

MEETING
STATE OF CALIFORNIA
AIR RESOURCES BOARD

CAL/EPA HEADQUARTERS
BYRON SHER AUDITORIUM
SECOND FLOOR
1001 I STREET
SACRAMENTO, CALIFORNIA 95814

THURSDAY, SEPTEMBER 18, 2014
9:13 A.M.

TIFFANY C. KRAFT, CSR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 12277

APPEARANCES

BOARD MEMBERS

Ms. Mary Nichols, Chairperson

Ms. Sandra Berg

Mr. Hector De La Torre

Mr. John Eisenhut

Supervisor John Gioia

Mayor Judy Mitchell

Mrs. Barbara Riordan

Supervisor Ron Roberts

Supervisor Phil Serna

Professor Daniel Sperling

STAFF

Dr. Alberto Ayala, Acting Executive Officer

Ms. Edie Chang, Deputy Executive Officer

Ms. Ellen Peter, Chief Counsel

Ms. La Ronda Bowen, Ombudsman

Ms. Mary Jane Coombs, Manager, Program Development
Section, ISD

Ms. Monique Davis, Staff Air Pollution Specialist, Climate
Investments Implementation Section, TTD

APPEARANCES (CONTINUED)

STAFF

Mr. Patrick Gaffney, Staff Air Pollution Specialist,
Climate Change Program Data Section, ISD

Mr. Jason Gray, Manager, Market Monitoring Section

Ms. Cynthia Marvin, Chief, Transportation and Toxics
Division

Ms. Rajinder Sahota, Chief, Climate Change Program
Evaluation Branch

Mr. Jimmy Steele, Air Resources Engineer, Transportation
and Toxics Division

Ms. Emily Wimberger, Air Pollution Specialist, ISD

ALSO PRESENT

Mr. Alan Abbs, Tehama County APCD

Mr. Steven Arita, Chevron Corporation

Ms. Susie Berlin, NCPA & MSR Public Power

Mr. Damian Breen, Bay Area AQMD

Mr. Tony Brunello, CE2 Carbon Capital

Ms. Colleen Cadwallader, Sacramento Tree Foundation

Mr. David Cox, Coalition for Renewable Natural Gas

Ms. Shasa Curl, City of Richmond

Mr. Steve Dutra, Tree Lodi

Ms. Veronica Garibay, Leadership Council

Mr. Frank Harris, Southern California Edison

APPEARANCES (CONTINUED)

ALSO PRESENT

Mr. Henry Hogo, South Coast AQMD
Ms. Bonnie Holmes-Gen, American Lung Association
Ms. Nancy Hughes, California Urban Forests Council
Mr. Tom Jordan, San Joaquin Valley APCD
Ms. Karen Lange, City of San Francisco
Mr. John Larrea, Cal League of Food Processors
Mr. Bob Lucas, CCEEB
Mr. Bill Magavern, Coalition for Clean Air
Mr. Matt Malorey, Metropolitan Transportation Commission
Mr. Paul Mason, Pacific Forest Trust
Mr. Chuck Mills, Cal ReLeaf, et al.
Ms. Erica Morehouse, EDF
Ms. Marybelle, N. Nzegwu, 535 Coalition
Ms. Amelia Oliver, California ReLeaf
Ms. Cindy Parsons, LADWP
Ms. Michelle Passero, TNC
Ms. Mary Pendleton, Western Chapter ISA
Ms. Michele Prichard, Liberty Hill Foundation
Ms. Tamara Rasberry, SDGE
Ms. Jill Ratner, New Voices, Ditching Dirty Diesel Collaborative
Ms. Erika Rincon, Policy Link

APPEARANCES (CONTINUED)

ALSO PRESENT

Mr. Matt Robinson, Cal Transit Association

Ms. Dorothy Rothrock, CMTA & Joint Industry Group

Ms. Monika Shankar, Physicians for Social Responsibility,
LA

Ms. Julie Snyder, Housing California

Ms. Moira Topp, Orange County Transportation Authority

Mr. Kevin Townsend, Blue Source, LLC

Mr. Tim Tutt, SMUD

Ms. Maura Twomey, Central Coast Coalition

Mr. Nico Van Aelstyn, Blue Source, Finite Carbon, Eko

Mr. Michael Wang, WSPA

Mr. Doug Wildman, Friends of the Urban Forest

Mr. David Wilkinson, Woodland Tree Foundation

Supervisor Bob Williams, RCRC

Mr. Robert Willis, New Voices

INDEX

	<u>PAGE</u>
Item 14-7-1	
Chairperson Nichols	3
Motion	3
Vote	4
Item 14-7-2	
Chairperson Nichols	4
Motion	4
Vote	5
Item 14-7-4	
Chairperson Nichols	5
Acting Executive Officer Ayala	7
Staff Presentation	9
Mr. Hogo	51
Mr. Breen	52
Mr. Abbs	55
Mr. Jordan	57
Supervisor Williams	60
Mr. Robinson	62
Ms. Lange	67
Ms. Hughes	68
Ms. Ratner	70
Mr. Willis	72
Ms. Nzegwu	73
Mr. Magavern	77
Ms. Rincon	79
Ms. Shankar	81
Ms. Garibay	83
Ms. Prichard	85
Ms. Pendleton	88
Mr. Wilkinson	89
Ms. Oliver	91
Mr. Malorey	92
Ms. Cadwallader	95
Ms. Curl	96
Mr. Mills	97
Ms. Twomey	100
Mr. Larrea	102
Ms. Holmes-Gen	104
Ms. Topp	106
Mr. Wildman	108

INDEX (continued)

	<u>PAGE</u>
Ms. Morehouse	111
Ms. Passero	113
Ms. Snyder	114
Mr. Dutra	116
Board Discussion	117
Motion	141
Vote	142
Item 14-7-5	
Chairperson Nichols	142
Acting Executive Officer Ayala	144
Staff Presentation	146
Mr. Lucas	160
Mr. Van Aelstyn	165
Ms. Rothrock	167
Mr. Arita	170
Mr. Harris	172
Mr. Wang	174
Mr. Brunello	176
Mr. Larrea	177
Mr. Mason	178
Motion	191
Vote	192
Item 14-7-6	
Chairperson Nichols	192
Acting Executive Officer Ayala	192
Staff Presentation	193
Mr. Van Aelstyn	205
Mr. Wang	208
Mr. Lucas	211
Ms. Parsons	213
Ms. Berlin	215
Mr. Cox	217
Mr. Tutt	218
Ms. Raspberry	220
Mr. Harris	221
Motion	225
Vote	227

INDEX (continued)

	<u>PAGE</u>
Item 14-7-7	
Chairperson Nichols	227
Acting Executive Officer Ayala	228
Staff Presentation	228
Motion	234
Vote	234
Public Comment	235
Adjournment	236
Reporter's Certificate	237

PROCEEDINGS

1
2 CHAIRPERSON NICHOLS: Good morning, everyone.
3 Welcome all to the September 18th, 2014, meeting of the
4 Air Resources Board. And I don't need to ask you to come
5 to order because you're already in order. Let's please
6 rise and say the Pledge.

7 (Thereupon the Pledge of Allegiance was
8 Recited in unison.)

9 CHAIRPERSON NICHOLS: Madam Clerk, would you
10 please call the roll?

11 BOARD CLERK JENSEN: Dr. Balmes?

12 Ms. Berg?

13 BOARD MEMBER BERG: Here.

14 BOARD CLERK JENSEN: Mr. De La Torre?

15 Mr. Eisenhut?

16 BOARD MEMBER EISENHUT: Here.

17 BOARD CLERK JENSEN: Supervisor Gioia?

18 BOARD MEMBER GIOIA: Here.

19 BOARD CLERK JENSEN: Mayor Mitchell?

20 BOARD MEMBER MITCHELL: Here.

21 BOARD CLERK JENSEN: Mrs. Riordan?

22 BOARD MEMBER RIORDAN: Here.

23 BOARD CLERK JENSEN: Supervisor Roberts?

24 BOARD MEMBER ROBERTS: Here.

25 BOARD CLERK JENSEN: Supervisor Serna?

1 BOARD MEMBER SERNA: Here.

2 BOARD CLERK JENSEN: Supervisor Sherriffs?

3 Professor Sperling?

4 BOARD MEMBER SPERLING: Here.

5 BOARD CLERK JENSEN: Chairman Nichols?

6 CHAIRPERSON NICHOLS: Here.

7 BOARD CLERK JENSEN: Madam Chairman, we have a
8 quorum.

9 CHAIRMAN NICHOLS: Thank you.

10 I would note, our two physician members are both
11 missing this morning for completely independent reasons.
12 But I just want to make sure everybody realizes that you
13 better stay well throughout the course of this meeting.
14 We did once have to have them spring into action. That
15 was a day I'll never forget.

16 A couple of announcements before we get started.
17 First of all, also missing today is Richard Corey, our
18 Executive Officer, is in China. And so filling in for him
19 is our Deputy Executive Officer, Alberto Ayala, who just
20 recently returned from China. If that suggests to you
21 that we're spending a lot of time on issues related to
22 China, that would be correct. Under the MOU that we have
23 with the National Development and Reform Commission in
24 China, there is a lot of activity going on aimed at
25 helping spread some of California's practices, including

1 zero emission investigations in China. So it's very
2 exciting work.

3 Anyone who wishes to testify this morning should
4 please fill out a request to speak card. They're
5 available in the lobby or from the Clerk. And we very
6 much appreciate it if you do that before the item comes up
7 so that the Clerk can organize the speakers' list and we
8 can proceed more efficiently.

9 We also impose a three-minute time limit on oral
10 testimony, but you can submit anything you want in
11 writing. And so hopefully people can find a way to
12 summarize their testimony in three minutes.

13 All right. First item on our agenda this morning
14 is a consent calendar addressing two research proposals
15 for the Board's consideration. So before we can proceed
16 to vote on these items, I need to ask the Clerk if anybody
17 signed up to testify. No, they did not.

18 Are there any Board members who would like to
19 remove this from consent and discuss? No.

20 Seeing none, then we can close the record on
21 these items. They we are both good proposals. I believe
22 you had an opportunity to review them.

23 BOARD MEMBER RIORDAN: Move approval, Madam
24 Chair.

25 BOARD MEMBER SERNA: Second.

1 CHAIRPERSON NICHOLS: All in favor, please say
2 aye.

3 (Seven aye votes)

4 CHAIRPERSON NICHOLS: Opposed?
5 Abstentions? One abstention from Dr. Sperling.
6 Good.

7 Okay.

8 BOARD MEMBER BERG: I need to abstain.

9 CHAIRPERSON NICHOLS: Also from Ms. Berg.
10 (Two abstentions.)

11 CHAIRPERSON NICHOLS: The next item on the
12 consent calendar is Item Number 14-7-2. This is the
13 maintenance plan and redesignation request for Mammoth
14 Lakes PM10.

15 Everybody knows PM10 is still a problem in some
16 parts of our state. We're finally at the point where we
17 can designate and put a plan in effect.

18 Is there anybody who signed up to testify on this
19 item? No.

20 Any Board member who wishes to remove the item
21 for discussion? Okay.

22 Then we can close this. And have you all had an
23 opportunity to review this item? Yes. I see heads
24 nodding.

25 Can somebody make a motion, please?

1 BOARD MEMBER BERG: So moved.

2 BOARD MEMBER GIOIA: Second.

3 CHAIRPERSON NICHOLS: All in favor, please say
4 aye.

5 (Unanimous aye vote)

6 CHAIRPERSON NICHOLS: Opposed? None.

7 No abstentions on this one.

8 All right. The next item is the cap and trade
9 auction proceeds interim guidance on investments. This
10 one is not so quick a matter.

11 We have an opportunity here as a result of the
12 State Legislature's action to make even greater strides
13 towards reducing greenhouse gas emissions by funding smart
14 projects that will pay long-term dividends. These
15 projects will deliver environmental public health and
16 economic benefits to the people of California,
17 particularly to residents of our most impacted
18 communities.

19 Governor Brown and the Legislature created the
20 budget and administrative framework for spending the
21 state's portion of the auction proceeds that come through
22 our Cap and Trade Program, which are being now deposited
23 which are held in the Greenhouse Gas Reduction Fund. This
24 spending must be consistent with the three-year investment
25 plan that this Board approved last year.

1 Senate Bill 535 by Senator now Pro Tem Kevin De
2 Leon calls on the California Environmental Protection
3 Agency to identify disadvantaged communities in
4 California, a process that is now underway going on
5 through the Secretary for Environmental Protection. It
6 also requires that ten percent of the funds be invested in
7 projects located within disadvantaged communities and 25
8 percent be invested in projects benefiting those
9 communities.

10 ARB is also charged with developing funding
11 guidelines for agencies that will implement programs that
12 receive these greenhouse gas moneys, including guidance on
13 maximizing the benefits to disadvantaged communities
14 consistent with SB 535.

15 The budget includes appropriations for a dozen
16 State agencies for programs and projects that reduce
17 greenhouse gas emissions and further the other regulatory
18 purposes of AB 32. It's important to recognize that each
19 of the agencies receiving auction proceeds for investment,
20 including ARB, is responsible for administering its own
21 program. So this law does not change the administrative
22 structure of State government or add any new programs.
23 Everybody continues to be required to follow their own
24 statutory direction and applicable ARB guidance.

25 The decisions about how to design programs,

1 select projects for funding, and implement projects rest
2 with each agency directed by its own priorities and
3 supported by its on staff's expertise. The Governor and
4 the Legislature have targeted the auction proceeds to
5 support State and local projects that both further the
6 purposes of AB 32 and yield the most significant benefits
7 for Californians as a whole.

8 Leveraging funds across programs and
9 collaboration among agencies obviously can multiply the
10 benefits of the disadvantaged communities. The interim
11 guidance that staff is presenting today is the first step
12 in establishing the Greenhouse Gas Reduction Fund
13 guidelines that will help to make sure that these
14 investments achieve the benefits that we're all hoping
15 for. But obviously, this is something new. It is a step
16 into the unknown. And there's a great deal of concern
17 among all the agencies and among the community groups that
18 are slated to benefit from these funds.

19 So without further ado, I will turn this item
20 over to the staff, Dr. Ayala.

21 ACTING EXECUTIVE OFFICER AYALA: Thank you. Good
22 morning, Chairman Nichols and Board members.

23 ARB staff is developing funding guidelines for
24 agencies administering greenhouse gas reduction funds over
25 the next year. In addition to addressing investments in

1 disadvantaged communities, these guidelines will include
2 quantification methods for GHG reductions and co-benefits,
3 tracking and reporting to provide robust accountability.

4 The item before you provides guidance on the SB
5 535 element now so agencies can move forward quickly to
6 get projects underway and money flowing in California.

7 After passage of the State budget on the trailer
8 bill that provided direction to ARB, the staff developed
9 this proposal in consultation with Cal/EPA and the
10 administering agencies. The interim guidance would
11 provide direction on maximizing the benefits of
12 investments to disadvantaged communities and establish
13 criteria for determining those benefits.

14 On August 22nd this year, the staff released the
15 draft guidance. We held joint public workshops in Fresno,
16 Los Angeles, and Oakland with Cal/EPA and OEHHA. We
17 discussed potential approaches to Cal/EPA's identification
18 of disadvantaged communities and the draft guidance.

19 Staff is proposing some revisions in response to
20 comments. With any Board amendments to the proposal and
21 your approval today, we can finalize the guidance by the
22 end of September.

23 The Cal/EPA Secretary will be making his final
24 decision on identification of disadvantaged communities in
25 the same time frame.

1 Monique Davis from the Transportation and Toxics
2 Division will now begin the staff presentation.

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

5 STAFF AIR POLLUTION SPECIALIST DAVIS: Good
6 morning, Chair Nichols and Board members.

7 In April 2013, the Board heard testimony on the
8 Administration's first Cap and Trade Auction Proceeds
9 Investment Plan. This plan identified priority
10 investments that facilitate greenhouse gas reductions and
11 further the purposes of AB 32.

12 At that hearing, the Board approved a Resolution
13 which recognized that the plan provided a balanced
14 approach to address the major sources of greenhouse gas
15 emissions in California, while also supporting investments
16 in disadvantaged communities and providing other important
17 co-benefits.

18 In June of this year, the Legislature and the
19 Governor enacted a budget which appropriated auction
20 proceeds consistent with that investment plan.

21 Today, we are here to present draft interim
22 guidance for the agencies that will be using auction
23 proceeds to cut greenhouse gases and make investments in
24 disadvantaged communities. Our goal is to provide a
25 consistent approach to maximize benefits for those

1 communities and achieve the investment targets established
2 by the Legislature.

3 --o0o--

4 STAFF AIR POLLUTION SPECIALIST DAVIS: First,
5 some background.

6 --o0o--

7 STAFF AIR POLLUTION SPECIALIST DAVIS: The AB 32
8 Cap and Trade Program provides an incredible opportunity
9 for directing resources to improve disadvantaged
10 communities throughout the state, while also reducing
11 greenhouse gases.

12 In 2012, SB 535 made it clear that the
13 Legislature wanted proceeds from the Cap and Trade Program
14 to result in investments that benefit California's most
15 disadvantaged communities.

16 --o0o--

17 STAFF AIR POLLUTION SPECIALIST DAVIS: Both the
18 investment plan and the guidance that we're presenting
19 today were developed under the framework of the
20 implementing legislation shown here.

21 There are two main themes. First, investments of
22 auction proceeds must further the purposes of AB 32. And
23 second, a portion of those investments must provide
24 benefits to disadvantaged communities. To provide a
25 consistent approach for meeting these statutory

1 requirements, the budget trailer bill SB 862 requires ARB
2 to develop funding guidelines which apply to all State
3 agencies that receive auction proceeds.

4 --o0o--

5 STAFF AIR POLLUTION SPECIALIST DAVIS: In
6 addition to developing funding guidelines, ARB has several
7 roles and responsibilities established in the implementing
8 legislation as shown here. These all require extensive
9 coordination with other agencies and stakeholders to
10 maintain a strong nexus to AB 32 and meet the goals for
11 benefiting disadvantaged communities.

12 --o0o--

13 STAFF AIR POLLUTION SPECIALIST DAVIS: ARB's
14 funding guidelines will apply to all State agencies that
15 receive budget appropriations from the greenhouse gas
16 reduction fund to implement projects. This slide shows
17 the State agencies that are currently administering
18 programs with moneys from that fund. Each of these
19 agencies has its own independent process and time line for
20 administering its programs and will be responsible for
21 identifying eligible projects.

22 As they design and implement their programs,
23 agencies will need to incorporate ARB's overall guidance
24 and the associated statutory requirements with greenhouse
25 gas reductions as the primary driver. Agencies will also

1 need to incorporate ARB guidance on investments that
2 benefit disadvantaged communities.

3 --o0o--

4 STAFF AIR POLLUTION SPECIALIST DAVIS: The flow
5 of funding begins with the proceeds from the quarterly cap
6 and trade auctions and the State portion that is deposited
7 in the Greenhouse Gas Reduction Fund.

8 Each fiscal year, the Legislature and Governor
9 enact a budget that appropriates moneys from this fund to
10 State agencies. All appropriations from this fund must
11 further the purposes of AB 32 and support greenhouse gas
12 reductions.

13 The agencies and programs that will receive this
14 year's auction proceeds have already been decided in
15 annual budget appropriations by the Legislature and
16 Governor as shown here. In this year's Budget Act, they
17 appropriated a total of \$832 million for a mixture of
18 transportation, energy, and natural resources projects.

19 --o0o--

20 STAFF AIR POLLUTION SPECIALIST DAVIS: With so
21 many agencies and programs, it is important that the
22 public have a way to access information and become
23 involved in the process. ARB's auction proceeds website
24 is a central portal for program information, including
25 workshops, funding opportunities, and links to other

1 agency's web sites.

2 --o0o--

3 STAFF AIR POLLUTION SPECIALIST DAVIS: The
4 requirement for ARB to develop funding guidelines and the
5 budget appropriations were both enacted this June. This
6 means there are some agencies ready to expand their
7 existing programs and make investments in communities.

8 ARB staff are developing guidance in stages based
9 on agency needs and priorities. First, we provided
10 guidance on how agencies should prepare an expenditure
11 record as required by Senate Bill 1018. I'll describe
12 this record in a moment. And now, we are creating interim
13 guidance for investments to benefit disadvantaged
14 communities per SB 535.

15 Agencies need this guidance so they can design
16 their programs to support investing a portion to provide
17 direct, meaningful, and assured benefits to those
18 communities. After this interim guidance is complete,
19 staff will move onto developing the full funding
20 guidelines in a public process and will return to the
21 Board in mid 2015.

22 --o0o--

23 STAFF AIR POLLUTION SPECIALIST DAVIS: As noted
24 on the previous slide, the first stage of our interim
25 guidance involved helping agencies prepare an expenditure

1 record. All agencies this receive appropriations from the
2 Greenhouse Gas Reduction Fund must prepare this record
3 prior to withdrawing money for projects.

4 This record is a critical first step in
5 accountability, because it requires agencies to document
6 how proposed investments will reduce greenhouse gas
7 emissions and further the purposes of AB 32.

8 After working closely with agencies to prepare
9 these records, ARB posts all expenditure records on the
10 auction proceeds website where the public can access them,
11 along with other information related to the use of these
12 funds.

13 --o0o--

14 STAFF AIR POLLUTION SPECIALIST DAVIS: The
15 interim guidance being presented today will be followed by
16 full funding guidelines next year. These guidelines will
17 build onto the interim guidance and include several other
18 elements focused on accountability and transparency.

19 We'll provide standard methodologies for robust,
20 consistent quantification of greenhouse gas emission
21 reductions and other co-benefits, such as criteria air
22 pollutant reductions.

23 We'll also provide guidance on metrics that
24 agencies can use to track projects and quantify benefits
25 to disadvantaged communities.

1 The full funding guidelines will also contain
2 requirements for reporting for agencies, including
3 reporting on benefits to disadvantaged communities.

4 Per statute, the Department of Finance must
5 submit an annual report to the Legislature on the status
6 of projects funded and their outcomes. ARB will consult
7 with Finance and other agencies to develop guidance to
8 meet the requirement. We will also be developing an
9 online project tracking system so the public can see what
10 projects have been funded and the associated benefits from
11 those projects.

12 --o0o--

13 STAFF AIR POLLUTION SPECIALIST DAVIS: Today, our
14 draft interim guidance is focused on the requirements
15 contained in SB 535.

16 --o0o--

17 STAFF AIR POLLUTION SPECIALIST DAVIS:
18 Implementing SB 535 requires a coordinated effort
19 involving multiple parties. The statute requires the
20 Secretary for Environmental Protection to identify
21 disadvantaged communities for the purpose of meeting SB
22 535 requirements. So Cal/EPA will be developing maps that
23 define these communities and they plan to finalize their
24 definitions by the end of this month.

25 In a parallel process, ARB is developing overall

1 guidance on maximizing benefits for disadvantaged
2 communities. State agencies will then incorporate the
3 defined communities and the guidance as they invest in
4 projects that reduce greenhouse gases and the subset that
5 benefits disadvantaged communities.

6 --o0o--

7 STAFF AIR POLLUTION SPECIALIST DAVIS: Cal/EPA is
8 using CalEnviroScreen 2.0 as a tool for the identification
9 of disadvantaged communities. This tool ranks all 8,000
10 census tracts in California based on a combination of
11 indicators that reflect both pollution burdens and
12 population characteristics, such as asthma rates and
13 poverty.

14 Cal/EPA plans to finalize this identification by
15 the end of September. For example, if they selected the
16 top 20 percent of the census tracts, it would included
17 roughly 1,600 census tracts that cover an area with about
18 20 percent of California's population.

19 --o0o--

20 STAFF AIR POLLUTION SPECIALIST DAVIS: For the
21 total money invested, AB 535 establishes targets. Ten
22 percent of the money must be allocated to projects located
23 within disadvantaged communities. Twenty-five percent
24 must be allocated for projects that benefit those
25 communities. These targets apply to the sum total of

1 investments. It is not required that each agency meet the
2 targets individually.

3 --o0o--

4 STAFF AIR POLLUTION SPECIALIST DAVIS: This slide
5 shows how the budget targeted funding to a mixture of
6 programs that are particularly suited to both reduce
7 greenhouse gases and benefit disadvantaged communities.

8 As shown here, we are already expecting that
9 investments benefiting communities will exceed the 25
10 percent target in SB 535.

11 While this slide highlights the key areas for SB
12 535 investments, there is an opportunity for all programs
13 to provide benefits to disadvantaged communities. And the
14 guidance we're presenting today has been designed to
15 maximize those benefits wherever possible.

16 --o0o--

17 STAFF AIR POLLUTION SPECIALIST DAVIS: Let's move
18 into the draft guidance.

19 --o0o--

20 STAFF AIR POLLUTION SPECIALIST DAVIS: As noted
21 earlier, we're starting with interim guidance to help
22 agencies move forward quickly and start implementing
23 projects. The interim guidance includes approaches that
24 agencies need to incorporate into their programs to
25 maximize benefits and criteria that agencies will use to

1 evaluate projects and determine if the project will
2 provide benefits that are direct, meaningful, and assured.

