.

TIFFANY C. KRAFT, CSR, RPR
Certified Shorthand Reporter
License No. 12277

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