3 ARB released draft interim guidance on August
4 22nd. And today, we are presenting proposed revisions
5 based on comments received through our public process.

6 --o0o--

7 STAFF AIR POLLUTION SPECIALIST DAVIS: Statute
8 requires ARB to develop guidelines that includes a
9 component for how administering agencies should maximize
10 benefits for disadvantaged communities. We developed the
11 draft guidance to address maximizing both the amount of
12 funding that is targeted in communities, as well as
13 maximizing benefits from a given project.

14 The guidance includes both requirements and
15 recommendations. For agencies with investments which may
16 be located in and benefit disadvantaged communities, there
17 are requirements for conducting outreach to engage the
18 community. The document also includes recommendations to
19 guide agencies in designing programs to address a common
20 need or factor that contributes to disadvantaged
21 communities status, such as PM2.5 concentrations or
22 unemployment.

23 --o0o--

24 STAFF AIR POLLUTION SPECIALIST DAVIS: To help
25 agencies address community needs, the guidance document

1 includes examples of common needs in disadvantaged
2 communities. The examples on this slide reflect input
3 provided by both the SB 535 Coalition and the SB 535
4 workshop that was held earlier this year at the UCLA
5 Luskin Center.

6 --o0o--

7 STAFF AIR POLLUTION SPECIALIST DAVIS: To help
8 agencies determine whether their projects provide direct,
9 meaningful, and assured benefits to disadvantaged
10 communities, the guidance describes a general process.

11 First, determine if the project meets basic
12 eligibility requirements in statute and established by the
13 agency, such as furthering the purposes of AB 32 and
14 reducing greenhouse gases. If a project passes those
15 basic eligibility requirements, agencies can then refer to
16 the appendix in the document. It contains multiple tables
17 with screening criteria for various project types, such as
18 transit and urban forestry.

19 Each criteria table contains two sections with
20 yes/no criteria to assess projects. The top section has
21 criteria to determine if a project qualifies as located
22 within a community and providing benefits. The bottom
23 section has criteria for projects that are not necessarily
24 located in communities, but could still provide direct
25 benefits to communities.

1 If a project meets at least one of the criteria
2 listed in the table, moneys for that project could be
3 counted toward meeting the SB 535 targets. If a project
4 does not meet any of the listed criteria, the agency may
5 still fund that project, but it won't be credited toward
6 the SB 535 targets.

7 --o0o--

8 STAFF AIR POLLUTION SPECIALIST DAVIS: The top
9 criteria that I mentioned for being located within is
10 based on physical location being in a census tract. The
11 bottom criteria for benefiting is generally based on being
12 near a community and providing access to benefits for
13 residents of a disadvantaged community.

14 For a project that's not entirely located within
15 the boundaries of a defined census tract, it may still
16 meet at least one of the criteria for benefiting a
17 disadvantaged community.

18 Examples include projects that provide benefits
19 near a community and are within walking distance or
20 projects that reduce air pollution near communities.

21 --o0o--

22 STAFF AIR POLLUTION SPECIALIST DAVIS: Here are
23 some proposed criteria for an ARB program that provides
24 vouchers to purchase zero emission trucks and buses. For
25 example, let's consider a project where a voucher is

1 provided to help purchase a zero emission bus. If that
2 bus serves transit stations in a disadvantaged community
3 census tract, that project would meet the criteria for
4 located within.

5 If the bus didn't meet any of the criteria for
6 located within, the project could still be considered to
7 provide a benefit if the bus reduced air pollution in a
8 ZIP code that contained a disadvantaged community census
9 tract or if the bus operated primarily on an impacted
10 corridor.

11 ARB staff are currently working on maps to
12 illustrate the locations of impacted corridors which will
13 include areas that substantially impact air quality in
14 disadvantaged communities, such as major freight routes.

15 --o0o--

16 STAFF AIR POLLUTION SPECIALIST DAVIS: This slide
17 shows how the different criteria might be applied for
18 different project types. For the purposes of illustration
19 only, we've assumed this the top 20 percent of the census
20 tracts would be identified as disadvantaged communities.
21 The actual disadvantaged community boundaries will be
22 decided by Cal/EPA.

23 The first dark purple, that represents the census
24 tracts in the top 20 percent. Then we move out to the
25 criteria that are based on being accessible by walking

1 within a half mile of a census tract. The cross hatched
2 buffer covers the extended location that would count as
3 providing a benefit. For criteria that are based on ZIP
4 code that contains a census tract, the light purple area
5 covers an even broader location for projects that could be
6 considered to benefit disadvantaged communities.

7 --o0o--

8 STAFF AIR POLLUTION SPECIALIST DAVIS: When
9 developing the draft interim guidance, ARB coordinated
10 with Cal/EPA, administering agencies, and stakeholders.
11 Cal/EPA and ARB had three joint workshops throughout the
12 State and both agencies participated in a community
13 briefing in Meca. In total, these outreach events
14 included more than 400 attendees. At all three workshops,
15 we are fortunate to have the Strategic Growth Council join
16 us and facilitate discussions on the Affordable Housing
17 and Sustainable Communities Program.

18 Each workshop started with brief presentations to
19 provide background. Then we spent the majority of the
20 time in smaller break-out sessions that focused on a
21 particular suggest area. Staff acted as facilitators to
22 answer questions and encourage discussion, and all
23 participants had the opportunity to share their ideas and
24 speak directly with staff. In addition to the feedback we
25 heard at these events, we also received more than 130

1 written comments.

2 --o0o--

3 STAFF AIR POLLUTION SPECIALIST DAVIS: This slide
4 summarizes some of the main comments we heard.

5 A lot of people wanted to know who has funding,
6 how the dollars will be distributed, and how they can
7 access funding. Some commentors requested a single source
8 of information for all the programs, so we've pointed them
9 to our ARB website which acts as a central portal. Some
10 have also asked for single form that applicants could fill
11 out to begin the application process for all of the
12 agencies.

13 There were many requests for more outreach to
14 disadvantaged communities and technical assistance to help
15 those communities access funding. Some want active
16 community involvement when agencies are developing
17 guidelines and selecting projects. We received comments
18 about the need for more coordination among agencies to
19 collaborate on projects and provide more benefits in a
20 given area.

21 There were lots of comments about documenting
22 benefits reporting and accountability. How will people
23 know that agencies actually achieved the benefits that
24 they are claiming? For benefits that were based on
25 geographic criteria, we received the full spectrum of

1 comments. Some wanted a broader area to be included, and
2 some wanted a narrower area to be included.

3 Similarly, we received a wide range of comments
4 on the stringency of the criteria to establish benefits.
5 For example, local transit agencies wanted more
6 flexibility and discretion to determine what constitutes a
7 benefit, while some community advocates urged a very
8 narrow approach to ensure that the benefits are truly felt
9 in those communities.

10 --o0o--

11 STAFF AIR POLLUTION SPECIALIST DAVIS: Based on
12 the feedback we've heard, we are proposing revisions to
13 the draft document that was released on August 22nd.
14 These revisions are shown in strike out underline in the
15 document we've provided today.

16 The key proposed revisions include higher
17 expectations for the activities that agencies would use to
18 engage disadvantaged communities, increased emphasis on
19 the concept that benefits need to be direct, meaningful,
20 and assured.

21 We've added criteria in the appendix to expand
22 which projects would count as providing a benefit. For
23 example, we've added text to clarify that benefits include
24 transit projects that offer alternative mobility options
25 to disadvantaged community residents, such as van pools

1 for agricultural workers or smart phone application-based
2 ride sharing services.

3 We've also clarified that criteria based on a
4 half mile distance from a disadvantaged community must be
5 accessible by walking. In response to agency feedback, we
6 clarified that agencies should use all of the tables in
7 the appendix that are relevant to the project types they
8 will fund.

9 --o0o--

10 STAFF AIR POLLUTION SPECIALIST DAVIS: For our
11 next steps, by the end of September, Cal/EPA expects to
12 finalize its identification of disadvantaged communities
13 and we will release the final interim guidance in
14 accordance with the Board's direction. We will then turn
15 our attention to developing the full funding guidelines
16 for Board consideration in mid-2015.

17 --o0o--

18 STAFF AIR POLLUTION SPECIALIST DAVIS: Staff
19 recommends Board approval of Resolution 14-30 and the
20 revised draft of the interim guidance on investments to
21 benefit disadvantaged communities.

22 Thank you. And that concludes my presentation.

23 CHAIRPERSON NICHOLS: Thank you very much,
24 Ms. Davis.

25 This is an item that I know of is of great

1 concern to every one of our Board members. I think it's
2 fair to say there are few things in the world that are
3 harder to do than to spend money well, but especially in
4 the context of a new source of funds where there is so
5 much public interest and public scrutiny.

6 Having said that, I've received a lot of feedback
7 myself, personally, and had an opportunity to ask many
8 questions. And I think it's a good idea to let our Board
9 members have a chance to also get questions answered if
10 they have some that are still pending at the moment before
11 we hear from the audience.

12 So I'm going to start here with Supervisor Gioia.

13 BOARD MEMBER GIOIA: Thank you, Chair Nichols.

14 First, we appreciate the presentation. And I
15 know this is a really big deal. Because ultimately, it's
16 going to set the parameters for potentially how billions
17 of dollars over many years is spent throughout the state.
18 So I had a couple process questions. I know we're going
19 to hear from speakers.

20 These guidelines are interim. So one of the
21 issues for me is I know you're making some suggested
22 changes after the public comment period, which just closed
23 a few days ago. Normally, I would say, well, we may need
24 more time. And I want to understand sort of the role of
25 these interim guidelines and how we can -- what

1 opportunities for change in these guidelines before
2 permanent guidelines are adopted.

3 I understand you're saying there are some
4 agencies that are going to be looking at expenditures
5 pretty quickly. Others won't until next year. And
6 because you want to get the guidelines out there for these
7 agencies that are going to start spending money, you want
8 to go with something. So talk about how there are
9 opportunities for changing these guidelines in the future.

10 I have some other questions, but I think that's
11 an important one to start with.

12 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
13 Our intention was to have these guidelines address the
14 expenditure of the fiscal year 14-15 funds. The full
15 funding guidelines would address future years. So that's
16 the first part.

17 One of the agencies, for example, that is lined
18 up and poised to move forward is the Air Resources Board
19 after the Board approved the funding plan in June. So ARB
20 staff are ready to move forward on the vehicle incentive
21 programs, are waiting for this guidance and the
22 identification.

23 What we expect or what we intended to do was to
24 be as simple, straight forward, and objective about the
25 criteria in these interim guidelines as possible, look at

1 learning from the experience of implementing the programs,
2 do further work with the agencies and stakeholders between
3 now and the middle of next year, and then come to you with
4 guidelines that not only include the benefits to
5 disadvantaged communities, but include the very important
6 metrics and reporting and accountability and
7 quantification funds that could allow us to perhaps take a
8 slightly more nuanced approach in the future.

9 BOARD MEMBER GIOIA: These interim guidelines
10 will get used by agencies that are going to develop their
11 own funding principles and guidelines as well. And
12 they're going to -- so for example, the sustainable
13 community strategy money that will come through the
14 Strategic Growth Council and depending on what process
15 they select, so there will be some specific funding
16 guidelines.

17 What happens -- and this could be either to a
18 local agency that's administering the funds, regional
19 agency or State agency, if they don't fully incorporate
20 our guidelines or implement them in the way that we
21 intended. So what's the force of these guidelines
22 versus -- because we have our layer of guidelines. Then
23 we have the agencies that are going to develop their own
24 guidelines tailored to their particular pot of money.
25 What happens -- how do we provide any additional guidance

1 to ensure that they're going to implement them in the way
2 we intended? Because there is a lot of room here.

3 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:

4 Let me start out. Perhaps our legal folks would like to
5 add.

6 But the authority we were given in the statute
7 was to develop the guidelines. In terms of implementation
8 mechanisms, I would say it's probably a combination of
9 things. One, there is our relationship with those
10 agencies. There is the Governor's office and the
11 Department of Finance that have a fair amount of
12 influence. The State agencies, that's another place if
13 the statutes and the guidance are not being fully
14 implemented.

15 We also are going to be drafting the report for
16 the Department of Finance to the Legislature. And one of
17 the questions that we'll need to address in that report is
18 are the programs being implemented in accordance with both
19 the statute and all of the applicable guidelines.

20 BOARD MEMBER GIOIA: What's the mechanism for us
21 to collect the data to look at where the money is spent?
22 So, clearly the statutory standard, the 25 percent, many
23 categories it's going to be more than 25 percent. How is
24 data going to be collected on the expenditures so we can
25 track that statewide and say these are the communities

1 where the money is spent. Who's responsible for doing
2 that?

3 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:

4 Initially, we will be looking at the administering
5 agencies to be providing data on projects they selected
6 for funding to the Air Resources Board. We'll have to use
7 some more informal tracking system for the first year or
8 two. We are starting development of the online tracking
9 system that Monique mentioned so that everyone would be
10 able to look up and see what projects have been funded and
11 what areas and what the reported benefits are.

12 BOARD MEMBER GIOIA: Do we have the ability to
13 include in our guidelines that there needs to be some way
14 or method to collect this information? I think the
15 public, the agencies are all going to be looking to the
16 track record. I mean, as I'm sure the Legislature will.

17 So how can we be more specific? Is that
18 something we would put in our guidelines or is that
19 another agency?

20 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:

21 Right now, the interim guidelines before you have a
22 notation that as the agencies are identifying projects
23 that benefit disadvantaged communities, they need to have
24 a mechanism to ensure that that happens. They need to
25 have a mechanism to track what projects have actually been

1 implemented and whether or not they're realizing the
2 benefits that led to the inclusion of those projects.

3 But the full funding guidelines that we'll be
4 developing between now and the middle of next year will
5 focus extensively on the accountability and the reporting
6 components.

7 One of the reasons that we're not doing that now,
8 besides the time issue, is that it's really critical that
9 we develop the consistent quantification or calculation
10 methods for both the greenhouse gas reductions and for the
11 co-benefits, like air pollution, like economic benefits,
12 such as jobs.

13 So when we have those methods out there, all
14 agencies are using the same methods. Those agencies will
15 be reporting that information to ARB. That's the
16 information that we will make public initially in reports
17 and ultimately in that online project system.

18 BOARD MEMBER GIOIA: It seems to me maybe at the
19 end of the day any suggestions we have, it seems to me
20 including some language that we're going to be specific
21 about developing reporting and accountability measures is
22 important so it's clear and on notice that's what we're
23 going to do. You said that's the intent for the permanent
24 guidelines?

25 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:

1 Absolutely.

2 BOARD MEMBER GIOIA: The other point -- I've
3 heard a lot from different agencies about -- and I sort
4 of -- I think it's a good argument or an important
5 point -- is that while these guidelines need to have
6 flexibility, they also need to have -- they shouldn't be
7 ambiguous. It's unclear sometimes how they're going to
8 get implemented.

9 You showed a map, and I appreciate that, of the
10 Bay Area in one example. To the extent that we or Cal/EPA
11 produces maps that also show not just the disadvantaged
12 communities but by category the communities covered under
13 the benefit, right, because the benefit is a bit more
14 expansive, either the ZIP code, the half a mile and some
15 of the other standards that are used, so that agencies
16 seeking to apply for funding and the agencies that are
17 awarding the funding have some clear certainties about
18 what's included and what's not.

19 I would like to see as we -- maybe if it's not in
20 the interim -- I know it takes a while to develop this --
21 is for the permanent to develop maps that are really clear
22 around the state so communities can tell whether they're
23 in or out. And I understand there may be some flexibility
24 because, I mean, this is a large pot of money. A lot of
25 people are going to be expending effort to seek to be

1 funded. And awarding agencies also are going to be
2 looking to what areas are included. So I think it's the
3 flexibility without the ambiguity.

4 How would you suggest timing that if we want to
5 include more specific maps? That will depend upon
6 whatever EnviroScreen map is out. I understand that.
7 What so whatever Cal/EPA does, our standards will get
8 applied on top of those to expand those areas.

9 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:

10 One of our highest priorities is to deliver what you
11 suggested. Once we have the specific map from Cal/EPA
12 that will be down at a very detailed level, we are laying
13 on top of that the half-mile boundary. And we are laying
14 on top of that the ZIP codes that contain the communities
15 if the Board supports those proposals today.

16 So we expect to be able to have those maps up in
17 October. We'll probably need another month or two to
18 develop the impacted corridors because there is a back and
19 forth between the communities being identified looking at
20 the major transit and freight corridors and which ones
21 have a strong air quality impact from travel on those
22 corridors effecting air pollution in disadvantaged
23 communities. So we don't need to defer to next year.
24 We're intending to deliver those maps. They're GIS-based
25 maps. So they have every level of detail you could

1 possibly wish.

2 BOARD MEMBER GIOIA: My last point is -- and I'm
3 sure we'll have other comments after the speakers -- is I
4 appreciate, first -- I think it was there was a little
5 more definition to add meaningful and assured on top of
6 direct. To make sure there is direct, meaningful, and
7 assured benefit. I'm sure that was a big issue. I think
8 that's significant.

9 But one of the issues that's also been raised on
10 the transit corridor -- and I know you've seen this in
11 some of the comment letters. You know, people who live in
12 any community, including disadvantaged communities -- I
13 hate using that term. But that's the term that's out
14 there -- that improvements to transit involve a corridor,
15 not just a half a mile or within the ZIP code. And so
16 there are some who will argue, well, maybe we should look
17 at benefits to a transit corridor. And I know you're
18 talking about impacted corridors. But this is a slightly
19 different issue. And I'm sure we'll hear a bit about that
20 issue. Why wasn't that approach taken? I mean, that's
21 something I think we should continue to give some thought
22 to about the corridor approach. Clearly, still within
23 some boundaries. But you know, you have to get from home
24 to work and home to doctor and home to wherever. So it's
25 not just the improvements in the community itself. So

1 people who live in these communities, you know, need to
2 get to locations and you need to improve the corridor.

3 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
4 Certainly, we heard and understood the importance of the
5 whole -- improving the whole transit line and the fact
6 that when you improve transit, by definition, you're
7 improving the mobility options particularly for lower
8 income residents.

9 Our challenge was to figure out how do we relate
10 that to the residents of specific census tracts? How do
11 we correlate those benefits? So we were uncomfortable
12 saying that all transit in the state had a direct,
13 meaningful, and assured benefit to disadvantaged community
14 residents.

15 BOARD MEMBER GIOIA: I'm not saying all transit.
16 I'm saying what's the fine balance -- maybe we need to
17 think about some standard that provides some balance. You
18 don't want to open this up to all transit. Clearly, we
19 want to have it be direct, meaningful, and assured. But
20 what improvements are direct, meaningful, and assured
21 within a corridor that we really benefits a disadvantaged
22 community?

23 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
24 That's certainly what we were shooting for with the
25 proposal where if there is a transit line and it passes

1 through a disadvantaged community, has a stop either in
2 the community or within walking distance so that the
3 residents can access that transit line.

4 So there are other broader ways of looking at it.
5 But the challenge is then to figure out without having the
6 excessive documentation requirements about exactly who's
7 riding which line and where they live and tracking that --
8 so it was an attempt to balance what benefits can be
9 directly associated with the residence of those census
10 tracts and what's the reasonable implementation scenario
11 for the administering agency.

12 BOARD MEMBER GIOIA: So whether it's an
13 investment in capital or operations for transit -- because
14 the money can get used for either, transit or capital.

15 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
16 There's two separate --

17 BOARD MEMBER GIOIA: Let me just take a situation
18 I'm familiar with. AC Transit has hydrogen fuel cell
19 buses. Let's say it's on a route, and you're funding
20 hydrogen fuel cell buses that go through a disadvantaged
21 community but also go through a longer corridor. So they
22 are eligible to use cap and trade funding potentially in
23 this category under the benefit category for hydrogen fuel
24 cell buses that travel a corridor that goes through the
25 disadvantaged community. Right?

1 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
2 We would actually say they are eligible under low carbon
3 transportation and transit as a benefit within.

4 BOARD MEMBER GIOIA: In terms of operations -- if
5 they're funding the operations of a hydrogen fuel bus cell
6 line, let's say, they can fund that bus line.

7 You can't distinguish the bus line that's going
8 through the disadvantaged community versus the part that's
9 taking them to work outside the disadvantaged community.
10 It's hard to understand the intention of how you apply
11 some of these. So would that get -- that would be
12 eligible is how I would read it.

13 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
14 Right. What we chose to propose as the anchor was does
15 the line allow residents of any disadvantaged community to
16 readily access it. And so if it's got a stop in the
17 community or nearby, half a mile or within the ZIP code,
18 then that provides the direct access for residents from
19 their homes to be able to enter or --

20 BOARD MEMBER GIOIA: The operational cost of that
21 line can be funded, even when it goes --

22 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
23 Yes.

24 CHAIRPERSON NICHOLS: Yes. It's not a pro rata
25 share that gets set aside. That's one of the key concepts

1 that you've pushed here is that this is not a set aside of
2 separate funding. It's a way of looking at all the
3 funding to see -- to assure that we're meeting these
4 targets that the Legislature has set for us. And so we're
5 not looking to exclude projects at this point. We're
6 looking for ways to make sure that we have enough projects
7 that meet these criteria.

8 But it's been challenging because of the
9 geographical approach that is imbedded in the whole
10 concept, really, of disadvantaged communities that many --
11 I've participated in some very interesting conversations
12 myself about is it the person in the community or is it
13 the actual community that we're talking about? And it's
14 both. But there has to be that geographic base or it
15 doesn't meet the statute.

16 Now, is this the best way to have done it? We'll
17 find out. We're going to work with this and then we'll
18 see what the experience is. And I suspect that the
19 Legislature, not just the authors of this bill, but
20 everyone is going to be very anxiously looking at how this
21 all turns out in the first year or two and wanting to make
22 adjustments as time goes on.

23 So anyway, excuse me for the interjection. I
24 know we have a lot of people who want to testify. But if
25 there are other questions Dr. Sperling, Ms. Mitchell,

1 Supervisor Roberts.

2 BOARD MEMBER SPERLING: I want to -- Supervisor
3 Gioia, that was a wonderful tour of a lot of these issues.
4 And I was just trying to keep up with him getting into
5 some of the details of how these projects are run.

6 There's one aspect of it I really want to
7 emphasize. I started to talk about it a little bit in
8 terms of the SB 375 plans last time. When I started to
9 come to appreciate that when people talk about transit --
10 and transit is a huge part of these programs here, they're
11 mostly thinking in very conventional terms in terms of
12 conventional transit, fixed route buses and rail. And I
13 have great concern with that.

14 Two years ago, I wouldn't have said anything even
15 though knowing that the actual -- the little dirty secret
16 that exists is on average buses actually have higher
17 emissions per passenger mile than cars do these days. And
18 there is lots of nuances to it.

19 But just having a simple, blunt strategy to
20 increase transit -- conventional transit, one doesn't
21 necessarily lead to the goals we're interested in on the
22 climate side, but also on the implied huge subsidies.

23 So I just met a couple weeks ago with the
24 Executive Directors of the MPOs from the San Joaquin
25 Valley. And they feel alarmed -- they are alarmed that

1 they have so much pressure put on them to just put the
2 money into conventional bus routes or even BRT. And they
3 know that's a hugely expensive strategy with relatively
4 small benefits of any sort to anyone. They talk about
5 some of these routes that they're putting in. It's \$40
6 per passenger trip it's costing them. Now, there has to
7 be a better way of investing that money.

8 So what Supervisor Gioia was talking about, he's
9 focused more on the major urban areas. And there, the
10 conventional transit, you know, is much more -- is
11 compelling. But when you get out into the San Joaquin
12 area, even suburban areas in the Bay Area or the L.A.
13 area, we need to be thinking about this much smarter if we
14 really are concerned about the goals of this legislation
15 and if we want to spend the money wisely.

16 So I did spend some time with the staff, and they
17 wrote up some language here that I think is a big
18 improvement in terms of opening up the funding to advance
19 mobility options and being creative and giving a lot of
20 opportunity to do that.

21 So, one, I want to support the staff in doing
22 that. I'm not quite sure it's exactly right. So I want
23 to come back to that perhaps later. But that's getting
24 into the detail.

25 But I do want to make it very clear that we need

1 to be very explicit that we're not just going to do -- be
2 following the same old, same old strategies. We have a
3 lot have opportunities to do things a lot smarter and a
4 lot better with all the information technology coming
5 along. There is all kinds of innovative services being
6 developed and companies. And this is particularly
7 relevant and useful for low-income communities. There is
8 a lot of opportunity to provide better service at less
9 cost. But, you know, we're kind of on the cutting edge of
10 this.

11 So I admire and support staff in moving this.
12 But we really need this guidance. I want to emphasize
13 this guidance is really critical. And some of the issues
14 that Supervisor Gioia was talking about about how they're
15 disseminated and how they're used, because I think what
16 we're talking about here is not just for the disadvantaged
17 communities. It should be for transit -- you know, for
18 transit more generally. And I know this is being a little
19 revolutionary and disruptive, but it's the --

20 CHAIRPERSON NICHOLS: Unlike AB 32, which was
21 every day.

22 Ms. Mitchell.

23 BOARD MEMBER MITCHELL: There are a couple of
24 concerns that I have on this, and it relates to
25 accountability. There's actually, as I see it, two levels

1 of accountability.

2 One is that we need to be accountable that the
3 money is spent in the 10 percent and 25 percent
4 categories, that that actually occurs.

5 The other level of accountability is do we -- how
6 much do we get in the way of benefits for the programs.
7 Are we getting substantial reductions in greenhouse gases?
8 Are we getting co-benefits with reductions of other kinds
9 of air pollutants?

10 And I think that's important in the guidelines so
11 everyone knows how that will be measured. We have a
12 pretty good approach with respect to the 10 and 25
13 percent. But we need to be accountable to account for
14 that.

15 Let me ask another question. You indicated that
16 moneys could be spent in impacted freight corridors. And
17 we have in the South Coast some very impacted freight
18 corridors, as Cynthia Marvin well knows. How could money
19 be spent in those corridors? Can it be spent on the
20 highway projects or -- give me some examples of how we
21 might see those disadvantaged communities, say, along the
22 I-710, how they might be benefited through some of these
23 programs.

24 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
25 I would be delighted to, Supervisor Mitchell. Mayor

1 Mitchell. I apologize for that.

2 BOARD MEMBER MITCHELL: That's all right. It
3 changes periodically.

4 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
5 So the reason for the concept of the impacted corridors is
6 really to get at the fact that with mobile sources, of
7 course, you're not only in one area. You may have a
8 disadvantaged community that is, for example, next to the
9 710 freeway. The 710 freeway may not be in that census
10 tract, but you certainly want to clean up the sources that
11 are traveling along that corridor that have direct
12 pollution reduction benefits on that adjacent community.

13 Another example would be the ports of southern
14 California are not in an impacted census tract. But
15 certainly cleaning up the pollution at the ports has a
16 direct real meaningful assured benefit again in those
17 adjacent census tracts.

18 So what we're trying to do by looking at both a
19 freight hub, like the port or a distribution center, and
20 by looking at a corridor, primarily freeways, rail lines,
21 transit lines, is recognized that the vehicles that are
22 traveling along those lines have a direct benefit in terms
23 of lower pollution levels for the adjacent census tracts.
24 So it's basically just another way to get at the cause of
25 some of the reasons why these communities have been

1 identified as disadvantaged. What are those pollution
2 burdens? And make sure that it's creditable, the money
3 that's invested in reducing those pollution burdens.

4 BOARD MEMBER MITCHELL: As we look across the
5 state of California, we will find from the CalEnviroScreen
6 that some areas are more impacted than areas. So is there
7 within these guidelines a way to prioritize more impacted
8 areas against less impacted areas? Is that going to be
9 considered?

10 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
11 In these guidelines, because they're broad, they apply to
12 all agencies. They'll be defining the criteria for
13 benefits. But, for example, on mobile sources of course
14 with ARB running the low carbon transportation program, it
15 is up to ARB to decide and this Board to decide how to
16 prioritize between the competing projects.

17 And so whether it's low carbon transportation,
18 whether it's affordable housing or transit, each of the
19 agencies implementing the program have the ability to set
20 their own priorities. So I believe that's how your
21 suggestion is accommodated.

22 BOARD MEMBER MITCHELL: So our guidelines would
23 not include a sort of point that the agencies -- the other
24 agencies responsible should prioritize based on the most
25 impacted areas. It would not include such a guidance? Is

1 that correct?

2 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
3 Right now, the guidance really just focuses on maximizing
4 the amount of money that goes into disadvantaged
5 communities and the money that benefits those
6 disadvantaged communities. It doesn't suggest how the
7 agencies prioritize within their project selection at the
8 more detailed level.

9 BOARD MEMBER MITCHELL: I see. Thank you.

10 CHAIRPERSON NICHOLS: Supervisor Roberts.

11 BOARD MEMBER ROBERTS: Thank you. I'm not sure
12 where to start. But let me -- I'm in agreement with some
13 of the comments that I heard on the corridor approach,
14 which seems deficient in the way we're looking at this.

15 But more than that, when I started I realize that
16 eight percent of the population of the state, we find
17 ourselves with less than two percent as far as this is
18 concerned. And while San Diego is probably a nice place,
19 we have our disadvantaged communities. And we have -- to
20 say that proportionally we only have a quarter of what the
21 state would have seems to me something was wrong here.

22 Maybe it's in the way we looked at defining our
23 low income communities as over 50 percent of the census
24 tract that is less than 200 percent of the federal poverty
25 rate. And that gives us a picture, which we work on.

1 On slide 14, you mentioned the border. And as I
2 looked at the rating system, you virtually ignored the
3 border. And I think part of that is occurring because of
4 the EnviroScreen doesn't understand the border. I've got
5 a map of what happens south of the border and all the
6 industrial and everything else that get screened out. And
7 I guess maybe that's what EnviroScreen does. It screens
8 out stuff.

9 I think we know that if we look at the border
10 from ocean and Imperial Beach all the way along the border
11 in several miles to the city/county border everything gets
12 nicer when you get all the way to the county border. It's
13 all disadvantaged communities and virtually none of it is
14 qualifying under these rules. And your model I think is
15 partially what's accountable.

16 But when you mention border, then we don't
17 have -- I'm surprised you'd mention border because you
18 pick up so little a piece. And I know those areas well.
19 And I'm not happy with this. And I respect all the speed
20 with which you want to do things. But when I find that
21 the basic model has some flaws in it, I think those things
22 need to be adjusted and accounted for.

23 I've had SANDAG send you a letter. I didn't hear
24 in your report any changes that were being made because of
25 that. But I think there is some work to do here before I

1 will support it. In spite of the fact everybody wants to
2 spend money, I would feel more comfortable if I knew we
3 were spending the money in a more thoughtful way and in a
4 fair way for disadvantaged communities throughout the
5 state.

6 CHAIRPERSON NICHOLS: Thank you. Obviously,
7 we're just getting out some issues here. There is going
8 to be more time for discussion I think before we act on
9 the guidelines and after we've heard from the public.
10 Because we do have quite a number of people who have come
11 a good ways to address us as well. But just to make sure
12 that we've at least gotten out the initial concerns.

13 BOARD MEMBER GIOIA: One quick comment. I
14 appreciate I think Supervisor Roberts has made an
15 observation that was also made in the Bay Area, is that
16 both the San Francisco Bay Area and the San Diego area
17 are -- that there are a number of disadvantaged
18 communities that are not included out of those two section
19 of the state. And I think that gets to the map issue,
20 which is why I know the Bay Area has advocated for some
21 other factors to be incorporated. But factor in frankly
22 affordability issues. Because when you look at rates of
23 poverty and you look at income, you have to relate that to
24 cost of living, for example. And there is some other
25 factors like urban pesticide exposure is often as

1 important as agricultural pesticide exposure, right. So
2 there is different factors.

3 And I think those factors, if they get included,
4 will provide greater fairness to the San Diego and
5 San Francisco Bay Area. But in our guidance, really, you
6 know, it's built off those maps. We don't create the
7 maps. But we're trying to figure out using those maps how
8 do we then expand the areas properly and appropriately to
9 provide direct, meaningful, and assured benefit.

10 So I think we can address it through some of the
11 guidance. But I know some of the comments of San Diego
12 are similar to -- at least Cal/EPA as the Bay Area with
13 regard to the communities that are affected. And
14 hopefully Cal/EPA hears those arguments from the Bay Area
15 and from San Diego.

16 CHAIRPERSON NICHOLS: Ms. Marvin, do you want to
17 comment on that?

18 I heard those comments, and I believe Cal/EPA has
19 been thinking hard about how to proceed next with the
20 EnviroScreen tool.

21 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
22 What I want to do is have a moment to share a visual that
23 I think may help.

24 So what I wanted to do is show a parallel map for
25 San Diego similar to the one that we showed for the Bay

1 Area. That would indicate -- if you assume that CalEPA
2 were to choose the top 20 percent of the census tracts,
3 you see those in dark purple. If you were to implement
4 the guidance for disadvantaged communities in the way that
5 we're suggesting, look at half mile around the census
6 tracts for some projects, look at the ZIP code that
7 contains the census tract for other projects, that ZIP
8 code that contains the census tract is the pale purple
9 that you see here that would substantially expand the
10 reach within the San Diego region.

11 So I just wanted to share that with you because
12 that is not in the report yet.

13 BOARD MEMBER ROBERTS: Do you see the white area
14 on the border?

15 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
16 Yes, I do.

17 BOARD MEMBER ROBERTS: It's absolutely
18 unbelievable to me that there is a way that that dropped
19 out from a disadvantaged -- from a pollution from any
20 criteria. That's a very disadvantaged community. And the
21 fact it drops out of your model should suggest to you
22 something is off here. Hold a workshop in San Diego. Go
23 there. Maybe you need to see it. There's more trucks
24 passing through that area than you'll find anywhere.

25 CHAIRPERSON NICHOLS: So put up the Bay Area map

1 again. This is the one that we had, that we just had.

2 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:

3 We do have these maps available for major regions of the
4 state as a backup.

5 BOARD MEMBER GIOIA: I'm trying to see if the
6 Hunter's Point Bay View area of San Francisco -- one of
7 the issues is because that wasn't identified -- that was
8 the old ship yard area. I'm trying to see how far south
9 that goes, whether that shaded light purple goes into that
10 area. It's hard to tell on this map. It's right around
11 there.

12 CHAIRPERSON NICHOLS: I've been to workshops
13 where people are standing around looking at the walls and
14 squinting at the lines on these maps.

15 There is obviously a lot to be done here and
16 people have been feeding specific information --

17 BOARD MEMBER GIOIA: Thank you.

18 CHAIRPERSON NICHOLS: -- into the process here to
19 question what it is that led to what seems to be some
20 anomalies in the system.

21 If we don't have any more initial comments, let's
22 turn to the members of the public who have come to be with
23 us this morning. I want to start with the four Air
24 Pollution Control Districts that are here and ask them all
25 to come you will together, even though I know you're not

1 going to say exactly the same thing. The order in which
2 they signed up were South Coast, Bay Area, Tehama and San
3 Joaquin. So we'll start with Mr. Hogo.

4 MR. HOGO: Good morning, Madam Chair and members
5 of the Board.

6 Henry Hogo, the Assistant Deputy Executive
7 Officer at the South Coast Air Quality Management
8 District.

9 I'm here to urge you to adopt the staff's
10 proposed interim guidelines today. The proposed
11 guidelines are consistent with the approach the South
12 Coast AQMD has been using to allocate Moyer funding to
13 environmental justice communities. The types of
14 technologies considered for funding with the Greenhouse
15 Gas Reduction Funds will have significant cobenefits of
16 reducing not only greenhouse gas emissions but also
17 criteria pollutant and local toxic exposure.

18 These co-benefits are critical to the protection
19 of public health at the local level and to make attainment
20 of federal standards possible in the South Coast. Our
21 agency is a strong supporter of the need for special
22 measures to address environmental justice as has our own
23 environmental justice program since 1998.

24 With over 42 percent of the state population
25 residing in the South Coast, we have a significant number

1 of residents living in disadvantaged communities as
2 confirmed by CalEnviroScreen. As the state finalized the
3 methodologies for calculating cancer risk, which could
4 potentially increase by almost a factor of three, it is
5 imperative that the types of technologies considered for
6 funding be deployed to benefit all residents as early as
7 possible. However, areas that have the greatest toxic
8 exposure levels tend to be in disadvantaged communities.
9 As such, these communities should receive their fair share
10 of funding as the state developed the funding guidelines
11 slated to be developed later this year.

12 We look forward to working with your staff to
13 implement the guidelines and discussions and fundings.
14 Thank you. And I'll be glad to answer any questions you
15 may have.

16 CHAIRPERSON NICHOLS: Thank you.

17 Mr. Breen.

18 MR. BREEN: Good morning, Madam Chair, members of
19 the Board.

20 I'm speaking to you today on behalf of our
21 Executive Officer, Mr. Broadbent, who is also in China.

22 I'd like to start by thanking your staff for the
23 efforts they've undertaken to date to define how
24 greenhouse gas fund money should be invested to benefit
25 disadvantaged communities.

1 To us, while this seems like putting the cart a
2 little bit before the horse, considering that we don't
3 have the CalEnviroScreen maps or determination there and
4 while we do have significant issues with regard to how
5 those communities are identified, we think that those will
6 be resolved equitably and successfully very shortly.

7 Therefore, in considering the interim guidance
8 that you have in front of you here today, there is a
9 number of things that we think you should take into
10 account. The Bay Area Air District believes that ARB has
11 successfully defined what will provide benefit to
12 disadvantaged communities. And while the air district
13 appreciates the attempt that ARB has met to keep these
14 definitions broad and flexible, there is some specifics
15 that we think you should consider.

16 We would suggest that the criteria related to
17 benefits in the area of energy efficiency and renewable
18 energy need to be expanded to include community choice
19 aggregation projects and renewable energy projects that
20 directly benefit disadvantaged communities.

21 Similarly, energy efficiency and renewable energy
22 projects that directly decrease the power needed to
23 supply, treat, and transport water to disadvantaged
24 communities should be included as eligible.

25 Additionally, we would note that the guidance

1 does not explicitly include the sequestration of carbon
2 via forestry management to reduce wildfires as being
3 project eligible for benefiting disadvantaged communities.

4 Based on what's been happening throughout the
5 state this year and the impact this will have on local air
6 quality and global climate, this is a category on which
7 you should place additional emphasize.

8 We look forward greatly to the release of the
9 impacted corridor maps associated with this interim
10 guidance, and we hope that the Board will direct the staff
11 to engage with local air districts and communities to
12 ensure these maps represent the true distribution of
13 freight travel and greenhouse gas emissions throughout the
14 state.

15 Finally, we look forward to participating in
16 discussions on the methodologies for calculating
17 greenhouse gas emissions reductions and co-benefits as
18 part of the further development of program guidance. We
19 hope that your staff will engage with local air districts
20 as soon as possible on this and that we will see a strong
21 correlation in those guidelines between the regions and
22 sectors generating the most greenhouse gases and criteria
23 pollutants in the state and the projects that can be
24 selected by implementing agencies.

25 Thank you very much. I'm happy to answer any

1 questions.

2 CHAIRPERSON NICHOLS: Thank you.

3 Mr. Abbs.

4 MR. ABBS: Good morning, Madam Chair and members
5 of the Board.

6 My name is Alan Abbs. I'm the Air Pollution
7 Control Officer for Tehama County. Tehama County as a
8 whole has a population with a median household income of
9 33 percent below the state median. We have the highest
10 asthma rates in the north state. And we also have a
11 federal non-attainment ozone area.

12 But when you look at the various maps, Tehama
13 County census tract doesn't show up until approximately
14 the 25 percent level or the 30 percent level. And like
15 any county in California, we have pockets that are
16 significantly less well off than other pockets.

17 So at the outset, I would urge the Board to
18 consider going beyond the 20 percent level when you're
19 looking at disadvantaged communities so that their
20 communities in all counties of California that can receive
21 some funds to make their community better.

22 I also appreciate the comments that Supervisor
23 Gioia had about who's in and who's out. Because I think
24 when we look in the future about how rural areas of
25 California are going to be receiving funds through cap and

1 trade, especially when fuels get add into cap and trade, I
2 think we'll find out a lot of rural areas of California
3 are going to be out, even though the residents in those
4 areas are going to be paying into the program through
5 higher fuel costs.

6 So long term, I would like the Board to think
7 about how we're going to make sure that all areas of
8 California, including rural areas, are going to be able to
9 make reductions in greenhouse gases. And specifically in
10 Tehama County, we have many projects which I think could
11 get lasting reductions immediately. We have solarized
12 agricultural irrigation pumps. We have forestry projects.
13 We have wood stove replacement projects for black carbon.
14 We sure could have used some of that diesel money under
15 Prop. 1B. But we weren't eligible to get access to it.

16 And so just for my final thought, I would just
17 like the Board to think about the future and what the
18 rural counties are going to be able to get as part of this
19 program. Thanks.

20 CHAIRPERSON NICHOLS: Thank you very much. I
21 think those comments are well taken.

22 Mr. Jordan.

23 MR. JORDAN: Good morning, Madam Chair, members
24 of the Board.

25 Tom Jordan, Senior Policy Advisor with the San

1 Joaquin Valley Air District.

2 As you are all aware, the San Joaquin Valley
3 faces significant environmental and economic challenges.
4 If you look at the CalEnviroScreen rankings, 22 of the 30
5 highest ranked, which isn't necessarily a good thing,
6 communities are in the San Joaquin Valley. These
7 communities both are impacted by environmental burdens,
8 but also lack access to health care and often times don't
9 have the resources to effectively compete for state
10 dollars. So they lag investment that other communities
11 may have had access to.

12 The San Joaquin Valley Air District is a strong
13 proponent of the policies established by SB 535 and think
14 that as you're selecting projects, you need to make sure
15 you're doing so in a manner to recognize those cumulative
16 impacts that these communities face due to economic
17 challenge and environmental challenge.

18 The district thinks the CalEnviroScreen model
19 that the allocation of resources and targeting resources
20 is one of the best uses of that model. We think it's done
21 a good job of pointing out communities that haven't
22 received the investment that they probably are entitled
23 to.

24 And I also agree with the comments that Alan Abbs
25 made that when you're looking at cut points, you should

1 look at the higher end of the cut points to make sure you
2 aren't leaving out communities that could benefit. So we
3 think it should be more inconclusive rather than less.

4 Also, the district's been a strong proponent of
5 selecting projects that have co-benefits. And we were
6 thankful to hear staff talk about some of the projects in
7 the valley and Professor Sperling, that the valley isn't
8 like a lot of the urban areas. A lot of the types of
9 project are more disbursed. They aren't as defined as the
10 transit line. The farm worker band program is a prime
11 example. We think when you're looking at the corridor
12 concept or the concepts of what benefits those
13 communities, we need to cast a broader net.

14 We believe in non-attainment areas, you should
15 look at projects that if it can be demonstrated the
16 co-benefits air quality wise benefit those communities,
17 they should count towards meeting these requirements
18 because they will benefit the health of residents in those
19 communities.

20 We participated in the workshop with your staff
21 and, we think they've done an admirable job of putting
22 together the document and a list of projects, but would
23 support continued dialogue to make sure that as we
24 identify projects that may not fit in these categories, we
25 can continue working on them. So thanks.

1 CHAIRPERSON NICHOLS: Thank you. I just want to
2 mention at this point because maybe everybody has got this
3 firmly in mind. But these are not guidelines for all of
4 the cap and trade funds. They're only for the 25 percent
5 of the funds that are going to count towards compliance
6 with SB 535. So just please be aware of the fact that
7 although it's true that this identifies a portion of the
8 funds and is clearly a very important one, there is 75
9 percent of the funds that are not subject to these
10 guidelines at all, except to the guidelines that we will
11 be developing in terms of accountability for what the
12 money does and what the benefits are in terms of AB 32.
13 Okay.

14 BOARD MEMBER SPERLING: Wouldn't that be the case
15 though that other agencies like Caltrans and Strategic
16 Growth Council could use many of these same criteria as
17 they develop -- I mean, that's a contribution to the
18 process.

19 CHAIRPERSON NICHOLS: I think the thought that
20 has gone into this is really important and the push back
21 that we're getting. Because it clearly forces us to think
22 about what it means to be a disadvantaged community, what
23 types of programs will be the most helpful. Hopefully, it
24 isn't just limited to a set aside within this pot of
25 money. But I still think that there's sort of a sense

1 that if people don't grab onto the money that's in the 535
2 pot, there isn't other money even within the Cap and Trade
3 Program. And I think that's the only point I was trying
4 to make, there's the majority of the funds are not even
5 touched by 535.

6 Okay. Supervisor Williams.

7 SUPERVISOR WILLIAMS: Good morning, Chair Nichols
8 and members of the Board. I'm Tehama County Supervisor
9 Bob Williams. And I'm here today on behalf of the 34
10 member counties of the rural county representatives of
11 California.

12 Our counties are tasked with a variety of
13 decision-making responsibilities related to land use and
14 development in rural California.

15 RCRC is concerned that strictly using
16 CalEnviroScreen scores unfairly limits rural county
17 eligibility for greenhouse gas reduction fund moneys
18 earmarked for disadvantaged communities.

19 CalEnviroScreen multiplies pollution burdens by
20 the social and economic characteristics of community,
21 basically eliminating areas of the state with good air
22 quality from being defined as disadvantaged communities,
23 no matter their socioeconomic status. The statute
24 specifically states either pollution burdens or
25 socioeconomic characteristics can be used and does not

1 mandate both.

2 Using strictly the CalEnviroScreen as a source
3 for recognition could potentially eliminate a minimum of
4 19 counties from consideration, including counties such as
5 Lake, Modoc, Plumas, and Lassen. If you've been to those
6 counties, you would be hard pressed to deny they have
7 disadvantaged areas.

8 RCRC recommends that additional flexibility be
9 allowed so local jurisdictions can demonstrate that a
10 community smaller than a census tract can meet the
11 definition of a disadvantaged community.

12 Rural areas cannot compete in many AB 32 programs
13 because projects usually cost more to complete in more
14 remote areas. Being excluded from the disadvantaged
15 community designation all but eliminates these county from
16 access to funds. There are many local programs that can
17 result in greenhouse gas reductions in rural areas.
18 Residents in every county will be contributing to the
19 payments into the fund, especially when fuels are added
20 into the Cap and Trade Program. It's only fair these
21 residents should also receive a direct benefit by having
22 some fund money carved out for rural communities, even if
23 it's on a regional basis.

24 I thank you for your time, and I'd be happy to
25 answer any questions you may have.

1 CHAIRPERSON NICHOLS: Thank you. I just wanted
2 to again remind people that although we are part of
3 Cal/EPA, we are not responsible for the map. We do have
4 input and we're trying to share the comments that are
5 coming through. And we do understand this issue about
6 rural areas, which undoubtedly are among the poorest of
7 areas within the state of California, but are not the ones
8 that fit the criteria of being impacted the most in terms
9 of multiple sources of pollution.

10 And we agree that it's not just an issue of
11 fairness. It's an issue of addressing opportunities that
12 are there to do things that could ultimately benefit all
13 of us when it comes to reducing greenhouse gas emissions.

14 So we want to make sure that there is a way to
15 appropriately recognize and make sure there are funds
16 flowing to rural communities in the overall AB 32 cap and
17 trade spending program.

18 Next, Mr. Robinson.

19 MR. ROBINSON: Thank you, Madam Chair.

20 My name is Matt Robinson. I'm with the
21 California Transit Association. We represent the majority
22 of the local and regional transit providers statewide.

23 If I could take a minute, I want to thank Ms.
24 Marvin, Ms. Livingston, and Mr. Botill for their
25 willingness to engage us fairly early on in this process.

1 Around June 20th, we formed an association
2 subcommittee which consisted of 14 members representing
3 both urban and rural transit operators throughout the
4 state. That subcommittee worked pretty diligently for the
5 last couple months to provide comments to this Board which
6 they submitted on the 15th.

7 Our comments generally focused, as was mentioned
8 in the staff presentation, on providing us much
9 flexibility with regard to the criteria that are used to
10 determine whether or not a project benefits or is within a
11 disadvantaged community. I think at the center of that is
12 what Supervisor Gioia touched on, as well as Mr. Sperling,
13 in considering transit corridors. Transit is not a
14 stationary entity. It is something that moves.

15 And I would add to that notion by saying that the
16 consideration of the complete trip. Why is this so
17 important is that under the low carbon transit operations
18 program, our operators that are getting funding and serve
19 a disadvantaged community have to expend 50 percent of
20 those revenues benefiting disadvantaged communities.
21 That's above and beyond the 25 percent standard that SB
22 535 sets up.

23 In that regard, and granted we're still waiting
24 to see what CalEnviroScreen looks like, that may be very
25 difficult for some communities to apply that. I'll use --

1 not to steal San Francisco's thunder who's behind me.
2 I'll use them as an example. If they have one or two
3 census tracts that pop up on that map and they're
4 forced -- I shouldn't say forced, bad term -- but required
5 to use 50 percent of that money benefiting a disadvantaged
6 community, are you now sacrificing good GHG reducing
7 projects for the benefits of those disadvantaged
8 communities.

9 San Francisco is an agency that's going to get a
10 large chunk of change under that formula process.
11 Therefore, I think what we've been looking at is ways to
12 capture that rider that may get on a train in Richmond or
13 West Oakland and come over to San Francisco for work or
14 school and get off that train and get on a muni bus to get
15 to their fine destination, or use a bike share facility
16 that San Francisco establishes or a complete street
17 project. There has to be a way for us to be able to
18 capture that rider's complete trip, whether or not they're
19 starting in Oakland or San Francisco and scoring that as a
20 benefit to disadvantaged communities.

21 I think something has been said about whether or
22 not there's the capability to do that. I think we would
23 say that one of the criteria we can use is 25 percent new
24 riders coming out of disadvantaged communities. If we can
25 do it for that, we can do it for existing riders.

1 I want to stop there as I'm almost out of time
2 here and just say that I think we would ask this Board to
3 look at this again in a month. Don't approve anything
4 today. That gives us more time to work with staff,
5 understand the ins and outs of why some of our comments
6 may have not been considered yet, as well as see what pops
7 up through CalEnviroScreen so we know exactly what we're
8 trying to apply here. Thank you.

9 CHAIRPERSON NICHOLS: Okay. Just a second.

10 BOARD MEMBER GIOIA: One of the standards that
11 was a little hard for me to understand if it could be
12 implemented correctly -- and I heard this from some
13 transit folks is the 25 percent of new riders must come
14 from a disadvantaged community.

15 What my understanding is that it is really hard
16 to quantify that. You know where your riders come from,
17 but you don't know always know where your new riders come
18 from.

19 One of the areas I'd like to ask you about and
20 point out to staff, I'm concerned if we have standards
21 that are going to be really hard to understand and put
22 just so much more bureaucratic requirements on agencies.
23 And in this case, do you think -- can you measure
24 accurately where new riders come from? Or is it easier to
25 have a standard about just percent of riders? That's an

1 area that was raised to me by some other transit folks.

2 MR. ROBINSON: I think definitely the latter is
3 easier to apply. We have data as you said on who's riding
4 systems now. For example, in San Francisco, 25 percent of
5 their riders are considered low income and generally come
6 from areas of disadvantaged communities. They may or may
7 not be identified in CalEnviroScreen yet, but that is what
8 we are able to pull. New riders, more difficult.

9 BOARD MEMBER GIOIA: I'm wonder if staff has had
10 this conversation with transit about this idea of 25
11 percent of new riders. I've heard that is an issue on how
12 you quantify that and therefore is that really meaningful
13 to have as a standard.

14 CHAIRPERSON NICHOLS: Cynthia.

15 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
16 I think you raised a good point that it is a bit
17 challenging. We're trying to work with two primary
18 objectives here. The first is the focus on new riders
19 because these funds aren't to just backfill. These funds
20 are to expand service and get new GHG reductions. That's
21 why the focus is on new riders.

22 BOARD MEMBER GIOIA: I think you're totally
23 right. The question comes in the implementation and
24 whether in the effort to try to make this perfect, we
25 jeopardize doing things well, you know. And so that's my

1 concern. And if someone can't prove the new riders and
2 how much money they're going to spend to try to figure out
3 the new riders, is it accurate, are we removing some
4 potential projects? I've heard that.

5 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
6 Not being a transit expert, what I can tell you is that we
7 worked with our California state transportation agency and
8 with Caltrans to try to come up with criteria that can
9 reasonably be met.

10 BOARD MEMBER GIOIA: What was pointed out to me
11 is under some federal lines there is a mix they have some
12 hybrid or something that's a little bit different to
13 measure. That was pointed out to me by some MTC folks,
14 Metropolitan Transportation Commission. Maybe when the
15 MTC speakers, if they're familiar with that, they can talk
16 about that. But there is some issue there is a different
17 standard under some federal guidelines for some federal
18 pots of money.

19 CHAIRPERSON NICHOLS: Okay. Thank you.

20 Karen Lange.

21 MS. LANGE: Good morning, Madam Chair and
22 members.

23 Karen Lange, on behalf of Mayor Lee and the City
24 and County of San Francisco.

25 Because Mr. Robinson did such a thorough job on

1 our concerns related to the transit piece, I really wanted
2 to focus on the affordable housing and sustainable
3 communities piece.

4 The City and County are concerned that the
5 criteria seems to encourage more housing in areas of the
6 state with high pollution burdens and instead they would
7 like in addition to the existing criteria they would like
8 to see some focus on investments in job rich areas, such
9 as San Francisco that have existing transit service but an
10 affordable housing crisis. We think this could help folks
11 coming from outside of the city, but work in the city be
12 able to move closer to their jobs, which would be one of
13 the goals you're trying to achieve.

14 For that reason, we're hoping that the Board
15 would consider postponing action today and would consider
16 readjusting this criteria to help the City and County work
17 on their affordable housing crisis. They plan on
18 participating as much as possible. They think the
19 criteria needs to be adjusted a little bit. And we
20 appreciate your consideration today. Thank you.

21 CHAIRPERSON NICHOLS: Thank you.

22 Nancy Hughes.

23 MS. HUGHES: Good morning, Madam Chair and
24 members of the Board. Thank you for the opportunity to
25 provide input on this important program today.

1 I'm Nancy Hughes, Executive Director of the
2 California Urban Forest Council, also representing seven
3 regional counsels around the state.

4 We are very pleased that urban forestry has a
5 significant role in the state's cap and trade expenditure
6 plan for 2014 and 2015 and beyond. We have submitted a
7 letter to the Board with several comments regarding the
8 implementation of the program essentially covering three
9 points.

10 First, we support the intent that a significant
11 portion of the urban forestry funds should go to
12 disadvantaged communities, but feel some funds should be
13 available for communities who will not fit the
14 yet-to-be-determined definition of a DAC, but nonetheless
15 are underserved and disadvantaged.

16 We support the 55 percent or up to 70 percent
17 that was published in the interim guidance document that
18 came out on August 22nd, which reflects the public
19 comment.

20 There are a number of ways urban forests can
21 provide benefits that are not specific to a narrowly
22 defined geographic areas, including reduced energy demand
23 from power plants and reduced urban heat island effect and
24 more.

25 Lastly, we support ARB's guidance that funds can

1 be used for tree maintenance. Our existing urban canopy
2 of 200 million trees currently sequesters four and a half
3 million metric tons of carbon annually, 75 to 100 times
4 more than the amount of carbon that is planned to be
5 sequestered out of the 300,000 new trees at maturity.

6 If funds are being focused in disadvantaged
7 communities, there is already a desperate need to maintain
8 the existing canopy which has only been magnified by the
9 drought.

10 We believe it is important to include funding for
11 management of standing urban trees, especially for
12 disadvantaged communities during drought conditions. We
13 need both new trees and our existing canopy to reach a
14 successful outcome and ultimately to reach our AB 32
15 goals. Thank you very much.

16 CHAIRPERSON NICHOLS: Thank you.

17 Jill Ratner.

18 MS. RATNER: Good morning. My name is Jill
19 Ratner. I work with the New Voices are Rising Project at
20 the Rose Foundation. And I'm actually wearing an
21 additional hat at the moment because New Voices is a
22 member of the Ditching Dirty Diesel Collaborative. So as
23 speaking on behalf of the Ditching Dirty Diesel
24 Collaborative in particular, I want to say that we very
25 much appreciate staff's work to integrate concerns about

1 diesel pollution and freight transportation into the
2 overall program.

3 Ditching Dirty Diesel is a coalition of more than
4 15 community-based non-profits, environmental justice
5 groups, environmental groups, and public health agencies.
6 And the Ditching Dirty Diesel's mission is to reduce
7 exposure to diesel pollution in low-income communities and
8 communities of color.

9 As everyone here on the Board and staff knows,
10 these communities historically have been very much
11 disproportionately burdened by pollution and its health
12 impacts. And those health impacts include high rates of
13 asthma, cancer, cardiovascular illness, and premature
14 death. In fact, the disparity in life expectancy between
15 some of the neighborhoods in the Bay Area that are
16 adjacent to freight routes and those in the more distant
17 suburbs ranges between 10 and 15 years. So someone in
18 certain parts of Walnut Creek can expect to live 15 years
19 longer than someone in parts of east Oakland.

20 That disparity is why we believe that the issues
21 that you are addressing here are so important. Wearing
22 all three of my hats, I'm here to support the remarks and
23 comments by the Six Winds Network and the SB 535 group.

24 I think that we want to add something also. In
25 addition to underscoring the importance of ensuring that

1 there are real benefits and substantial benefits to low
2 income communities as a result of the investments out of
3 what we would characterize as the 35 percent specified by
4 SB 535, we also believe that it is of primary importance
5 to make sure that above all investments in disadvantaged
6 communities do no harm. There are too many examples of
7 investments that have, in fact, resulted in harm to
8 communities, whether it's noise from the West Oakland BART
9 station or whether it's displacement pressure from
10 transit-oriented development. That is a particularly
11 important issue here. And I think it's important for the
12 entire fund as you move forward.

13 In addition, we want to just make it sort of as
14 you look forward to look at projects that benefit
15 disadvantaged communities with the entire portion of the
16 fund and see this percentage not as a cap but as a floor.
17 Thank you.

18 CHAIRPERSON NICHOLS: I think we agree with you
19 on that. Thank you.

20 Mr. Willis.

21 MR. WILLIS: Good morning. My name is Robert
22 Willis.

23 And I'm asking you about adopting guidelines for
24 the 25 percent of the greenhouse gas reduction investments
25 to ensure that any plans that are funded don't directly or

1 indirectly displace the disadvantaged communities because,
2 for example, the West Oakland Civic Plan, from what I've
3 seen of it, improvements, as they call it, to the
4 community seem to push the cost of living past what the
5 current residents can afford.

6 And I've attended some of the meetings for when
7 you're talking about it and they said nothing about
8 whether or not the cost of living would be increased or
9 not and neither did they make any promises about it.

10 So since I do live in West Oakland, I think
11 improving the look of it is a great idea. But as long as
12 the people who are living there can stay living there,
13 because that where they've been, that would be the
14 priority.

15 CHAIRPERSON NICHOLS: You don't have to use your
16 whole time if you don't want to.

17 MR. WILLIS: I'm done.

18 CHAIRPERSON NICHOLS: Thank you. You get extra
19 credit for finishing faster.

20 MS. NZEGWU: Good morning, Air Resources Board
21 and Madam Chair and ARB staff.

22 We would like to thank you very much for having
23 worked closely with us on the content of the guidelines.
24 We're very pleased to see certain elements of these
25 guidelines. For instance, the necessary recommendation

1 and requirements that to provide a benefit you have to be
2 meeting a need. That's very critical to this whole
3 framework. And so we would like to thank you for your
4 diligence and certainly we appreciate many elements that
5 are in this guidance, but we would like to see a few more
6 strategies that would ensure that SB 535 benefits are
7 significant and meaningful.

8 As I mentioned, we are glad to hear that
9 community participation has been made a requirement for
10 our projects. However, there is sort of like a process
11 issue that is evident -- becoming evident because ARB is
12 essentially deferring the ranking of projects to the
13 agencies and deferring the whole process until metrics can
14 be developed.

15 But we would like to see the guidelines at least
16 provide guidance that scoring and ranking should
17 prioritize certain types of projects, should prioritize
18 projects that benefit the most disadvantaged communities,
19 should also prioritize projects that provide the most
20 benefits in the most significant way.

21 Even if we are deferring the metrics to a later
22 stage, there should at least be some guidance saying
23 that's what we would like to see in the future.

24 Furthermore, I support the overall comments that
25 the 10 and 25 percent categories should be treated

1 separately, because treating ten percent as subsumed
2 within the 25 percent essentially means only 15 percent is
3 required to provide benefits to disadvantaged communities.
4 As we all can see that we want to see more benefits
5 provided more broadly, and we want to expand the areas
6 that qualify for providing benefits to disadvantaged
7 communities, right. So in expanding the areas that
8 qualify, we should likewise expand the amount of money
9 that goes to these areas.

10 Also, we do congratulate ARB staff for including
11 displacement considerations under the affordable housing
12 and sustainable communities program. However, we would
13 like to see those considerations be in place more broadly
14 for all stationary projects that have the capacity to
15 displace local residents.

16 And finally, I think one -- okay -- two points,
17 if I could do that really quickly.

18 First of all, I would like to say that the list
19 the criteria that is in the appendix should not be
20 exhausted, should not be exhaustive. There should be at
21 least room for additional criteria that community members
22 suggest to meet their own needs and provide benefits that
23 they consider important to them.

24 CHAIRPERSON NICHOLS: Thank you.

25 You've used up your time.

1 BOARD MEMBER GIOIA: I think it's really
2 important to note the 10 and 25 percent standard are a
3 minimum under state law. They're not a cap. And if you
4 look, right, the Governor's budget approved by the
5 Legislature, signed by the Governor, puts much more than
6 25 percent in many of the categories. And in some
7 categories, almost 100 percent. To be clear, as an
8 agency, we don't get to make that determination. That's
9 actually what's in the budget.

10 So we're just providing guidelines to implement
11 that law. And the State law says minimum ten percent in
12 the communities, 25 percent to benefit. We can't change
13 that law, but we've all said that's the minimum. Again,
14 the budget category is there's usually more than that in
15 most of these categories.

16 I just wanted to pointed that out. And
17 ultimately, it's the budget process that's allocated that.
18 And the Governor in the original budget did say, you know,
19 the majority in these categories should be, you know, to
20 benefit disadvantaged communities. So the good news is in
21 most cases it exceeds that.

22 MS. NZEGWU: Thank you.

23 CHAIRPERSON NICHOLS: Thank you for your
24 testimony and for your work on this project.

25 Mr. Magavern.

1 MR. MAGAVERN: Good morning. Bill Magavern with
2 the Coalition for Clean Air. And also with my college
3 Marybelle who just spoke representing the AB 535
4 Coalition.

5 I also want to give my sincere thanks to ARB
6 staff who have worked so long in this project and have
7 always been willing to listen to our coalition, and we
8 look forward to continuing that discussion.

9 The requirements that AB 32 money be invested in
10 disadvantaged communities started in the language of AB 32
11 itself in Section 38565, which I doesn't see mentioned in
12 the resolution. You might want to add it there because
13 that section does require that to the extent feasible that
14 money be directed to investments in the most disadvantaged
15 communities.

16 And AB 535, which Coalition for Clean Air was the
17 original sponsor of, really was an effort to make more
18 specific that commitment that is in AB 32. And it's a
19 reflection of the fact that I think all of us here
20 understand that historically low-income communities of
21 color have been disproportionately burdened with
22 pollution, which remains true today. So we have the
23 opportunity now to go a little ways towards redressing
24 that inequity, that environmental injustice with some of
25 the funds that are available.

1 So we agree that the goal is to have direct,
2 meaningful, and assured investments through these
3 projects. And we have a few suggestions that we think
4 would improve that.

5 One is we think that projects should be
6 prioritized when they provide multiple benefits to
7 disadvantaged communities. The process in Appendix 1 of
8 the proposal today allows for projects to be eligible to
9 meet only one of the criteria. For example, the job
10 standard. And we would say that a project that provides
11 those jobs but also reduces local air pollution and
12 provides an important service should get a higher priority
13 than one that meets only one of the criteria.

14 You've already heard some excellent testimony on
15 the need to avoid displacement. We're also thankful that
16 that's been included in one section but think it should be
17 expanded to all of the spending.

18 And I want to add that there is an important
19 greenhouse gas benefit when we preserve the ability of low
20 income people to live near transit, because these are the
21 most transit-dependant parts of the population. And if we
22 push them out, they will have to travel longer distances
23 and likely drive up emissions.

24 Finally, I think it's important that all the
25 spending of the AB 32 money, not just that that is covered

1 by AB 535, does target investments in our most
2 disadvantaged communities. Thank you very much.

3 CHAIRPERSON NICHOLS: Thank you.

4 Ms. Rincon.

5 MS. RINCON: Hi there. My name is Erika Rincon.
6 I'm representing Policy Link.

7 Want to thank the Chair Board members and staff
8 for your leadership in issuing guidance to agencies
9 regarding administering 535 investments.

10 We also want to thank you for the opportunity to
11 participate in the development of the guidance through the
12 public workshops and written comments.

13 Policy Rink in partnership with several other
14 organizations submitted a letter. I just want to hit a
15 couple high levels points of that. In order to ensure
16 that projects provide a direct benefit to disadvantaged
17 communities, we feel that the valuation criteria should be
18 strengthened to require applicants to demonstrate that the
19 primary purpose of their project is to target and serve
20 the needs of vulnerable residents in specific
21 disadvantaged communities by ensuring their direct access
22 to the benefits of the project.

23 We feel that this is critical given that because
24 the location of a project is within a disadvantaged
25 community or is within proximity to one does not

1 necessarily ensure that the benefits are going to reach
2 the residents. For example, if you have a car sharing
3 program located within a community that folks are not able
4 to afford or if you make improvements to a bus stop within
5 half mile of a disadvantaged community, if there are
6 multiple barriers in place to walking, such as having to
7 pass through unsafe areas, lack of sidewalks, walking
8 along high speed roads, having to walk with carrying heavy
9 items, like groceries and walking with several small
10 children, et cetera, we want to make sure applicants show
11 how they took deliberate steps to overcome those barriers.

12 We also ask that there is a prioritization for
13 project applications that includes strong community work
14 force agreements. We ask that there be strong language in
15 the program guidelines and that CARB issues -- directs all
16 agencies to include strong language in the program
17 guidelines and application instructions that encourages
18 and grants priority to applicants that include workforce
19 agreements to recruit higher and train low income
20 disadvantaged workers.

21 Agencies should also develop a clear strategy to
22 ensure that strong accountability provisions are in place.
23 This help to maximize the benefits of disadvantaged
24 communities laid out in SB 535.

25 We ask that guidelines and evaluation criteria

1 are strengthened to ensure the effective participation of
2 community residents throughout the planning and design of
3 projects. The overall success of the projects will
4 largely be dependant on the extent they meet the needs of
5 the residents, receive wide community support, and expand
6 public access and use. A critical and effective strategy
7 for achieving that is the meaningful participation of
8 community residents in the planning and design.

9 Applicants should show how they took deliberate steps to
10 include the most vulnerable residents. And the project
11 should reflect community-wide support and participation
12 from the targeted communities that are supposed to
13 benefit. And they should be scored in part on how well
14 they have engaged community and how well they incorporated
15 the community priorities. Thanks so much.

16 CHAIRPERSON NICHOLS: Thank you.

17 Ms. Shankar.

18 MS. SHANKAR: Good morning. My name is Monika.
19 I'm with Physicians for Social Responsibility Los Angeles.
20 We're an environmental health advocacy organization that
21 relies on the credible and trusted voice of doctors to
22 promote policy that is grounded in health equity as well
23 as social justice.

24 I'd like to thank the California Air Resources
25 Board for the opportunity to comment on these interim

1 guidance documents for the cap and trade auction revenues.

2 I'm speaking along side but also on behalf of
3 several Los Angeles based organizations who would like to
4 see these proceeds invested in a ways that not only reduce
5 greenhouse gas emissions, but also significantly reduce
6 co-pollutants that are harm human health and provide
7 multiple co-benefits.

8 Specifically, we strongly urge the incorporation
9 of these following recommendations, which some of them
10 have already been mentioned by some of our fellow allies
11 and partners from across the state. I think they're worth
12 re-emphasizing.

13 First of all, disadvantaged communities must
14 receive a greater share of funding to transform historic
15 burdens into future benefits. We're pleased to hear the
16 agencies must treat the 10 and 25 percent thresholds as
17 spending floors, not ceilings. And we hope the guidance
18 documents are structured in such a way that maximize the
19 amount of funds going towards disadvantaged communities.

20 We also recommend a ranking system to prioritize
21 investments in communities with the greatest needs. For
22 example, many of the census tracts in the top five percent
23 score markedly worse than the next set of census tracks in
24 the top six to 25 percent. And we need to be cognizant of
25 that.

1 Third, programs and projects should do no harm.
2 This is something you've already heard from several folks
3 before me. But I'd like -- I think it's worth
4 re-emphasizing. This includes avoiding negative impacts
5 such as displacement and the loss of affordable housing,
6 also increasing things like truck pollution when you're
7 siting a high traffic green facility and an already
8 over-burdened disadvantaged community or adjacent to that
9 disadvantaged community.

10 Finally, we also strongly recommend that
11 investments benefit disadvantaged communities in
12 significant and measurable manners. Investments must
13 create substantial and lasting benefits, and the funding
14 process outlined in the interim guidance document must be
15 strengthened to ensure these goals.

16 Thank you for the opportunity to provide input.
17 I am happy to answer any questions.

18 CHAIRPERSON NICHOLS: Thank you.

19 MS. GARIBAY: Good morning. My name is Veronica
20 Garibay. I co-direct Leadership Council for Justice and
21 Accountability. I'm based in Fresno and we work with
22 various low-income communities throughout the San Joaquin
23 Valley and the east Coachella Valley.

24 As some of my colleges have stated, we did submit
25 written comments in partnership with other San Joaquin

1 Valley and East Coachella Valley organizations for the
2 guidance documents.

3 First of all, thank you for your leadership in
4 developing the interim guidelines and for the opportunity
5 to participate through public workshops in various areas
6 of the state.

7 We work with a lot of residents from low income
8 rural communities that stand to greatly benefit from
9 investments and targeted dollars to help improve living
10 conditions and quality of life.

11 We'd like to start by saying that funds set aside
12 for DACs as defined by CalEnviroScreen, mere proximity
13 does not been equal benefit. For example, benefit of a
14 half a mile away by foot can still pose serious
15 challenges. For example, in one community, a rural
16 community in Fresno County, there have been three
17 pedestrian-related deaths in the last two years from
18 people trying to get to the bus stop, which is less than a
19 half a mile away from where their homes are.

20 With respect to the affordable housing and
21 sustainable communities sections, funds set aside for DACs
22 pursuant to 535 should and must prioritize improving
23 conditions and opportunities in disadvantaged communities.
24 Affordable housing and sustainable communities investments
25 are critical to furthering the state's intentions to

1 invest funds to address cumulative impacts of social
2 economic and environmental disadvantage in the state's
3 most vulnerable communities. Affordable housing and
4 sustainable communities investments in these neighborhoods
5 can serve as a catalyst to support strong community
6 centers, improve infrastructure for infill and mixed
7 income development, allow for employment opportunity, and
8 allow for increased economic activity.

9 If some of you are aware of some of the
10 conditions and low income rural areas in the valley and
11 the east Coachella Valley, there's serious of issue we
12 must target to meet the state's goals to improve quality
13 of life. We want to make sure that the funds for DACs --
14 that the funds from the affordable housing and sustainable
15 infrastructure program area really do reach these
16 neighborhoods and that the investments are targeted within
17 the actual communities so that we see real benefit.

18 We recommend that a set aside -- that the
19 guidelines create a set aside within the program area to
20 make sure that those investments are located within those
21 neighborhoods. Thank you.

22 CHAIRPERSON NICHOLS: Thank you.

23 MS. PRICHARD: Good morning.

24 My name is my Michele Prichard. I'm the Director
25 of the Common Agenda Program at the Liberty Hill

1 Foundation, which is a public foundation that has been
2 supporting community organizing, education, and policy
3 advocacy in low income communities throughout Los Angeles
4 County since 1976.

5 Part of what we do is to help build alliances and
6 convene community groups around critical public policy
7 issues, such as the one before us today.

8 And I'm pleased to present two letters today
9 signed by 30 organizations in the Los Angeles area which
10 would help to coordinate over the last couple of weeks.
11 And these, of course, were submitted by the deadline on
12 Monday and contained a lot of detailed recommendations.
13 The letters were signed by a broad cross section of
14 organizations representing environmental justice,
15 environment, public health, labor, and affordable housing
16 developers.

17 We are in broad agreement with the SB 535
18 Coalition, which has been engaging in this process over
19 the last several years and want to highlight a few key
20 points.

21 First, we are appreciative of the hard work of
22 the CARB staff in responding to many of the issues that we
23 raised through the SB 535 Coalition and trying to move us
24 in the right direction. And I want to highlight just a
25 few key points from our letters, which you heard already

1 from many of the other speakers.

2 But first, disadvantaged communities must receive
3 a substantial and focused funding share to transform
4 historic burdens into future benefits with priority given
5 to those communities that are the most vulnerable and who
6 are experiencing the greatest need.

7 We would actually like to see a commitment of 35
8 percent of available funds, again treating the 25 and 10
9 percent as floors, not ceilings.

10 Secondly, program criteria, metrics, and
11 evaluation should emphasize an approach to ensure that
12 investments create multiple benefits, while meeting the
13 law, and have this reflected through the ranking and
14 scoring.

15 We would like to see authentic community
16 engagement required and receiving funding through scoring
17 and ranking. And also as many have said, make sure that
18 programs and projects do no harm in disadvantaged
19 communities.

20 We have a huge problem with gentrification being
21 spurred by transit-oriented development throughout large
22 swaths of L.A. This is a huge consideration, and we want
23 to make sure that communities are benefited in a
24 significant and measurable manner.

25 In Los Angeles, we have roughly half of our

1 census tracts in L.A. County now falling in the top 25
2 percent of the CalEnviroScreen tool. These issues are of
3 critical importance to us. Thank you for your attention
4 today.

5 CHAIRPERSON NICHOLS: Thank you.

6 MS. PENDLETON: Good morning, Madam Chair and
7 members.

8 My name is Mary Pendleton. I'm with the Western
9 Chapter of the International Society of Arboricultural
10 Argue and the Britain Fund, a tree research and education
11 foundation.

12 Our membership consists of thousands of certified
13 arborists, tree care professionals, researchers,
14 educators, and scientists throughout the state. We've
15 come to express our strong support for CARB's inclusion of
16 tree care and maintenance in your scope of eligible
17 projects.

18 Furthermore, I'd like to express our very strong
19 support for CARB's previous recommendation to direct the
20 majority but not the entirety of CalFire's urban forestry
21 funding to disadvantaged communities, per the discussion
22 draft that was publicly available starting August 22nd.

23 I ask that you give every arborist the chance to
24 transform their community. We do not support a
25 100 percent disadvantaged community requirement, but

1 instead, we support simply a majority so that all
2 communities may have a chance to apply and improve the
3 quality of life for their citizens.

4 We remain grateful to CARB and the administration
5 for recognizing the landmark role urban forestry can play
6 in meeting their goals. Thank you.

7 CHAIRPERSON NICHOLS: Thank you.

8 MR. WILKINSON: Good morning.

9 David Wilkinson, President of the Woodland Tree
10 Foundation. Like Sacramento, we're known as the City of
11 Trees 20 miles across the river surrounded by agriculture
12 in Yolo County. We're one of many grassroots tree
13 planting organizations our great state of California is
14 blessed with. And we've been fortunate to implement
15 through grassroots volunteer tree planting and tree care
16 and tree watering several California ReLeaf and CalFire
17 environmental grants. And volunteers in Woodland have
18 planted over 3,000 trees in and around Woodland, including
19 thousands on the highway 113 corridor linking Davis to
20 Woodland.

21 We'd like to do more. We have trained volunteers
22 and the California ReLeaf Network has thousands of trained
23 volunteers working in their communities throughout
24 California. And a lot of this work gets done engaging
25 residents in low-income communities, Head Start centers,

1 schools with a lot of disadvantaged kids. We'd really
2 like to do more through this program.

3 And in general, we support the guidelines to
4 target the majority of the tree planting moneys into
5 disadvantaged communities. It's a very important and
6 noble goal. But we're hoping as per your August 22nd
7 interim draft guidance that there can be some money carved
8 out for communities. While they don't meet the strict
9 definition of a disadvantaged community through the Enviro
10 maps, that certainly we all have low-income communities
11 that we want to do more work in marshalling volunteers.
12 And we stand ready to do that.

13 So I appreciate all the work you're doing. And I
14 hope we can see a lot more tree planting and the impact
15 it's going to have on air quality throughout California.
16 I think if you can get the money out to all the tree
17 foundations, you're going to see a lot more trees planted
18 and cared for in a fairly expeditious amount of time. It
19 will address our Climate Action Plan in the city of
20 Woodland, which has tree planting is a strong activity
21 within climate action. Thank you very much.

22 CHAIRPERSON NICHOLS: Thank you.

23 While our next speaker is coming forward, I want
24 to let you know that that list that's up on the board is
25 not quite complete. We have a number 32, Mr. Dutra from

1 Tree Lodi. And that's the cutoff point. That is -- I'm
2 not accepting any more people signing up to testify at
3 this point, because if you've held back until now, we just
4 need to close this off.

5 So Ms. Oliver.

6 MS. OLIVER: Madam Chair, members of the Board
7 and staff, my name is Amelia Oliver. I'm the Interim
8 Executive Director at California ReLeaf.

9 And I'm here today to read a statement that was
10 prepared by a colleague named Dana Carcher who works for
11 the Davy Resource Group.

12 "As a 20-plus resident of the city of Bakersfield
13 and an urban forestry professional working for the largest
14 full service tree care industry in the United States, I
15 have a keen interest in assuring that these funds fulfill
16 the needs of the communities throughout California. The
17 interest is both personal and economic. Trees provide
18 jobs. These funds will lead to more work for tree
19 professionals.

20 "First, I fully support the August 22nd draft
21 guidance where the majority, but not all, of the urban
22 forest cap and trade funds are awarded to benefit DACs.
23 This will support the highest need areas, including the
24 city and county where I reside.

25 "However, I believe a small portion of the funds

1 needs to be available to regions so all Californians can
2 enjoy the benefits that urban forestry provide in their
3 communities. Tree benefits know no bounds.

4 "Second, I support the list of eligible urban
5 forestry projects identified by CARB with emphasize on
6 maintenance. In my experience, most DACs have little or
7 no urban forestry program. This means that they may have
8 trees, but they do not have the professional staff or
9 contract budget to support adding additional trees to
10 their urban forest. Without the ability to even maintain
11 trees, many DACs may not apply for funds.

12 "To create large healthy canopies that provide
13 the most environmental benefits, trees must be managed. I
14 support the ability of communities to be able to apply for
15 maintenance dollars for the care of current and future
16 trees that will reduce GHGs and help meet our AB 32 goals.

17 "Thank you for the opportunities to express our
18 concerns."

19 CHAIRPERSON NICHOLS: Thank you.

20 MR. MALOREY: Good morning. My name is Matt
21 Malorey with the Metropolitan Transportation Commission,
22 which is the transportation, planning, coordinating, and
23 financing agency for the nine county San Francisco Bay
24 Area.

25 I'd first like to thank the Board and the ARB

1 staff for all their hard work on this ambitious process.

2 MTC submitted a joint letter to the Board
3 co-signed by the Association of Bay Area Governments, the
4 San Francisco Bay Conservation and Development Commission,
5 and the Bay Area Air Quality Management District. My
6 brief comments this morning will reflect the comments in
7 that letter.

8 With respect to the Board's process, we
9 respectively encourage you to allocate more time to refine
10 the methods for determining project benefits so that you
11 can carefully consider public comments before making a
12 final decision. Given the millions of dollars in public
13 funds at stake and the scores of highly competitive
14 projects vying for funding, it is imperative that the
15 State agencies develop the program guidelines in a
16 transparent manner that allows for meaningful public
17 input.

18 Your consideration of the interim guidance today
19 falls two full days after the close of public comment,
20 leaving little opportunity for ARB staff to consider
21 comments before finalizing their proposal. It's not clear
22 to us why these decisions need to be made so quickly. We
23 respectively request you defer this item today so there is
24 more time to incorporate the comments addressed to the
25 Board.

1 California statute, as you know, requires
2 metropolitan regions to plan for a future in which
3 transportation investments and local land use plans are
4 better integrated in order to reduce dependence on the
5 single occupancy vehicles and thereby reduce growth in
6 greenhouse gas emissions. Our region's first sustainable
7 community strategy planned BAY area focuses growth within
8 locally nominated priority development areas to support
9 the day-to-day needs of residents and workers in
10 pedestrian environments near transit.

11 As the state finalizes its approach to identify
12 criteria for how cap and trade investment benefit
13 disadvantaged communities, we urge you to ensure these
14 policies reinforce the investment priority set forth in
15 sustainable community strategies and air quality plans
16 statewide.

17 With respect to the interim guidances draft
18 criteria to evaluate transportation projects, we recommend
19 the State refine its criteria to acknowledge that
20 transportation improvements provide benefits at a corridor
21 level and not solely in buffer zones around investments.

22 Our primary concern is that the draft criteria's
23 narrow scope threatens to exclude transportation and
24 investments that could provide substantial benefit to
25 disadvantaged communities. While benefits are often

1 experienced by communities in close proximity to a
2 specific transportation investment, given the diverse
3 nature of travel patterns in the Bay Area and other
4 metropolitan regions, a project's benefits may be
5 experienced in a community located many miles away.

6 Thank you for giving these comments your thorough
7 consideration. MTC and its regional partners stand ready
8 to assist you as we embark upon this ambitious process.
9 Thank you.

10 CHAIRPERSON NICHOLS: Thank you.

11 Ms. Cadwallader.

12 MS. CADWALLADER: Good morning, Madam Chair,
13 Board members.

14 Thank you so much for the time today. I was here
15 many months ago giving testimony asking that some of these
16 cap and trade dollars be directed to CalFire and to urban
17 forestry specifically. So I was here today to say thank
18 you so much. And we would be in support of the draft
19 guidelines as they were until I read them just today.

20 We would also urge the group to not have a
21 hundred percent of the urban forestry funds directed to
22 only DACs for many of the reasons that we talked about
23 today in terms of the imperfections of the CalEnviroScreen
24 tool. It will not allow us to cover as many of the
25 disadvantaged communities as we would like to in terms of

1 tree planting.

2 So please, I'd like to also encourage 55 to 70
3 percent of these funds, the majority of them, go to DACs.
4 But some be held out so that we can serve all of the
5 underresourced communities in the Sacramento region.
6 Thank you very much.

7 CHAIRPERSON NICHOLS: Thank you.

8 MS. CURL: Good morning, California Air Resources
9 Board members. My name is Shasa Curl. I'm the
10 Administrative Chief for the city of Richmond.

11 On behalf of City Manager Bill Lindsey, I would
12 like to affirm Richmond's strong support for SB 535. We
13 appreciate Cal/EPA and CARB staff's effort to date.
14 Richmond respectfully requests that the CARB Board
15 consider the issues raised and the joint letter from the
16 Bay Area regional agencies.

17 Given that the public comment period ended on the
18 interim guidance document Monday and yesterday very late
19 in the day a new revised interim guidance document was
20 issued, refinery and poor fence line communities such as
21 Richmond remain unclear on the areas within our community
22 that are being identified as disadvantaged, such as
23 perhaps priority development areas.

24 Providing additional clarity within the
25 guidelines while maintaining flexibility would be helpful

1 for local community staff, community-based organizations
2 and agencies as we prepare to work collaboratively to
3 prepare grant applications.

4 For planning purposes, many disadvantaged
5 communities would greatly benefit from having access to
6 the proposed supplemental maps that CARB expects to post
7 which are identified in Appendix 1 as quickly as possible.

8 We look forward to working constructively with
9 Cal/EPA and CARB staff. Thank you for considering the
10 City of Richmond's comments and concerns.

11 CHAIRPERSON NICHOLS: Thank you.

12 Mr. Mills.

13 MR. MILLS: Good morning.

14 Chuck Mills, California ReLeaf, statewide
15 nonprofit supporting approximately 90 local and nonprofit
16 organizations across California engaged in on-the-ground
17 urban forestry.

18 We applaud the CARB staff and Cal/EPA for their
19 thoughtful examination of the issues today and as already
20 specified in our written comments largely support CARB's
21 approach to how urban forestry will integrate into the
22 overall goals of achieving GHG reductions and meeting the
23 needs of disadvantaged communities.

24 Consequently, I'll focus my comments solely on
25 our very strong support for CARB's recommendation to

1 direct the majority, not the entirety, of CalFire's urban
2 forestry funding to meeting and exceeding your
3 requirements of SB 535 per the discussion draft that has
4 been in print for a month and was only revised yesterday.

5 On that point, I want to follow up to something
6 that Ms. Hughes started a little while ago, and that is
7 the comments that have been made this morning, at least on
8 two occasions, where the revisions are in response to
9 public comment. Before the Board should be two letters,
10 one signed by 30 urban forestry nonprofits across
11 California supporting 55 to 70 percent of these funds
12 going to DACs. Another should be from the seven regional
13 councils representing dozens of practitioners and
14 stakeholders in urban forestry representing 50 to 75
15 percent of those funds going to DACs.

16 The written comments that are on CARB's website
17 from February 15th, I've reviewed those pertinent to urban
18 forestry. I've seen one relevant to supporting
19 100 percent with all others pertinent to this issue
20 supporting 55 to 70 percent. And of your speakers listed
21 today, 30 percent are speaking to urban forestry, with
22 100 percent speaking to 50 to 70 percent of these funds
23 going to benefit DAC.

24 I just want to clarify that in response to public
25 comment, the vast majority, the 90, 95 percent are

1 supporting the August 22nd, 55 to 70 percent going to
2 benefit DACs.

3 If the 100 percent figure does continue as a
4 consideration for fiscal year 14-15, we ask that CARB
5 first revisit two figures, the \$359 million in cap and
6 trade project funds disbursed to multiple agencies that
7 may shoulder no responsibility to meet the goals of 535, a
8 commitment as small as 1.5 percent of these total funds
9 would bring an additional \$4.5 million to the table to
10 meet 535 goals and allow for 30 percent of the urban
11 forestry projects to be awarded competitively across
12 California's communities and would not impact CARB's
13 bottom line to meet DACs. Or simply examining reducing
14 that threshold of 100 percent to 70 percent, approximately
15 \$5 million, allowing for statewide competition, which
16 would bring the overall percentage at a recommended by
17 CARB from 32.7 percent to 32.1 percent.

18 Finally, In my remaining 17 seconds, I want to
19 stress that the urban forestry community is in strong
20 support of meeting the goals of disadvantaged communities.
21 We support the recommendation of the 55 percent of these
22 funds be located in DACs. That's 550 percent above the
23 required target of 535. We continue to consult with 535
24 and appreciate CARB's work and dedication on this issue.
25 Thank you.

1 CHAIRPERSON NICHOLS: Thank you.

2 MS. TWOMEY: Good morning. I'm Maura Twomey, the
3 Executive Director of the Association of Monterey Bay Area
4 Governments.

5 I'm speaking today on behalf of AMBAG, as well as
6 the Central Coast Coalition, which includes the Santa
7 Barbara County Association of Governments, the San Luis
8 Obispo Council of Governments, the Transportation Agency
9 of Monterey County, the Santa Cruz County Regional
10 Transportation Commission, and the San Benito Council of
11 Governments.

12 Many residents of these counties are considered
13 disadvantaged based on low-income minority status,
14 education, and similar population characteristics.
15 However, under the proposed definitions, it appears as if
16 most, if not all, of the central coast disadvantaged
17 communities would not qualify and would be excluded from
18 competing for a significant portion of Cap and Trade
19 Program funds. In fact, statewide, more than half of the
20 state's 58 counties would have virtually no disadvantaged
21 communities under the proposed approaches.

22 As a result, we feel the proposed approaches are
23 inconsistent with the intent of AB 1532 and SB 535 and
24 would result in gross geographic inequity, depriving
25 numerous deserving disadvantaged populations around the

1 state of potentially millions of dollars of investment in
2 their communities.

3 We are also concerned that the approach benefits
4 disadvantaged communities ignores the jobs/housing
5 relationships and commuter patterns and could
6 inadvertently undermine our adopted sustainable community
7 strategies and AB 32's overarching goal of reducing GHG
8 emissions.

9 Identifying disadvantaged communities only based
10 on where people live now limits new investment to projects
11 within a narrow band around these residential areas. To
12 reduce the average commute distance and vehicle emissions,
13 new affordable housing investments should be sited close
14 to where members of disadvantaged communities work, not
15 where they reside now.

16 To address these issues, we strongly suggest
17 adopting a more flexible approach to identifying
18 disadvantaged communities and develop a broader
19 socioeconomic understanding of disadvantaged communities
20 as mobile populations which commute daily often long
21 distances from home to work.

22 The key to helping disadvantaged communities
23 economically and to reducing GHG emissions simultaneously,
24 in other words, aligning the goals of SB 535 and AB 32, is
25 to reduce vehicle miles traveled by promoting affordable

1 housing closer to work and enhancing transit, bicycle, and
2 pedestrian options. Thank you.

3 CHAIRPERSON NICHOLS: Thank you.

4 MR. LARREA: Good morning. John Larrea with the
5 California League of Food Processors.

6 First, I'd like to thank the Board and also the
7 staff for holding the community work groups because CLFP
8 was a part of those down in Fresno. We're very much
9 interested because most of our facilities, as industrial
10 food processors, are located within the CalEnviroScreen.
11 So we have a very big interest in this.

12 First, I'd like to talk about -- since this is
13 interim guidance, I'd like to talk about tracking funds.
14 We're very pleased to see there is going to be an
15 expenditure record associated with this. However, we'd
16 like to see it more detailed in uniform among all of the
17 agencies. We don't want to see different types that are
18 going to be very hard to follow.

19 We'd also like to see it be a little more
20 stringent, at least as stringent as those imposed on
21 obligated entities, such as ourselves, in terms of the
22 types of reporting that's going to be required. And we'd
23 also like to see the Board support the severe penalties
24 for either the misuse or the negligent use of this money
25 that may occur.

1 We are in an interim right now, and they're
2 trying to move this money fast. So there is lots of
3 opportunity there for -- I don't want to say mischief, but
4 misdirecting of funds and such.

5 Also, timely public posting. We think that
6 should know not only to the agencies, but also to the
7 program managers themselves. They're the ones who are
8 going to be handling the money. They're the ones that are
9 going to be dishing it out. So they should be the ones
10 reporting and reporting on a regular basis so we can see
11 where that money is going and the communities themselves
12 can see who is actually distributing that money within the
13 area.

14 Secondly, there has been a question as to we're
15 looking at possibly hundreds, maybe thousands, of projects
16 being introduced across the state in terms of this. And
17 Chairman Nichols, you also kind of alluded to the fact
18 that, you know, we want to make sure there is enough
19 projects out there, too.

20 So in lieu of that, what we don't want to see is
21 something that occurred with the renewable portfolio
22 standard at the PUC where the utilities were trying to
23 meet an obligation. They begin signing up projects that
24 we didn't know -- essentially, possibly ignoring the costs
25 associated with kilowatt hours. We want to make sure that

1 happens.

2 So we're recommending the Board support the
3 creation of something like an industrial advisory groups
4 to help the agencies to identify those projects which have
5 the most impact in the disadvantaged communities. These
6 agencies could be comprised of the local industries,
7 community groups, local electeds that will be able to
8 identify the projects and help the State agencies to
9 better focus on those.

10 Finally -- and Bill Magavern actually got there
11 and I'm going to take it a bit further -- talk about
12 priority funding. We believe since we are -- essentially
13 most of our facilities are located within these high
14 disadvantaged areas, any obligated entity that is going to
15 put in a project that is located within these areas should
16 receive priority funding because, one, they are an
17 obligated entity and, two, we know that's going to have a
18 direct impact on this.

19 CHAIRPERSON NICHOLS: Thank you very much.

20 MS. HOLMES-GEN: Madam Chair, Board members,
21 Bonnie Holmes-Gen with the American Lung Association of
22 California.

23 And I wanted to speak here today on behalf of the
24 American Lung Association and express our appreciation for
25 your leadership on the SB 35 process and the investment in

1 disadvantaged communities and to support the guidelines
2 that are before you today and express our great desire
3 that these funds go to vulnerable communities that need it
4 the most as quickly as possible to provide the real air
5 quality and health benefits that are needed.

6 The American Lung Association is very concerned
7 about the health burdens of low-income and disadvantaged
8 communities, and we provide services in communities around
9 the state, particularly in disadvantaged and low-income
10 areas in the Los Angeles and Bay Areas, Southern
11 California regions and San Joaquin Valley.

12 And with our offices and local outreach and
13 health services, we're very familiar with the impacts of
14 air pollution and air toxics and the hot spots that send
15 people to hospitals and emergency rooms and elevate asthma
16 attacks and chronic illness.

17 Specifically, we are supporting the SB 535
18 Coalition comments, including the recommendation that the
19 ARB move to establish a priority for projects that can
20 provide multiple benefits. And we think this is a great
21 direction to go. A lot of local agencies are trying to
22 work in this direction in bringing projects that can have
23 clean transportation and transit and show affordable
24 housing and other attributes.

25 We also are strongly supportive of developing

1 policies to protect against displacement. We hope to work
2 with you as this process goes forward to elevate the
3 amount of funding that goes to benefit disadvantaged
4 communities beyond the 25 percent. There's been a lot of
5 discussion about that. I think that is an important
6 direction to go. And we hope to help work with you to
7 broadcast the benefits of these projects and the important
8 work that these cap and trade funds are doing to improve
9 air quality and health around the state. Thank you.

10 CHAIRPERSON NICHOLS: Thank you.

11 MS. TOPP: Thank you, Madam Chair and members.
12 Moira Topp on behalf of the Orange County Transportation
13 Authority.

14 We, too, thank you and your staff for the
15 enormous effort that's already taken place and will
16 clearly take place over the next year to perfect this.

17 OCTA is supportive of a number of the items. We
18 think, like us, some of our sister agencies believe that
19 there are some refinements that are necessary in order to
20 truly meet the goals of SB 535. Specifically, OCTA is
21 supportive of efforts within the draft guidance to provide
22 for multiple means for a project to prove a benefit to a
23 disadvantaged community, particularly within the two
24 transit programs.

25 However, as has already been noted, we do believe

1 the guidance should be clarified to state that a project
2 or service that does not solely need to be located within
3 a disadvantaged community but could be connecting that
4 community to a job center or other services of a
5 disadvantaged community.

6 Secondly, OCTA is supportive of proposed criteria
7 that will look to the ridership of inner city rail
8 commuter bus and transit lines and allowing for transit
9 fare incentives. However, we think the guidance should go
10 further and also allow for increased service on those same
11 lines that include ridership from primarily disadvantaged
12 communities.

13 Thirdly, we think further clarification is needed
14 within the proposed criteria for the affordable housing and
15 sustainable communities program. Rather than require a
16 complete avoidance of any displacement within
17 disadvantaged communities, there should be some allowance
18 for mitigation within that displacement.

19 Fourth, currently, the guidance recommends
20 administering agencies to undertake an extensive public
21 outreach process prior to directing funds. Any public
22 agency knows that a public outreach program can be very
23 expensive. We already do a number of the public outreach
24 that's already called for, so we would recommend the
25 guidance recognize the fact that we are already doing some

1 of these similar outreach efforts.

2 And lastly, one item that's not included in our
3 written comments because it was an issue that was raised
4 just in the changes that were made yesterday, and that is
5 with respect to reporting. There's a lot of ambiguity
6 with respect to the transportation sections in the
7 reporting requirements. Transportation funding is very
8 technical. It can be very arcane. We would strongly
9 recommend that you work with transportation agencies to
10 really refine that and make sure it's very clear what
11 you're asking from us. Thank you very much.

12 CHAIRPERSON NICHOLS: Thank you.

13 Mr. Wildman.

14 MR. WILDMAN: Good morning, Madam Chair and
15 Board.

16 My name is Doug Wildman. I'm with Friends of the
17 Urban Forest, also representing the Bay Area Urban Forest
18 Council, which is one of the seven regions spoken about
19 earlier with the California Urban Forest Council.

20 In San Francisco, Friends of the Urban Forest for
21 33 years has been a community-based urban forestry group
22 working with all communities in the city, the wealthy and
23 the not so wealthy. We continue to do that and are really
24 happy with seeing the majority of funds going to
25 disadvantaged communities.

1 I would like to say, however, many communities
2 are being left out with the current mapping, and I think
3 there's some significant work to be done on that.

4 I love the rigor and the science behind it. I
5 think it's really cool. And mapping is really important.
6 So I'd like seeing urban forests being quantified, the
7 urban forest ecosystem benefits. So that's fantastic.

8 I think there are some flaws right now. And
9 certainly, what we just found out a couple days ago on the
10 17th, the revision to the August 22nd recommendations,
11 we're not in favor of those revisions.

12 So we like the concept of looking at management
13 in urban forest systems because basically forests are
14 ecosystems. They have nothing to do with boundaries and
15 their watersheds in their regions. That goes beyond a
16 half mile in different points of where you're looking at
17 to refine the map.

18 I think management is critical. And again, the
19 majority, not the entirety of this money, be to DACs.
20 Thank you very much.

21 CHAIRPERSON NICHOLS: Let's pause here, since I
22 think this is about the fourth or fifth speaker who has
23 addressed this issue of what percentage of the money in
24 the Urban Forestry Program is actually going into or
25 adjacent to the identified disadvantaged communities and

1 the change.

2 Ms. Marvin, would you address that, please?

3 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:

4 I would be happy to.

5 In the draft guidance, we have a table in there
6 that shows where there are statutory requirements for
7 specific programs to benefit disadvantaged communities.
8 And the table also reflects the information that each
9 agency reported to us in terms of their intentions about
10 addressing disadvantaged communities.

11 So in the case of the subset of money that
12 CalFire is getting that is programmed for urban forestry,
13 they had originally told us that a portion of that would
14 be dedicated to benefit disadvantaged communities. Since
15 that publication, CalFire came back to us and said that
16 they were intending to allocate all of the funds for urban
17 forestry to benefit disadvantaged communities with a
18 portion of those funds guaranteed to be spent within those
19 communities.

20 CHAIRPERSON NICHOLS: This is the CalFire?

21 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
22 This is the CalFire decision. It's not an ARB decision.
23 We're reflecting the updated information they've given us.

24 BOARD MEMBER GIOIA: Just to add, I think it's
25 important to note our criteria is implementing the

1 requirements that exist under State law or the other
2 agencies. That percent is not up to us. It's up to
3 CalFire. And you're reflecting the new information.

4 But in fact, I looked at the changes on our draft
5 guideline on Appendix 12. The 100 percent isn't reflected
6 here. What we're working on is the guidelines for the
7 funds that are dedicated to disadvantaged communities to
8 make sure they're properly spent. So your issue is that's
9 the CalFire issue.

10 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
11 I would just note for clarity in the revised draft of the
12 guidelines, on page 14, there is a table that reflects
13 that statutory and agency reported percentages. And
14 that's what the focus has been on urban forestry comments.

15 CHAIRPERSON NICHOLS: I see. Thank you.

16 Ms. Morehouse.

17 MS. MOREHOUSE: Good morning. Thanks.

18 Erica Morehouse with Environmental Defense Fund.

19 I just want to recognize the important step that
20 California is taking in addressing historic injustice in
21 the communities that have disproportionately borne
22 environmental harms for decades should disproportionately
23 benefit from the investments that we're able to make in
24 mitigating climate pollution.

25 And I want to thank the Board and the staff for

1 the important work they've put into this guidance and the
2 decision makers in the Legislature. But also recognize
3 the important work that groups like those in the 535
4 Coalition have been doing for years to really get us to
5 this important place that we're at.

6 And defining disadvantaged communities and
7 providing advice on how to direct real, meaningful
8 benefits to them is something that California doesn't have
9 a lot of precedent to build on. I think what we have here
10 is a really good start. And it's clear that we need to do
11 a lot of makeup -- have a lot of learning by doing as we
12 move forward.

13 And I would just like to echo the comments of
14 some of my colleagues from Coalition for Clean Air and
15 others and recognize that we need to keep vigilant about
16 watching issues like displacement and making sure that
17 there are no unintended consequences and also prioritizing
18 investments that do have multiple benefits that are going
19 to be cumulative over time in making sure that we're
20 continuing to prioritize investments in disadvantaged
21 communities, whether they qualify for 535 or not.

22 And so thanks for the great work to you all and
23 all of the community groups as well. So thank you.

24 CHAIRPERSON NICHOLS: Thank you.

25 Ms. Passero.

1 MS. PASSERO: Good morning.

2 My name is Michelle Passero. I work for the
3 Nature Conservancy.

4 And just want to say that we do think that the
5 interim guidance is headed in the right direction. And we
6 thank the staff for all their hard work they've put into
7 this date.

8 I have a couple suggestions to offer. And in
9 particular on urban forestry and land conservation
10 criteria, though they may have some broader application.
11 And considering in the conversation we just had about the
12 100 percent, some of these comments may be directed more
13 toward the resources agency, but I'll share them here,
14 too.

15 We agree there should be some flexibility in
16 considering that percentage. And for instance, we're
17 looking at -- and we've done some mapping just to look at
18 wetlands in the EnviroScreen area, and we are doing
19 further work to look at where there might be wetland
20 restoration for carbon sequestration and also flood
21 protection. So there may be some more flexibility even
22 just within the area of natural resource protection where
23 we can consider more flexibility in that area. We're
24 happy to work with Cal/EPA, ARB, and Resources Agency to
25 dive deeper into this issue.

1 And then just taking a step back and taking a
2 long-term view of this program and recognizing that this
3 is really just the start of how auction proceeds should be
4 invested. And I believe this may have been implied
5 earlier in the presentation is, is there a way -- because
6 I know we're going to learn by doing -- to identify what
7 the process would be going forward, so we can make
8 adjustments to criteria as we receive more feedback from
9 applications. There might be some really neat projects
10 that have great benefits that we can't foresee right now.

11 And so maybe there is a midpoint really to take a
12 look at, you know, what didn't make the cut, but what
13 should have and then make adjustments to these criteria
14 for the next round, since we will be looking at this on an
15 annual basis and hopefully for a long term.

16 So I just want to offer those comments. We
17 appreciate the opportunity to talk, and we are happy to
18 play a constructive role. Thank you.

19 CHAIRPERSON NICHOLS: Thank you.

20 Julie Snyder and then Steve Dutra. And that will
21 be the last speaker.

22 MS. SNYDER: Madam Chair, members of the Board,
23 thank you for having us here today.

24 I was looking forward to having the last word and
25 then Mr. Dutra stepped in.

1 I really wanted to echo the comments of our
2 allies at Public Advocates, Coalition for Clean Air,
3 American Lung, and others about maximizing the benefits to
4 disadvantaged communities. So it's not simply a matter of
5 can we hit a threshold of one benefit. But can we
6 prioritize as many benefits as possible to those
7 communities.

8 Second, I wanted to echo what you've already
9 heard about displacement. We think it's incredibly
10 important that all of the cap and trade investments are
11 made in communities that have taken steps to adopt
12 anti-displacement policies and make sure these state
13 investments don't push out the very people that we're
14 trying to help.

15 There are examples around the state from cities
16 and counties of a whole range of different types of
17 anti-displacement policies. We would be happy to share
18 that with your staff and we would encourage you as you
19 move forward to take the provisions that you're already
20 recommending for the affordable housing sustainable
21 communities program and extend that across all
22 investments, both within and without disadvantaged
23 communities. The state's multi-decade experience with
24 redevelopment in particular and other large-scale public
25 investment has taught us that if there are not conscious

1 up-front policies to protect existing communities, the
2 benefits that we want to flow to them don't actually
3 accrue to them. They're pushed further away from the new
4 transit that's gone in, et cetera.

5 So we would encourage you to look at what's being
6 done locally already, what's also incorporated under other
7 state laws, redevelopment itself. We learned over time
8 the Legislature and the Governor's added anti-displacement
9 provisions to redevelopment law. It's also reflected in a
10 new bill that's on the Governor's desk around enhanced
11 infrastructure financing districts.

12 So there is a lot of examples out there. We
13 don't have to reinvent the wheel here. But we have to
14 make sure that all of these investments inside and outside
15 disadvantaged communities are not catalysts for
16 displacement.

17 So thank you for hearing what we have to say and
18 look forward to working with you and your staff.

19 CHAIRPERSON NICHOLS: Thank you.

20 And now, Mr. Dutra.

21 MR. DUTRA: Good morning. Thank you for taking
22 me at the end.

23 My name is Steve Dutra. I'm the president of a
24 Tree Lodi group, which is an urban forestry grassroots
25 group in Lodi. I'm also a certified arborist and also

1 currently the Parks Superintendent with the City of Lodi.

2 Tree Lodi supports the written comments submitted
3 to you by both Cal ReLeaf and the California Urban
4 Forestry Foundation related to this morning's agenda item.

5 Tree Lodi will also help support CalFire to
6 maximize benefits to disadvantaged communities we hope
7 specifically in the areas of urban forestry management and
8 to help us increase the urban tree canopy.

9 Thank you.

10 CHAIRPERSON NICHOLS: Thank you.

11 That concludes the public testimony portion of
12 this discussion. This is not a regulatory action, so it's
13 not a matter of closing the record. But I do think it's
14 important that we reflect a little bit on what we've heard
15 here and also that we give the staff some direction before
16 this goes out to the world.

17 I want to reflect on a couple of things. First
18 of all, we've got a good audience here in attendance in
19 the Byron Sher Auditorium. I suspect there are many
20 people watching this particular proceeding from their
21 desks in other agencies around State government, as well
22 as in communities that are potentially going to benefit
23 from these moneys.

24 And I really want to stress what our staff said
25 at the beginning about the process that they have been

1 going through with our sister State agencies. AB 32
2 changed a lot of things. And the Cap and Trade Program
3 gave ARB a unique opportunity to both participate on a
4 global level in reducing greenhouse gas emissions and also
5 as an incidental benefit to generate some funds that are
6 now capable of being used to benefit the people of the
7 state of California.

8 There were a number of comments that were made
9 about multiple benefits. And I think it's important to
10 recognize that the moneys that we're talking about here
11 today by definition have multiple benefits associated with
12 them. For starters, they're required to be used to reduce
13 greenhouse gas emissions. So they will be achieving those
14 benefits to some degree or another.

15 Secondly, they're going to go to support programs
16 in our sister agencies, whether it's transit or whether
17 it's tree planting or housing or ARB's own low carbon
18 transportation programs that have other benefits that are
19 mandated. And then on top of it, we're talking about how
20 to make sure that there are also benefits to some of the
21 most impacted and disadvantaged communities in the state.
22 So we're really talking about benefits on top of benefits
23 and how to do an even better job of leveraging.

24 Secondly, I don't think there is any agency,
25 including ours, that has at this point all the expertise

1 that we would like to have in terms of how to put together
2 projects that could make sure that every possible
3 connection and leveraging point has been reached. I'm
4 optimistic based on what I've heard that there are people
5 at the community level who are thinking about some of
6 these kinds of projects and looking for ways that they can
7 mix and match and put together programs that will touch
8 many different funding sources in addition to the cap and
9 trade money. But I think it's a testimony to the
10 tremendous need and hunger that there is out there to do
11 good work in the communities that we've had the kind of
12 participation that we've had here today.

13 There is attention between making sure there is a
14 trail of funding that can be audited and an ability on the
15 part of the Legislature at the end of the year to see if
16 we met the targets and how we did it versus the desire to
17 allow for some creativity and some experimentation in the
18 beginning stages in particular of a brand-new program.

19 While it's impossible we could have achieved
20 perfection, I think actually staff has done a pretty good
21 job of balancing those objectives in the guidelines that
22 they're wanting to put out.

23 Having said that, there were a number of specific
24 points that were made. And before we just say go forth,
25 I'd like to give members of the Board who have specific

1 issues that they might want to see incorporated into the
2 final document an opportunity to raise those now.

3 We'll start with Mr. Serna because he hasn't
4 spoken yet.

5 BOARD MEMBER SERNA: Thank you, Chair Nichols.

6 I certainly want to extend my thanks to staff,
7 certainly to the speakers that have given us insights into
8 their position on this important subject today and during
9 the workshops.

10 There is a lot of moving parts to this that
11 involved a number of -- do involve a number of agencies
12 and different responsibilities by a number of different
13 parties. One of the -- Chair Nichols, I'm glad you made
14 some reference to it. But I wanted to touch on what a few
15 speakers Mr. Magavern, in particular, said about approach
16 in terms of why aren't we with this interim guidance
17 looking at prioritizing projects that have multiple
18 benefits.

19 So you know, in other words, taking all the
20 advantage that Chair Nichols just mentioned about all the
21 various things that are in this guidance document about
22 urban forestry and energy efficiency and all the others,
23 but is there a particular reason why we don't underscore,
24 emphasize the prioritization of projects that do have
25 those multiple benefits?

1 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:

2 Thank you, Supervisor Serna.

3 We actually recognize the importance of doing
4 just that. On page 15 of the guidelines, what we
5 recognize is that in terms of maximizing the benefits,
6 there's really two different things that are important to
7 do to maximize those benefits. The first one is to have a
8 proportion of the funding that is greater than what's
9 required by SB 535. But the second one -- this is item
10 two under Chapter 6 there -- recognizes the need to give
11 priority to those projects that maximize multiple benefits
12 for disadvantaged communities.

13 The notation that we make under that is that we
14 did not go and require this in here because we have not
15 yet created the calculation methodologies that would let
16 you have projects compete by scoring the different
17 benefits, adding them up, and determining which provides
18 the most. So we didn't have a mechanism today to
19 implement that. But we encouraged agencies to do just
20 that, to give scoring prioritization to the projects that
21 have the most benefits and the most significant benefits.

22 BOARD MEMBER SERNA: That's important I think for
23 especially those speakers that brought up that particular
24 subject, it's an important angle to understand that.
25 That's why I wanted to make mention of it.

1 I think in terms of our influence, ARB's
2 influence going forward in terms of putting the guidance
3 into practice, that certainly for me is going to be one
4 that should remain a very high priority for all the other
5 agencies that are going to be actually appropriating --
6 allocating funds per the legislation.

7 And Cynthia, I'm glad you mentioned as several
8 have this morning reminded everyone that 25 percent and 10
9 percent, those are floors. And are we not in a position
10 with this document to suggest to the agencies that are
11 actually going to be in charge of allocating the funds for
12 various projects to speak to the process that they might
13 employ or generally ought to be employed for consideration
14 of exceeding those percentages, the 10 and 25 percent?

15 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
16 Absolutely. And while we were not suggesting a
17 quantitative level, the whole purpose of these guidelines
18 are to maximize those benefits. And the first thing that
19 we do is encourage agencies to look at all the potential
20 projects that can achieve the purposes of the program and
21 find out or see and seek out which projects can be located
22 in or benefiting disadvantaged communities and to maximize
23 to increase the amount of funding that goes to those. So
24 we've done it in a qualitative sense, not a qualitative
25 sense.

1 BOARD MEMBER SERNA: My last comment/questions.
2 This one is probably best addressed by La Ronda.

3 You know, there's obviously been a tremendous
4 amount of outreach. There's been workshops. There's
5 obviously great interest, especially among environmental
6 justice organizations and individual advocates with a
7 particular eye on the aspect of what we do.

8 Moving forward, have we looked at trying to
9 function as a clearinghouse in terms of giving especially
10 the EJ community an understanding of at what points will
11 they continue to have the ability to provide input, even
12 if it's not directly to ARB, but directly with the other
13 agencies that are referenced in this guidance document as
14 they move closer to allocating the money for projects?

15 OMBUDSMAN BOWEN: I'm going to defer that to
16 Cynthia. We have not an Ombudsman's office, but Cynthia is
17 managing this. And we work closely together on these
18 issues.

19 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
20 We think the point that you raised is very important. It
21 was certainly emphasized in the workshops, which is the
22 excitement and the potential of these funds and the good
23 they can do. But the rather dizzying array of agencies
24 and programs and information that's there.

25 So the first baby step that we took was to create

1 a website. And we're asking all the agencies to provide
2 information about their activities on that single website
3 so people can find out who's doing what.

4 The other thing in the guidance is that we
5 encourage all the agencies to have point people who are
6 available to both do the outreach to disadvantaged
7 communities and to be a resource so that there is a live
8 body to answer the phone, to talk to people about what's
9 possible, and to counsel them on how they can go forward
10 and access and apply for the funding.

11 BOARD MEMBER SERNA: Thank you.

12 Just my last comment is again want to thank
13 everyone involved with putting together this document. I
14 think it's one of the most important things that we do.
15 We, the staff, and we, the Board, is be clear about the
16 setting of expectations. This is -- this document is at
17 least for me -- that's kind of its principle function. So
18 this is kind of uncharted territory. This is a new
19 opportunity for local communities and certainly for the
20 agencies that are going to be involved in administering
21 funds for various projects.

22 But I think it's incredibly important to have a
23 very clear setting of expectations for -- especially for
24 the environmental justice community to understand how they
25 ought to and can influence projects in the future.

1 So again, thank you for all the hard work.

2 CHAIRPERSON NICHOLS: Great.

3 Mr. Gioia.

4 BOARD MEMBER GIOIA: Thanks. And I'm trying to
5 balance the need to go forward with the need to
6 incorporate additional comments. So maybe what I'll do is
7 suggest a couple of things that maybe we can include in
8 the interim guidance, knowing that you're going to come
9 back to us with some experience and before other agencies
10 implement. So maybe I'll just make a couple of few
11 suggestions.

12 I do think we should include more specific
13 language about the development of reporting and
14 accountability measures and that we're going to be really
15 clear that's what's going to be in the final. And I know
16 that -- so some flexibility to include language about
17 developing very clear reporting and accountability
18 measures in the final guidance.

19 Second, I know you made reference, and Supervisor
20 Serna referenced this as well, on page 15, so there is
21 under the guidance on maximizing benefits to disadvantaged
22 communities, it does say when selecting projects for a
23 given investment give priority to those that maximize
24 benefits to disadvantaged communities and uses the example
25 use scoring criteria that favors projects which provide

1 multiple benefits or the most significant benefits.

2 Maybe what would be useful because there is a
3 little going back and forth between the appendix tables
4 and the body of the guidance is that that language ought
5 to be included in every table, because ultimately, that's
6 what you're really trying to get agencies to do. So that
7 language is not under the appendix tables. But to include
8 that language in each table. So I think then it makes it
9 really clear to that specific agency that that's really
10 one of their charges. So I would like to suggest maybe
11 that we include that language in every table.

12 On page 18, on the guiding principles for
13 agencies with investments, benefiting disadvantaged
14 communities, I think the bar here is too low. It says
15 whenever possible investments should result in benefits
16 that address an important need commonly identified by
17 disadvantaged community residents or address key factor
18 and change the "whenever possible" to the "maximum extent
19 possible." That, to me, is a higher standard and is
20 better than just saying whatever possible, knowing
21 agencies are taking this is, oh, whenever possible, that
22 is very different than to the maximum extent possible.
23 Likewise, under B, it says, "Whenever feasible, agencies
24 should work together to seek opportunities to provide
25 multiple benefits." It should say, "to the maximum extent

1 feasible," rather than whenever "feasible." I think that
2 strengthens that guidance.

3 CHAIRPERSON NICHOLS: Could I just ask because
4 these are specific editorial changes, which I happen to
5 support, if these are items Board members in general are
6 supportive of, if you have give me a nod. And if not,
7 then we can discuss it. But otherwise, I'm inclined to
8 think that's what reflects what we all would like to see
9 happen. Okay.

10 BOARD MEMBER GIOIA: I've got a few more.

11 CHAIRPERSON NICHOLS: To the max. We're going to
12 the max.

13 BOARD MEMBER GIOIA: The first is going to
14 include that language on page 15 in each of the tables,
15 raise the standard on those.

16 Under the recommendations for administering
17 agencies to maximize funding, I realize and I want to
18 point this out, on appendix eight, for affordable housing
19 and sustainable communities project, it is really clear
20 that where it says, "project is designed to avoid
21 displacement of residents and businesses," I think you've
22 included the displacement standard in the category where
23 displacement is most likely potentially could occur. But
24 I know there's been concern about other areas. So maybe
25 you have that language or something similar that

1 displacement issues under the recommendations under C on
2 page 20, either C or D, wherever is most appropriate in
3 evaluating criteria, that you have some discussion about
4 the displacement issue generally there. Maybe not in the
5 exact same way that you specify. Because I think it is
6 appropriate under the affordable housing sustainable
7 communities, that's the comment on there.

8 CHAIRPERSON NICHOLS: To be in a category of
9 general rather than recommendations for administering
10 agencies, there could be a bullet point --

11 BOARD MEMBER GIOIA: Some general language.

12 CHAIRPERSON NICHOLS: -- added that suggests
13 that's a consideration that we're concerned about.

14 BOARD MEMBER GIOIA: Right. It makes it more
15 broader than just that category.

16 CHAIRPERSON NICHOLS: It belongs under C really.

17 BOARD MEMBER GIOIA: And I had a question on
18 Appendix 8, why you took out under step one on the housing
19 and CSC, while addressing housing needs and other regional
20 planning objectives. So in addition to the reducing
21 vehicle miles traveled, why was that taken out? I'm just
22 wondering.

23 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
24 That was an edit that we made at the request of the
25 Strategic Growth Council and housing folks. We didn't see

1 it as fundamentally changing the purpose there.

2 BOARD MEMBER GIOIA: Right, because folks are
3 trying to balance a lot of objectives here and was just
4 wondering --

5 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
6 If I might note, I think part of the reason they asked us
7 to make it was just that point, which this just mentions
8 two of the priorities. And in reality, those programs are
9 attempting to satisfy a lot of other objectives that were
10 not stated.

11 BOARD MEMBER GIOIA: Right. We heard a lot of
12 discussion about the corridor on transit. It sounds
13 something the way you explained this that the corridor
14 concept -- maybe you reference it -- is you sort of
15 inherently include that when you say that if the transit
16 goes into -- a transit corridor goes into a disadvantaged
17 community and goes outside, maybe make clear here this
18 doesn't prevent the expenditure of cap and trade revenue
19 on that corridor as long as that corridor goes into and
20 benefits a disadvantaged community. Am I correct in
21 saying that?

22 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
23 Yes, you are. The provision is that there be access in
24 the disadvantaged community or within walking distance of
25 that disadvantaged community.

1 BOARD MEMBER GIOIA: So when the corridor goes
2 from the disadvantaged community so let's say a workplace
3 that's outside the disadvantaged community, the funding is
4 eligible for that corridor.

5 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
6 If you're improving service or access.

7 BOARD MEMBER GIOIA: I think you may want to
8 clarify that. We got so many comments on that issue. And
9 maybe they did not interpret the way it's intended here
10 that it will include the corridor outside the
11 disadvantaged communities, as long as it touches and meets
12 the criteria here. So maybe including some language on
13 that so it clarifies that.

14 CHAIRPERSON NICHOLS: I have a hard time
15 believing that people couldn't just understand that. But
16 maybe there is a way to write it there.

17 BOARD MEMBER GIOIA: It's been mentioned so many
18 times, but the way you explained it, it does cover that.

19 CHAIRPERSON NICHOLS: It seems perfectly clear to
20 me it intended to and it did. But if there is a way to
21 clarify it further --

22 BOARD MEMBER GIOIA: There was a mention about
23 community choice aggregation not being covered to the
24 extent that disadvantaged communities are included in
25 community choice aggregation. It seems that's

1 appropriate. I'm trying to understand --

2 CHAIRPERSON NICHOLS: I don't know what category
3 that was intended to fall in. I heard that from the Bay
4 Area Air District, they had several ideas for types of
5 energy projects that would be good to fund. But I don't
6 know who we would be funding. If you look at who got
7 funding in this year's allocation, I suppose it's under
8 Table A4 -- there was some --

9 BOARD MEMBER GIOIA: There was some implication
10 it was not a potential eligible under -- it's under the
11 energy --

12 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
13 If I might clarify, these tables were designed around the
14 current year's budget appropriations to be responsive to
15 these programs. So Table A4 on energy efficiency and
16 renewable energy is primarily addressing the funding that
17 CSD got to do low income weatherization and to do solar
18 and renewable energy for low income households. So it's a
19 very specific investment in disadvantaged communities.

20 CHAIRPERSON NICHOLS: And it went to a program
21 that's named in the budget. So again, this goes back to
22 what was in the budget. There's nothing that says at any
23 future years money couldn't go out of the Greenhouse Gas
24 Reduction Fund to those projects.

25 BOARD MEMBER GIOIA: Finally, just the idea that

1 you're going to be coming back to us with the maps. The
2 maps are going to get developed here soon, and there will
3 be -- may be attached to these. It will have maps of the
4 step two -- I guess I call it that provides benefits to
5 communities. In addition to the maps -- whatever the maps
6 are that are created by Cal/EPA, we will take those maps
7 and develop new maps that cover the Benefited communities;
8 correct?

9 TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
10 Yes. And we can do that right away for the half mile and
11 the ZIP code. We'll need longer to do the impacted
12 corridors.

13 BOARD MEMBER GIOIA: One issue I know we're not
14 going to resolve today, but maybe to give thought to, is
15 this issue of housing in the disadvantaged community or
16 half mile and whether the ZIP code standard should apply
17 there as well.

18 There is an argument that many will make that you
19 don't concentrate all affordable housing in a
20 disadvantaged community, that that should be spread into
21 also other communities where there is transit, especially
22 in the Bay Area. There's identified priority development
23 areas near and around transit. So there's certain
24 categories.

25 So there has been this discussion you want

1 affordable housing in other appropriate areas that will
2 benefit people who often live in disadvantaged communities
3 and are making choice, let's say, to move near transit.
4 So I know that's a big issue. And that's whether we
5 expand that category to include the ZIP code.

6 And you know, I'd like to have more understanding
7 and maybe have staff look at that where you can come back
8 and possibly include that. That money is not going to get
9 out the door until next year anyway. So maybe before the
10 money starts to flow, we have some more discussion about
11 that issue.

12 CHAIRPERSON NICHOLS: Actually, I need to say
13 that I participated in a call with the agency and the
14 department a couple of days ago on this general issue.
15 And they believe they have projects that are ready to fund
16 in the current fiscal year. So I don't think we can say
17 just wait until next year.

18 They were and are particularly concerned about
19 whether the guidelines would preclude them from funding
20 good projects that aren't specifically geographically
21 located within or immediately adjacent to the identified
22 communities. And we took a pretty tough line with them on
23 the legal standard. But also said that, like the
24 department, we're concerned, too, that the moneys get
25 spent in ways that actually benefit the people that are

1 intended to be benefited. And I think the only way we can
2 actually judge that is to see what happens as this year
3 goes on and what the department is actually able to do
4 with the funding.

5 So I made a commitment -- and I'm happy to add
6 you to the review team here that we would look at
7 specifics of what projects they're looking at funding and
8 what they are going to fund out of this year's allocation
9 and see if they're having a hard time getting enough
10 projects that meet these criteria then we need to think
11 about how to adjust. But I'd rather at this point not try
12 to tweak the language of the guidelines. It just opens up
13 too many other problems.

14 BOARD MEMBER GIOIA: Finally, I do want to
15 address one last point that a few advocates mentioned is
16 in addition to prioritizing the co-benefits, which this
17 does, is prioritizing -- the issue was raised about
18 whether to prioritize the communities within the 20
19 percent. I would be concerned in doing that for one
20 reason. That assumes that everybody has agreed with the
21 variables used by the EnviroScreen, and not everybody
22 does. So the same advocates who show up at the Bay Area
23 Air Quality Management District meetings in the Bay Area
24 and say these communities need to be prioritized will lose
25 out if we prioritize the communities based upon the

1 ranking that EnviroScreen has prepared. In fact, the Bay
2 Area will lose out.

3 And other parts of the state will as well, but I
4 can tell you there are communities in the Bay Area that
5 will lose out -- I mean disadvantaged communities on this
6 map if we prioritize that way. And that's because there's
7 been disagreement about what it means to be disadvantaged
8 under the EnviroScreen tool.

9 So I think unintentionally the consequences would
10 not be what we all want to see if we did that. So I think
11 we are better being more flexible. I can tell you there
12 will be parts of Richmond that would be impacted by that.
13 And I don't think that's the intention of the advocates in
14 the Bay Area. So I don't think that's the direction we
15 should be going here.

16 CHAIRPERSON NICHOLS: All right. I think I saw
17 one more hand down here.

18 Supervisor Roberts.

19 BOARD MEMBER ROBERTS: Thank you. I've been
20 sitting quiet.

21 Let me -- first of all, I agree with the comments
22 Mr. Gioia just made regarding the 20 percent. And I think
23 it's causing major problems that unintended consequences
24 and everything else. And I think it isn't aligning with
25 what we know are disadvantaged communities, number one. I

1 think that should be reconsidered.

2 Secondly, I would also support the concerns over
3 affordable housing. I know we want to rush it. Why this
4 has to be approved right now and we can't take 30 days to
5 try to get this better -- not perfect. There is no way
6 it's going to be perfect. But it's flawed right now.

7 Finally -- put that map up again on San Diego,
8 please. Okay.

9 Madam Chairman, it is hard from somebody that
10 doesn't have a border to understand what a border is.
11 Where those two freeways come together in that white zone
12 is the busiest border crossing in the world.

13 CHAIRPERSON NICHOLS: You don't have a hard time
14 convincing me. You need to go take this argument to
15 Cal/EPA.

16 BOARD MEMBER ROBERTS: The fact that's not a
17 bright purple, it is disadvantaged in every way, shape, or
18 form.

19 CHAIRPERSON NICHOLS: All I can tell you is --

20 BOARD MEMBER ROBERTS: Let me finish.

21 CHAIRPERSON NICHOLS: All right. I just want to
22 say something about it, though.

23 BOARD MEMBER ROBERTS: Virtually all the freight
24 that moves there moves by truck. The rail crossing there
25 is restricted from 2:00 in the morning to 4:00 in the

1 morning or something like that. And is only restricted --
2 you can't do a double-deck train because of the trolley
3 lines. What I'm saying is virtually everything moves by
4 vehicle, and most of it is by diesel truck.

5 It's extremely busy. The federal government is
6 now looking at expanding by about another 12 lanes. The
7 average weight on any day is about two hours. It's like
8 the most congested freeway you will find. And it has -- I
9 can show you on just south of the border numerous
10 manufacturing mining operations and other things that
11 impact the air quality area. Okay.

12 The EnviroScreen may be good for some things, but
13 this is being missed. That whole area should be bright
14 purple, not just the white. All the way from the ocean to
15 what you're showing there should have been in any rational
16 analysis should have been a bright purple.

17 The fact that it's not should signal somebody
18 that the model we have is not accounting for what's
19 happening on the ground. And it may be a perfect model
20 for most of the state. It doesn't work in this area.

21 There is no way that I can support something that
22 basically ignores the situation like this. That's one of
23 our most impacted areas in the whole county, for certain,
24 and it's one of our lowest income areas. And I suspect
25 you're going to hear more about this.

1 But to push this ahead without accounting for
2 that, there is no way I would feel comfortable in doing
3 that.

4 The other things I'd like to see adjusted and
5 maybe we could be patient, but this is -- just doesn't
6 work at all. This is a miscarriage of justice. And you
7 talk about environmental justice, and there is none in
8 that map right there. Thank you.

9 CHAIRPERSON NICHOLS: Ms. Mitchell.

10 BOARD MEMBER MITCHELL: I just want to make
11 another comment about the ranking and the priorities we're
12 looking at.

13 We heard a dissent from ranking according to the
14 EnviroScreen impact. Part of that dissent comes from the
15 fact we've think the EnviroScreens are not completely
16 accurate.

17 However, I would also like us to reconsider the
18 rankings, because I think it was the intent of the
19 Legislature in SB 535 to address the most impacted
20 communities in some way. And so when we look at -- when
21 we finally get the EnviroScreen rankings to a point where
22 they're finalized, I think it would be important at that
23 point to take a look at those communities and re-visit
24 this idea of ranking and including in the ranking that
25 projects that effect the most impacted communities have a

1 certain priority over others.

2 So I just think we keep that in our sights and we
3 don't totally leave that behind us at this point.

4 CHAIRPERSON NICHOLS: Okay. Before we wrap this
5 up and take whatever action we're going to take, Mr. De La
6 Torre.

7 BOARD MEMBER DE LA TORRE: I had a general
8 comment. Not anything specific. I just wanted to
9 compliment the SB 535 Coalition. Old habits die hard.

10 The effort that was made going way back to when
11 the legislation was passed and the EJ groups came together
12 in a way that is fairly unprecedented to set priorities.
13 The priorities we saw in the presentation earlier today
14 was very, very impressive. And I see it -- my role on
15 this Board is to keep faith with that.

16 That effort was made again fairly unprecedented
17 for all of those different communities, all around the
18 state to come together. And at this point, you came up
19 with your priorities. We weren't speaking for you. No
20 one else in government was speaking for you. So now it's
21 incorporated into the planning. We need to keep faith
22 with that and make sure that the activity reflects those
23 priorities. So I think obviously the details of the
24 percentages and all that, we'll work all of that out. But
25 the important thing is those priorities are there. And we

1 will keep faith with them moving forward.

2 CHAIRPERSON NICHOLS: Thank you. I think it's
3 worth remembering that it was only a few years ago that we
4 were hearing tremendous unhappiness and dissatisfaction
5 from communities around the state about the Scoping Plan
6 and about the use of the Cap and Trade Program. And while
7 I know many organizations still would prefer some other
8 mechanism to the Cap and Trade Program, the fact so many
9 came forward and did participate in a very constructive
10 way in helping to figure out how we could use this program
11 to benefit disadvantaged communities is really a great
12 tribute to the communities and to the people who work with
13 them. So I would also like to second that comment.

14 What we are being asked to do today is to approve
15 the guidance that was developed by staff. Technically,
16 they didn't need our approval. But it seemed like a good
17 idea to bring this to the Board, given the level of
18 interest that there is in communities around the state and
19 among organizations around the state in making sure that
20 we are able to succeed with this program.

21 So as I said before, I intend to vote for
22 approval. I gather that there may be some significant
23 doubts about that. But I think it's to the benefit of the
24 State agencies that this is intended for that they have
25 something documenting the thinking that we've done

1 collectively at ARB and among the other state agencies,
2 including the Department of Finance, and what we heard
3 when we went out to the communities about how to at least
4 on the first year basis make sure that the moneys that are
5 going to be spent that have already been appropriated by
6 the Legislature are spent in a way that achieves the
7 results that were dictated by 535.

8 So I would like to ask for a motion to approve
9 the interim guidelines and then we can go forward.

10 BOARD MEMBER GIOIA: I move with the guidance or
11 direction we provided.

12 BOARD MEMBER RIORDAN: I'll second that, and ask,
13 Madam Chairman, could we also include as a side some
14 indication to Cal/EPA that we feel there are some issues
15 left with that map and that we would like that addressed.
16 I think for to ask individuals to go to Cal/EPA is a
17 little less impactful than this Board saying we think
18 there are some refinements that need to be made and you
19 should address some of those issues that were raised
20 today.

21 CHAIRPERSON NICHOLS: Hearing no objection, yes,
22 let's add that to the Resolution for this item.
23 Absolutely.

24 All right so we have a motion and a second here.
25 And I will ask for a vote then to approve the guidelines.

1 All in favor, please say aye.

2 (Nine aye votes)

3 CHAIRPERSON NICHOLS: Any opposed?

4 BOARD MEMBER ROBERTS: No.

5 (One nay vote)

6 CHAIRPERSON NICHOLS: One no. Supervisor
7 Roberts.

8 Any abstentions? Okay. It's done.

9 Thank you, staff. Thank you all who attended and
10 patiently waited.

11 We're going to take a lunch break before we come
12 back to work on various other items related to cap and
13 trade. We've got several of them that are regulatory
14 items. I know a number of people who are planning to
15 testify. So just for everybody's planning purposes, it is
16 now 12:25. I'm going to be realistic and say let's begin
17 again at 1:30. Thank you.

18 (Whereupon a recess was taken from 12:25 to 1:33)

19 CHAIRPERSON NICHOLS: Good afternoon, ladies and
20 gentlemen. We're about to resume the meeting.

21 The next three items on the agenda are all
22 related. We're going to start with the targeted
23 amendments to the cap and trade regulation. Then move to
24 updates to the mandatory reporting regulation. And then
25 finish off with proposed regulation to the cost of

1 implementation fee.

2 They're all targeted amendments for
3 clarifications or corrections. So these are not major
4 structural items, but they are changes that have been
5 identified that need to be made and do require action. So
6 let's start with the cap and trade proposal, which impacts
7 allowance allocation. The compliance obligation for
8 imported carbon dioxide updates the quantification methods
9 for three of our offset protocols and modifies the
10 requirements related to corporate disclosures and market
11 operation provisions.

12 Many of these proposed amendments were developed
13 in response to this Board's direction as well as
14 discussions with stakeholders and staff analysis that have
15 taken place since the last Board hearing on this
16 regulation in April of this year.

17 Collectively, the proposed amendments provide
18 clarity for covered entities regarding the allocation of
19 allowances, as well as the implementation and verification
20 of offset protocols and the requirements related to
21 trading and registration in the compliance instruments
22 tracking system service, otherwise known as CITSS.

23 Throughout the regulatory development process,
24 which began with the amendments approved by this Board in
25 April, staff has solicited feedback on the proposed

1 amendments from the Board, stakeholders, and the public.
2 The proposed amendments offer, as we've said before,
3 clarification on items that are targeted and have been
4 developed through a very open and transparent process.

5 Like all elements of the Cap and Trade Program,
6 we have been trying to move forward in a very careful way.
7 And I want to thank the people who have participated, both
8 the staff who have been listening to their stakeholders,
9 the Board members who have provided input and feedback,
10 and also the stakeholders who have been active.

11 We've had many conversations by phone. We've had
12 group meetings and one-on-one meetings trying to make sure
13 these proposals do, in fact, provide clarity and that they
14 will make sure that the Cap and Trade Program continues to
15 be successful in achieving the goals of AB 32. So we're
16 talking about fine tuning, but fine tuning in the eyes of
17 one stakeholder may be a major change in the eyes of
18 another. And it's important that we keep the balance
19 right.

20 So with all of that, we would like to begin this
21 item with the staff report. And it will be introduced by
22 Dr. Ayala.

23 ACTING EXECUTIVE OFFICER AYALA: Today, staff
24 will present amendments to the cap and trade regulation.
25 These modifications wrap up the last several rounds of

1 amendments to the program over the last two years and
2 clarify implementation, address stakeholder concerns,
3 respond to Board direction on various topics, and enhance
4 ARB's ability to oversee and implement the regulation.

5 We're asking that the Board adopt amendments to
6 adjust transition assistance for two covered entities,
7 establish a compliance obligation for the carbon dioxide
8 import sector, update existing offset protocols, and
9 clarify provisions regarding implementation and oversight
10 of the regulation. Subsequent items today address
11 conforming changes to the Cap and Trade Program as well.

12 Staff will describe changes for a 15-day
13 regulatory package. These additional amendments highlight
14 the ongoing dialogue between staff and stakeholders and
15 our commitment to ensure the regulation is implemented
16 efficiently and transparently.

17 The amendments under work in the 15-day package
18 represent a comprehensive regulatory process developed
19 over the past four years since the original adoption of
20 the cap and trade regulation.

21 The proposed amendments are refinements in
22 implementing what has proven to be a strong and robust Cap
23 and Trade Program. While targeted in scope, the
24 amendments were developed using the same level of public
25 engagement we have had throughout the development of the

1 Cap and Trade Program. This includes extensive
2 communication with stakeholders and the public and a
3 formal comment period.

4 Emily Wimberger from the Climate Change Program
5 will begin the staff presentation.

6 (Thereupon an overhead presentation was
7 presented as follows.)

8 AIR POLLUTION SPECIALIST WIMBERGER: Thank you.

9 Good afternoon, Chairman Nichols and members of
10 the Board.

11 This presentation will focus on proposed
12 amendments to the California cap on greenhouse gas
13 emissions and market-based compliance mechanisms
14 regulation, otherwise known as the cap and trade
15 regulation.

16 The proposed amendments include: Increases in
17 allocation to two covered entities, clarifying
18 modifications to product data definitions and legacy
19 contract text, changes in the coverage of imported carbon
20 dioxide, modifications to the disclosure of corporate
21 associations, and clarifications to market provisions
22 related to the reporting and offset transfers and
23 clearinghouse accounts.

24 Staff is also proposing some quantification
25 updates to three offset protocols. There is a first of

1 three items today that are closely integrated and work to
2 clarify and streamline three regulations: The cap and
3 trade regulation, the mandatory reporting regulation, the
4 AB 32 cost of implementation fee regulation. The Cap and
5 Trade Program relies on data collected through the
6 mandatory reporting regulation for implementation.

7 --o0o--

8 AIR POLLUTION SPECIALIST WIMBERGER: For this
9 presentation, I will begin by providing background on AB
10 32 and the goals of the Cap and Trade Program. I will
11 also discuss program milestones and updates.

12 I will provide an overview of the comprehensive
13 regulatory development process which has accompanied these
14 proposed amendments, including a proposal for additional
15 15-day amendments reflecting the continuing dialogue
16 between staff and stakeholders.

17 Next, I will present an overview of the
18 environmental analysis prepared for the proposed
19 amendments in accordance with the California Environmental
20 Quality Act, or CEQA.

21 The final portion of the presentation will
22 present staff's recommendation for Board consideration and
23 action on the regulatory amendments.

24 --o0o--

25 AIR POLLUTION SPECIALIST WIMBERGER: The Cap and

1 Trade Program is one of a suite of complimentary measures
2 that will reduce greenhouse gas emissions under AB 32.
3 Under the program, ARB places a statewide limit, or cap,
4 on the emissions from all covered sources.

5 The cap begins at the expected business-as-usual
6 emissions and then gradually declines at two to three
7 percent per year until the 2020 target is reached.

8 The total number of permits to emit, called
9 allowances, issued each year is equal to the cap. Covered
10 entities can buy and sell allowances and must obtain
11 enough to equal their total emissions.

12 The transfer of allowances between market
13 participants is referred to as a trade. By allowing
14 trades, the program provides covered entities the
15 flexibility to make reductions at their facility or trade
16 with others for allowances.

17 Trading allows entities to find the most cost
18 effective methods of compliance while the cap ensures that
19 the State will achieve its emission reduction goals.
20 Emission reductions that occur due to direct regulations
21 are also recognized under the Cap and Trade Program. In
22 this sense, direct regulations and the program work
23 together to reduce the State's overall greenhouse gas
24 emissions.

25 --o0o--

1 AIR POLLUTION SPECIALIST WIMBERGER: Cap and
2 trade places a price on carbon emissions to incentivize
3 reductions, spurring innovation and lowering emissions and
4 energy efficient technologies. The program is designed
5 the complement other existing programs to reduce criteria
6 and toxic air pollutants.

7 By setting and enforcing a strict limit on
8 greenhouse gas emissions, the program ensures ARB 32 goals
9 are realized. It's important to note the Cap and Trade
10 Program is technology neutral in that it does not mandate
11 the use of one specific emission reduction technology.
12 Thus, the program allows entities the flexibility to
13 comply with the regulation in the most cost effective
14 manner.

15 --oOo--

16 AIR POLLUTION SPECIALIST WIMBERGER: ARB places
17 an aggregate limit, or cap, on the emissions from all
18 covered sources for the years 2013 through 2020. Unlike
19 traditional air permitting programs, there are neither
20 specific caps for individual facilities, nor facility
21 level reduction targets.

22 The cap covers approximately 85 percent of
23 California's greenhouse gas emissions. The program begins
24 were a narrow scope, which includes emissions from large
25 stationary sources that emit equal to or greater than

1 25,000 metric tons of carbon dioxide equivalent per year,
2 including electricity generation and imports.

3 Beginning in 2015, the program will cover
4 emissions from the combustion of natural gas used in
5 residential, commercial and small industrial sectors, as
6 well as the combustion of gasoline and diesel.

7 --o0o--

8 AIR POLLUTION SPECIALIST WIMBERGER: The cap and
9 trade regulation was developed over a multi-year period
10 through an extensive consultation process. The Board
11 initially considered the proposed regulation in December
12 of 2010 and officially adopted the final Regulation in
13 October 2011.

14 In 2012, staff proposed two sets of amendments
15 that were formally adopted by the Board; one set related
16 to implementation and the other related to linkage with
17 the Canadian Province of Quebec, which the Board approved
18 in 2013.

19 Most recently, in April of 2014, the Board
20 adopted a broad set of regulatory amendments, including
21 additional transition assistance for covered entities, a
22 new offset protocol, and additional cost containment
23 features. These amendments became effective on July 1st
24 of this year.

25 --o0o--

1 AIR POLLUTION SPECIALIST WIMBERGER: To date, ARB
2 has successfully held eight quarterly allowance auctions.
3 The next auction will be held on November 19th of this
4 year. The compliance obligation for all covered entities
5 began on January 1st of 2013, and there have been two
6 allocations of allowances to eligible entities in November
7 of 2012 and 2013. The next allocation to covered entities
8 will occur in October of this year.

9 In September of 2013, ARB issued the first
10 compliance-grade offset credits, marking another important
11 step forward. To date, ARB has approved five offset
12 project protocols and has issued nearly 12 million carbon
13 offset credits.

14 The amendments related to linkage with Quebec
15 took effect in October of 2013, and linkage between the
16 two programs occurred on January 1st of this year. The
17 two jurisdictions continue to work together in program
18 implementation and monitoring and towards conducting joint
19 auctions.

20 Finally, the first compliance surrender date for
21 the program will occur on November 1st of this year.

22 On November 3rd, the first business day after the
23 compliance surrender date, covered entities must surrender
24 compliance instruments, including 2013 vintage allowances
25 and offsets credits equal to 30 percent of their 2013

1 calendar year covered emissions.

2 --o0o--

3 AIR POLLUTION SPECIALIST WIMBERGER: Staff began
4 the public process for this rulemaking on July 29th by
5 releasing the proposed amendments to the regulation for a
6 45-day public comment period. The proposed amendments
7 were written in response to Board direction and continued
8 dialogue with stakeholders to provide clarification and
9 targeted updates to facilitate program implementation.

10 This slide details proposed amendments to the
11 allocation of allowances and covered entities in the Cap
12 and Trade Program. Staff proposes an amendment to the
13 allocation for Metropolitan Water District. Staff
14 proposes a modification to the methodology used for
15 allocation to reflect that Metropolitan Water District
16 supplies 70 percent of its load with electricity from
17 large hydroelectric facilities. This will result in an
18 increase in the allocation for Metropolitan Water
19 District.

20 The proposed amendments also include a
21 modification to the allocation for the city of Shasta
22 Lake. The new allocation is based on new information that
23 was not available to ARB at the time of the initial
24 rulemaking and allocation determination in 2011. This
25 minor increase in allocation will be provided through

1 State-owned allowances and will not change the allocation
2 to any other utility. In the future, any such changes to
3 one utility would require a re-apportioning of the total
4 utility allowances among all utilities.

5 Staff also proposes modifications to the
6 definitions of several products used for allowance
7 allocation to align with the mandatory reporting
8 regulation. This proposed change will align the cap and
9 trade regulation with how producers already quantify
10 production.

11 The proposed amendments will also include
12 clarifications to the methodology used for the allocation
13 to a legacy contract generator with an industrial
14 counterparty to replace the continuation of allocation
15 until the end of the legacy contract.

16 The proposed text changes address an
17 inconsistency in the regulation and will harmonize the
18 text with the allocation formula that is already in the
19 regulation.

20 The final bullet on the slide details a staff
21 proposal to include a compliance obligation for imports of
22 carbon dioxide into California. The proposed compliance
23 obligation for imported carbon dioxide is comparable to
24 the compliance obligation for transportation fuels
25 imported into this state. There is currently no carbon

1 dioxide imported into California, and no covered entities
2 will be affected by this modification.

3 --o0o--

4 AIR POLLUTION SPECIALIST WIMBERGER: The proposed
5 amendments also include clarifications to the regulatory
6 requirements for disclosing corporate association
7 information. Based on Board direction and stakeholder
8 feedback, staff proposes to make explicit that entities
9 only need to disclose those related entities that qualify
10 as indirect corporate associates if those entities are
11 registered in the California Cap and Trade Program or a
12 linked jurisdiction.

13 The proposed amendments also clarify that when
14 reporting related entities that qualify as direct
15 corporate associates, those related entities would include
16 both those entities that are registered in the California
17 program or a linked jurisdiction and those that are not
18 registered.

19 Staff has also proposed to extend the time
20 between disclosures for changes to information regarding
21 non-registered direct corporate associates and for changes
22 to information regarding employees with knowledge of an
23 entity's market position from quarterly to annually.

24 These changes are necessary to improve clarity
25 and address stakeholders concerns regarding the

1 administrative burden of disclosing corporate
2 associations, while still providing information to ARB
3 that is essential to facilitate effective monitoring of
4 the Cap and Trade Program.

5 --o0o--

6 AIR POLLUTION SPECIALIST WIMBERGER: The proposed
7 amendments also include targeted clarifications to market
8 provisions. Staff proposes a clarification to the
9 regulatory requirements for price reporting of offset
10 transfers in the Cap and Trade Program.

11 The proposed clarification would require a price
12 of zero for any transaction that converts offsets into
13 compliance instruments. This change will improve clarity
14 regarding when price reporting is required for transfers
15 of offsets and will assist in market monitoring.

16 Staff also proposes clarification to the
17 application of the holding account to exchange
18 Clearinghouse accounts. Specifically, staff proposes
19 modifications to clarify that the holding limit
20 calculation will not include allowances contained in
21 exchange clearance holding accounts. This change will
22 restore the intent of a provision that was inadvertently
23 removed in a previous regulatory revision.

24 --o0o--

25 AIR POLLUTION SPECIALIST WIMBERGER: Finally,

1 staff is proposing quantification updates to three of the
2 existing compliance offset protocols. Staff has updated
3 the livestock, ozone depleting substances, and the US
4 forest projects protocols. These protocols are
5 incorporated by reference in the proposed regulation and
6 are being considered for adoption by the Board as part of
7 this rulemaking package.

8 Even though AB 32 exempts quantification updates
9 from the formal rulemaking process, staff provided detail
10 on the updates in the 45-day formal rulemaking process to
11 ensure a transparent review and comment period for the
12 proposed technical updates.

13 The proposed modifications will update three
14 offset protocols to reflect the latest science in
15 quantification methods. The updates are technical
16 modifications and do not change the handling or
17 quantification of any existing projects. Rather, the
18 modifications will apply to new offset projects listed
19 under the updated offset protocols.

20 These updates are required pursuant to Resolution
21 11-32 in which the Board directed ARB to monitor protocol
22 development and proposed technical updates as needed.

23 --o0o--

24 AIR POLLUTION SPECIALIST WIMBERGER: ARB prepared
25 an environmental analysis for the proposed regulatory

1 amendments. Prior to adoption of an action for which
2 potentially significant environmental impacts have been
3 identified, ARB's certified regulatory program requires
4 that ARB consider all feasible mitigation measures and
5 alternatives available which could substantially reduce
6 these impacts.

7 As discussed in the staff report, ARB has
8 concluded that no reasonable alternatives to the
9 amendments would be more effective at carrying out the
10 purpose for which the regulation was created.

11 The environmental analysis concluded that
12 compliance responses to the proposed amendments will
13 result in this no adverse environmental impacts.

14 --o0o--

15 AIR POLLUTION SPECIALIST WIMBERGER: This next
16 slide outlines the proposed 15-day language pertaining to
17 the disclosure of corporate associations. Staff is
18 proposing additional clarifications on the timing of
19 disclosure requirements for non-registered corporate
20 associations, as well as including an option for covered
21 entities to report a subset of non-registered direct
22 corporate associations that operate in related carbon,
23 fuel, and electricity markets.

24 The proposed 15-day language reflects the
25 continued dialogue between staff and stakeholders in

1 working to identify the proper scope of information
2 required to identify the relationships between entities
3 and ensure the integrity of the Cap and Trade Program.

4 Staff also proposes some minor clarification
5 changes to definitions related to product data and
6 clarifications to the quantification updates for the three
7 offset protocols.

8 --o0o--

9 AIR POLLUTION SPECIALIST WIMBERGER: Finally, I
10 would like to discuss the next systems for the
11 implementation of the Cap and Trade Program. As mentioned
12 earlier in this presentation, November 1st of this year
13 will mark the first annual surrender of compliance
14 instruments for covered entities.

15 By this deadline, covered entities must surrender
16 compliance instruments equal to 30 percent of their 2013
17 covered emissions, using either vintage 2013 allowances or
18 offsets up to 8 percent usage limit.

19 Staff has been working on a rice cultivation
20 protocol, which we expect to bring to the Board in
21 December of this year. Staff is also working on an update
22 to the U.S. Forest Projects Protocol to include Alaska.

23 And earlier today, ARB and Quebec announced the
24 first joint auction will be held this November 19th.

25 --o0o--

1 AIR POLLUTION SPECIALIST WIMBERGER: I will now
2 provide a brief update on our linked partner Quebec's cap
3 and trade system.

4 As the Board will recall, California and Quebec
5 officially linked their Cap and Trade Programs beginning
6 on January 1st of 2014. The Board directed staff to
7 provide updates to changes in the linked programs at least
8 six months prior to any changes taking effect.

9 To that end, Quebec will be proposing regulatory
10 amendments to harmonize their requirements with the
11 California regulatory amendments adopted in April of this
12 year. This harmonization is expected to have an effective
13 date of January 1st, 2015.

14 Quebec is also updating their ozone depleting
15 substances offset protocol to include refrigerants similar
16 to California's protocol. Later this fall, Quebec will
17 propose a new rulemaking to further align with today's
18 proposed amendments if approved by the Board. Quebec will
19 also be adding a new offset protocol for mine methane
20 capture that will cover projects in Canada. This protocol
21 is expected to be very similar to California's recently
22 adopted mine methane capture protocol.

23 --o0o--

24 AIR POLLUTION SPECIALIST WIMBERGER: In
25 conclusion, staff recommends Board approval of the

1 proposed regulation. This includes all written responses
2 to the environmental comments received on the proposed
3 amendments and approval of the final rulemaking package
4 presented before you, which includes the final regulation
5 order.

6 The Proposed Resolution also directs the
7 Executive Officer to propose 15-day changes as detailed in
8 Attachment B of the Resolution and to finalize the Final
9 Statement of Reasons for this rulemaking and submit the
10 completed regulatory package to the Office of
11 Administrative Law.

12 Thank you for your consideration. And we would
13 be happy to answer any questions.

14 CHAIRPERSON NICHOLS: I don't think there are any
15 questions. Obviously, this is a long list very technical
16 changes. But we do have a number of people who wish to
17 testify on some of them. So why don't we go directly to
18 the speakers' list, beginning with Bob Lucas from CCEEB.

19 MR. LUCAS: Thank you, Chairman and Board
20 members.

21 My name is Bob Lucas. I'm here today
22 representing the California Council for Environmental and
23 Economic Balance, also known as CCEEB.

24 Our interest here today is to comment on the
25 corporate association disclosure requirements and to point

1 out that although we may never get this absolutely perfect
2 forever, this is a dramatic improvement that we very much
3 support and appreciate your help, as well as the help of
4 Edie Chang and her staff in pulling this together in a
5 very cooperative manner.

6 So with that, I yield my time. Thank you.

7 CHAIRPERSON NICHOLS: Thank you very much. This
8 is one that responded to Board direction and I'm very
9 pleased that we've been able to make so much progress.

10 MR. VAN AELSTYN: Bob was too fast.

11 Members of the Board, my name is Nico Van
12 Aelstyn. I'm here today on behalf of forestry offset
13 project developers Blue Source, Finite Carbon and Eko
14 Asset Management Partners. These three constitute the
15 majority of the project developers in ARB's forest offset
16 program and are responsible for the substantial majority,
17 both by acreage and tons of the currently certified
18 improved forest management, or IFM, projects and these IFM
19 projects -- and those IFM projects that are currently in a
20 certification pipeline.

21 We appreciate this opportunity to speak here
22 today in relation to the proposed quantitative methodology
23 update to the U.S. forest offset protocol. We also take
24 this opportunity to again thank the ARB staff and the
25 Board for all the work that has gone into developing the

1 forest protocol and the success of the program to date.

2 Blue Source, Finite, and Eko generally support
3 the proposed changes in the QM update. However, as
4 stakeholders that have worked closely with ARB for years
5 in support of this program, we are very concerned about
6 the impact that certain proposed changes will have on IFM
7 projects.

8 We also are troubled by the failure, frankly, of
9 ARB to follow its established process for making changes
10 to the protocol. A fair and transparent process with
11 robust public involvement has been the hallmark of ARB's
12 AB 32 rulemaking to date. The departure from that process
13 here has deprived stakeholders of any meaningful
14 involvement on this important update.

15 That is why I'm here today. Let me make one
16 thing very clear. Blue Source, Finite and Eko are not
17 saying that the changes and the data on which they are
18 based are necessarily wrong or unacceptable. Indeed, my
19 clients ultimately may support them.

20 What we are saying is that we've not been given
21 adequate opportunity to review the data, to verify their
22 accuracy, to determine if they are sufficiently robust to
23 serve the critical role they serve in the QM, to consider
24 potential alternative data sets, and to engage with ARB
25 about all of this.

1 It is in input by the most directly affected and
2 most experienced stakeholders that has been denied. As a
3 result, there is a major shadow hanging over the QM and,
4 by extension, the program itself.

5 We, therefore, ask the Board not to move on too
6 discrete aspects of the proposed QM update. These are the
7 qualitative changes that have the potential to have a
8 major impact on the program. They're not quantitative
9 changes.

10 They are first: The changes to be assessment
11 area data file which are changes in the methodology for
12 calculating common practices and thus report calculated
13 carbon offsets from projects; and second, the associated
14 shift in high versus low site class designations for
15 certain projects.

16 These critical changes affect components in the
17 establishment of common practice levels for all IFM
18 projects. They involve complex and subjective decisions
19 that go beyond the purely quantitative arena.

20 This raises another item -- if I may just take a
21 little of Bob's time.

22 CHAIRPERSON NICHOLS: I'll give you 30 seconds.

23 MR. VAN AELSTYN: The changes could affect IFM
24 projects in the pipeline and those already certified.
25 That frankly could cause chaos. It's imperative that my

1 clients investments in these projects that were started
2 based on the current protocol be protected somehow. Not
3 sure how. Better to delay the process all together. Put
4 them off to the upcoming methodology reviews scheduled for
5 the fall.

6 I have the details here. I can submit the
7 comments here ways in which we believe that the process
8 guidance of ARB's May 2013 process for the review and
9 approval of compliance offset protocols has not been
10 abided by. That requires any changes to a protocol be
11 adopted in the same process as the adoption of the
12 protocol itself. There was robust public involvement on
13 these two particular issues on the original protocol.
14 It's imperative that we get that same kind of stakeholder
15 process in the update that really could effect how these
16 programs and these projects operate.

17 CHAIRPERSON NICHOLS: We hear you and understand
18 the point. And we will address it before we move forward
19 today. Okay.

20 MR. VAN AELSTYN: Thank you very much for your
21 time and my little extra.

22 CHAIRPERSON NICHOLS: We have another
23 representative from Blue Source, Kevin Townsend.

24 MR. TOWNSEND: Madam Chair and members of the
25 Board, my name is Kevin Townsend. I'm the Chief

1 Commercial Officer for Blue Source. We're to date the
2 largest contributor of forest carbon offsets to ARB's
3 program.

4 I really appreciate the opportunity to speak here
5 in relation to the proposed QM to the forest offset
6 protocol. Our organization would like to thank the Air
7 Resources Board and the staff for all the excellent work
8 they've done on the development of the forest protocol
9 over the years.

10 In general, we strongly support the proposed
11 changes to the QM update. However, there are two
12 important aspects of the update as iterated by Mr. Van
13 Aelstyn that we believe the Board should delay until the
14 upcoming regulator review update after they have been
15 subject to a transparent and participatory stakeholder
16 process.

17 The two changes are again: One, the changes to
18 the assessment area data file and to the associated shift
19 in high versus low site class designation. These are
20 critical importance and are not nearly quantitative in
21 nature.

22 And unfortunately, as Mr. Van Aelstyn already
23 discussed, the underlying method by which ARB established
24 these changes has not been provided to the public and
25 therefore is not fully understood by the stakeholder

1 community.

2 So as not to reiterate Mr. Van Aelstyn's comments
3 about process guidance, I would simply like to confirm
4 that we were not aware of what changes were being proposed
5 until after the submission was made to the Board. We were
6 also not provided any of the underlying data until weeks
7 later after we became aware of their existence.

8 To my knowledge, this has not been made publicly
9 available. Without this data, one is unable to assess
10 what specific changes are actually being made to common
11 practice and site classification. Simply put, some
12 stakeholders have received information that others have
13 not. And most haven't had time to vet the new data to
14 determine if it is sufficiently robust.

15 It may well be that stakeholders end up agreeing
16 this is the most important data but the public should be
17 provided were an opportunity to evaluate and it and
18 comment on it. That is after all why ARB has this process
19 so these highly technical and very important offset
20 protocols benefit from the input of those with the most
21 experience and expertise in the relevant fields.

22 We ask that you, the Board, give the stakeholders
23 the opportunity to provide input on these critically
24 important and potentially damaging changes to the update
25 and request that the Board at this time not move forward

1 with the proposed changes to the assessment area data file
2 and the site class designation system found on page 109 of
3 the proposal.

4 The Board does have the authority to decline to
5 move forward on these two discrete portions of the
6 quantification methodology update while approving the
7 rest, and we strongly encourage you to do so.

8 Thank you for the opportunity to voice our
9 concerns here today. I do appreciate your ongoing work.

10 CHAIRPERSON NICHOLS: Thank you.

11 Dorothy.

12 MS. ROTHROCK: Thank you, Mr. Chair and members.

13 My name is Dorothy Rothrock here with the
14 California Manufacturers and Technology Association. I'm
15 actually here representing two different groups. And I
16 hoped to have two different three-minute periods, but
17 maybe I'll just take the rest of Bob's time.

18 CHAIRPERSON NICHOLS: I think it's already been
19 used.

20 MS. ROTHROCK: The first group is we've been
21 coordinating the group of companies that are subject to
22 corporate disclosures requirements. There was over 800 of
23 those companies. And we met with ARB leadership and
24 staff. And we've been very pleased with the amount of
25 work we've been able to do with them to provide some clear

1 guidance to get us through the July 31st deadline this
2 last year.

3 But work is ongoing, and I submitted in written
4 comments a joint proposal for further work on that
5 corporate affiliate issue. We hope to work with staff
6 during the 15-day period to make further improvements to
7 that.

8 We also want to make you aware that there was
9 more changes that need to be made that can't be made in
10 this 45-day package. Those include the regulatory
11 investigation attestation piece, as well as the outside
12 counsel disclosure requirements. So work is ongoing, but
13 we are very pleased to date with staff. Thank you for
14 that.

15 I'm also here on behalf of the AB 32
16 Implementation Group to describe some of our
17 disappointment about some of the things that are not
18 covered in the 45-day package that we think need to be
19 addressed before we enter into the major expansion of the
20 program that starts in 2015.

21 We are also another year closer to the third
22 compliance period in cap and trade and the potential
23 reduction in industry assistance that will happen in that
24 period. So we think it's important to deal with some
25 issues soon as we're entering into the next phase here.

1 The first item you're aware of was a report done
2 by the Market Simulation Group where they identified some
3 very significant risk, not insignificant risks, of very
4 high prices in the market under some scenarios. And we
5 suggest that the ARB host a workshop or some kind of
6 public meeting to discuss that report and kick around,
7 debate some of the options for addressing that. There are
8 many different ways it could be addressed, and we think
9 it's important to have the debate on that and get it
10 resolved prior to moving into 2015 or much further than
11 that.

12 A second item is related to that. And that is
13 the holding limits requirement, particularly how the
14 holding limit impacts the largest compliance entities. It
15 also -- the holding limit at this point we believe reduces
16 liquidity in the market. I believe it's been mentioned
17 also in the market simulation group report. This is also
18 important to be addressed very soon.

19 And finally, related to the industry assistance
20 factor, a few years ago, ARB engaged Berkeley researchers
21 and others to study the leakage risk issues for industry
22 to inform how you will go forward in the third compliance
23 period for each sector. So the third compliance period
24 starts the beginning of 2018. So the report should have
25 been done by now. It was started a few years ago. But

1 now the Scoping Plan updates says we won't see that
2 leakage research until 2016. That's a few years before
3 the third compliance period.

4 We think this is all becoming a very short time
5 for industry planning purposes, and we need -- and the
6 need for them to purchase allowance and plan what their
7 expenses are going to be in the future. We would really
8 like to Board to consider keeping the current industry
9 assistance levels through 2020, or at least we'd like a
10 briefing very soon on the status of that research and when
11 it could be completed perhaps prior to 2016.

12 Thank you very much for the extra time.

13 CHAIRPERSON NICHOLS: Thank you.

14 Steve Arita.

15 MR. ARITA: Good afternoon, Madam Chairman,
16 members of the Board.

17 My name is Steven Arita with Chevron Corporation.

18 I'd just like to start by saying on behalf of
19 Chevron, we certainly appreciate all of the work and time
20 that Ms. Chang and her staff have done on working with us
21 in particular on the issue of the disclosure of associated
22 entities.

23 Madam Chair, as your staff knows, this is a very
24 important issue to us. So we are very much encouraged and
25 welcome the ongoing discussions with staff. And in

1 particular, we support the recommended Resolution and
2 working with staff during the 15-day comment period.

3 I'd also like to highlight that as mentioned by
4 Dorothy, we also have included in our comments the joint
5 industry proposal and the recommendations in there. So we
6 certainly look forward to working with staff on all of
7 those recommendations. And we are hopeful and very
8 encouraged that I think we can reach some agreement on the
9 revisions that we think are necessary during the 15-day
10 comment period.

11 And I guess just in closing, I think one
12 particular point that we would like to highlight is really
13 the importance of the ability to use a list of affiliates
14 submitted by other agencies, such as the SEC, to comply
15 with the unregistered affiliate disclosure requirements
16 that are listed in there. That's right now currently
17 under the guidance. So we certainly would like to see
18 that included in the 15-day rule revisions.

19 With that, again, appreciate all of the work
20 that's been gone into this and look forward to working
21 with staff.

22 CHAIRPERSON NICHOLS: Thank you.

23 Mr. Harris.

24 Mr. HARRIS: Thank you very much.

25 My name is Frank Harris. I represent Southern

1 California Edison. I appreciate the opportunity to
2 address the Board today.

3 Edison submitted written comments I'd like to
4 focus just on a few elements related to corporate
5 disclosure requirements.

6 First, as others have indicated, I wanted to
7 thank staff for their work. As we've been working to
8 implement this regulation, we've gained a lot of valuable
9 experience. And we've seen how various components of the
10 rule actually work. We've had a good number of questions.
11 We've reached out the staff. We've been working with them
12 to better understand these elements of the rule.

13 I want to thank them for their efforts working
14 with our staff to better understand this corporate
15 disclosure requirement element under the rule. But as
16 we've been working on this implementation, we've actually
17 identified some changes that we think will further improve
18 the operability of the rule, while maintaining reasonable
19 corporate disclosure interest of the state.

20 First, we'd like the ARB to modify its disclosure
21 requirement for corporate associations not registered in
22 this program. We noted in the presentation that indirect
23 corporate affiliates that are not registered in the
24 program, that disclosure requirement has been modified.
25 We would like to see that modification applied to the

1 direct corporate affiliates as well.

2 As Mr. Arita mentioned, we would like to see the
3 rule include an acceptance of reports that we currently
4 submit to other agencies, such as the SEC or CFTC,
5 something of this nature. As an example, we report our
6 affiliates to the SEC under our 10k filing. I believe the
7 SEC filing provides information sufficient to satisfy the
8 monitoring interest of the state. I think that would
9 further improve the operability and certainly improve the
10 administrative challenges that we're facing here.

11 Further, I think ARB should remove the disclosure
12 requirement regarding market investigations of corporate
13 associations. Those corporate associations that are
14 registered with this program already submit that
15 information directly. And I just question the relevance
16 of investigation of information regarding affiliates that
17 aren't registered with the program. Now, on this
18 particular issue, it goes beyond administrative burden.
19 We're finding ourselves pushing up against affiliate
20 compliance rules, other restrictions, such as those
21 imposed on us by the FERC.

22 Key to these comments is our interest to further
23 improve the operability of the program and avoid
24 unintended enforcement challenges. It is a very
25 complicated regulation. As we continue to learn from our

1 shared experience, I expect that we will see the
2 opportunity for further changes and modifications as we go
3 on. Thank you again for your time.

4 CHAIRPERSON NICHOLS: Okay. Michael Wang and
5 then Tony Brunello.

6 MR. WANG: Good afternoon, Madam Chair, members
7 of the Board.

8 Mark Wang with Western States Petroleum
9 Association. We've submitted comments in written form to
10 you all, and so I will only hit some of the high points.

11 First, I want to thank the staff for the efforts
12 they've done in communicating with all of us. And
13 sometimes communication with us is very difficult. So we
14 appreciate the efforts that they expended.

15 Also, it seems from the staff presentation at
16 least some of our issues that we raised in a letter have
17 been addressed. I'll only discuss some of the ones that
18 remain unresolved.

19 As staff is aware, WSPA members have participated
20 in a joint industry group seeking clear compliance pathway
21 to satisfy the corporate associations and disclosure
22 requirements required in the cap and trade regulation.
23 You have heard of this already.

24 I want to stress that a fruitful discussion has
25 taken place between staff and industry and stakeholders

1 over the past few weeks that has gone not only unnoticed,
2 but very much appreciated. However, those discussions
3 have identified some issues that remain unresolved.

4 WSPA supports the joint industry proposal for
5 changes. In particular, WSPA associates ARB's
6 clarification in Attachment B to I think the proposed
7 Resolution 1431 that consistent with the July 29th
8 guidance disclosure by registrants of their form SEC 10k
9 list of subsidiaries will comply with the disclosure
10 requirements. WSPA joins others in noting that there are
11 additional changes that need to be made that are beyond
12 the scope of perhaps the 15-day comment period that is
13 upcoming.

14 We know, for example, regulatory investigation
15 disclosure and attestation requirements included in
16 section 95912 must be addressed as part of a subsequent
17 45-day comment period that would be I expect started in
18 2015.

19 We ask ARB's collaboration with the joint
20 interest group toward a workable long-term solution on
21 this issue as shown in both a 15-day package that will be
22 proposed herein today and in a 45-day package subsequent.
23 Thank you.

24 CHAIRPERSON NICHOLS: Great. Thanks.

25 Mr. Brunello.

1 MR. BRUNELLO: Hi. I'm Tony Brunello with
2 California Strategies representing CE2 Carbon Capital.

3 Thanks for the time to speak today. I think
4 first starting off is want to commend the staff and
5 everyone who's helped put together the protocols at this
6 time, which we think have been air tight, produced well,
7 and looked at the process. Commend the staff in that
8 process.

9 Second is the time line that was presented
10 earlier, November 3rd, when capped entities have to
11 present their allowances or offsets to ARB.

12 One thing that is significantly disrupting the
13 offset market at the moment is the investigation into the
14 clean harbors issue. And so we assume that that was going
15 to be about 30 days to determine. It's about four months
16 since that's occurred. And what we're asking is to see if
17 there can be more transparency and at least some
18 information on where that's going to go, because it does
19 have significant impacts on the offset market. So I just
20 wanted to highlight that. I know we haven't talked about
21 it very much today. I know there's reasons for that. But
22 I do think that some signals about where that's headed is
23 something that would be very helpful for the offset market
24 at this time. That's it. Thank you.

25 CHAIRPERSON NICHOLS: Okay. Mr. Larrea and then

1 Paul Mason.

2 Thank you, Board, for allowing me to speak. John
3 Larrea with the California League of Food Processors.

4 First, I'd like to echo support for both Bob
5 Lucas and Dorothy Rothrock's comments associated with the
6 corporate disclosure. We have been very pleased with the
7 staff's effort on this and the Board's effort and
8 attention to the detail on that.

9 Also as members of the AB 32 implementation
10 group, we are fully in support of the comments that the
11 group put in as well.

12 And I'd just like to personally thank Jason and
13 his team in their effort on the corporate disclosure. We
14 are not -- most of my members, although some are
15 internationally traded and publicly traded, many of them
16 are family owned or cooperatives or small companies with
17 emissions totaling less than 40,000 tons per year. And so
18 the less onerous the compliance obligation and the
19 reporting obligation is on them, the better it is. And it
20 makes a little more valuable in terms of the allowances
21 they have and the money they have to expend per ton of
22 emissions in order to meet the compliance obligations that
23 most huge corporations just can take into stride with
24 their organizations. So thank you again.

25 CHAIRPERSON NICHOLS: Okay.

1 MR. MASON: Good afternoon, Chairman Nichols,
2 members of the Board.

3 Paul Mason, Pacific Forest Trust.

4 I can be fairly brief, because I'm largely going
5 to follow the same list of concerns that were raised
6 earlier by Nico and Kevin about the changes to those
7 couple of pieces of the forest protocol.

8 And our technical staff has looked at them, has a
9 couple of questions. I do feel like there could be more
10 stakeholder discussion around those. And it might be less
11 of an issue if there wasn't also this sort of inherent
12 market instability and uncertainty that Tony Brunello was
13 just referencing as well that I think when you start
14 having some of these changes happening where the very
15 offset developers who are going to be most likely to be
16 bringing these projects to market have concerns about the
17 changes in how it's going to effect to quantification
18 methodologies, that trickles out to land owners and makes
19 people further reluctant to engage in offset development.

20 So to the extent that it's actually possible to
21 take an extra couple of months to have a little more
22 conversation about this, if that's feasible within this
23 process, I think that would be a great solution. Thank
24 you.

25 CHAIRPERSON NICHOLS: All right. Thank you.

1 That concludes the public testimony. So I will close the
2 record at this point. However, the record will be
3 reopened when the 15-day notice of public availability is
4 issued. When that happens, there will be a 15-day comment
5 period during which the public may submit written comments
6 on the proposed changes which will then be considered and
7 responded to in the Final Statement of Reasons for the
8 regulation.

9 However, before we actually act on this set of
10 proposals, there have been a couple of fairly substantial
11 comments made here particularly the ones about the process
12 and the desirability of moving forward on some changes to
13 the forestry protocol. So I'd like to address those. And
14 then I'm also going to ask -- because there are several
15 comments that refer to sort of a longstanding ongoing
16 process to deal with the reporting requirements, what the
17 process on that looks like going forward.

18 But let's start with the forestry issue.

19 ISD CHIEF SAHOTA: I'd like to start by saying
20 that the quantification methods that are being proposed in
21 front of the Board today are exempt from the APA process
22 under AB 32.

23 Regardless of that, staff felt it was important
24 to make sure that we did those updates in the same manner
25 that we could do any rulemaking that we bring in front of

1 the Board. To that effort, we had two workshops earlier
2 this year, March and June. We had slides that talked
3 about updates to the common practice using 2012 data.
4 Those slides are still available on our website. Those
5 workshops were list served ahead of schedule almost ten
6 the twelve days ahead of the workshops. We had two
7 informal comment periods that followed those workshops.
8 And that was all prior to the release of the 45-day formal
9 rulemaking package.

10 When we released the formal 45-day rulemaking
11 package, that again is list served to all of the
12 stakeholders that this is now available. As part of that
13 package, we have to submit the underlying data files to
14 BARCU to make available for the public for review because
15 it's underlying materials to the changes that are being
16 proposed here.

17 Staff also posted those files on the program web
18 page. So if you didn't want to request those from BARCU,
19 you could come directly to our main web page and get
20 access to those files.

21 Staff has held many informal meetings with
22 stakeholders on this, and we feel like we absolutely
23 adhere to the APA process, even though these parts of the
24 protocols are exempt from the APA process.

25 The folks that are concerned about changes to the

1 protocols and impacting projects, these would not impact
2 projects that are in place today. It would impact new
3 projects. There is an anticipated start date for these
4 amendments to take place on January 1, 2015. If the Board
5 endorsed the changes today and we successfully provided
6 everything to OAL this year, we would expect these
7 amendments to take effect on January 1, 2015. So projects
8 that are thinking about coming into the program that feel
9 like they would somehow benefit under the existing
10 protocol have three months to submit the listing documents
11 for those projects and get in under the existing protocol.

12 And I'd be happy to answer any additional
13 questions.

14 CHAIRPERSON NICHOLS: Well, it's hard to see what
15 the harm is of proceeding, but obviously these folks are
16 concerned and upset. So I guess I'm trying to figure out
17 whether there is anything that could be done to make them
18 less concerned and upset, and if so, what the impact of
19 that would be on the program overall.

20 ISD CHIEF SAHOTA: So the changes are driven by
21 data. What we're seeing is that based on new data
22 provided by the U.S. Forest Service, that what we thought
23 were common practice, which may have been at a lower level
24 in the existing protocol, common practice actually is
25 resulting in a higher carbon stock.

1 So if your base line is higher and you implement
2 a project, you will get a net delta that is slightly
3 smaller under the new proposed protocol than the existing
4 protocol. So you would see a deficit in your credits
5 under the new protocol, but it's all based on updated data
6 through 2012 that we received from the U.S. Forest
7 Service. We have Board direction from Resolution 11-32 to
8 make sure that we looked at the latest science. We looked
9 at the latest data and we provided timely updates to the
10 protocols. So staff was responding to that direction in
11 proposing these amendments.

12 CHAIRPERSON NICHOLS: I appreciate that and I
13 have no reason to question whether you followed both the
14 regulation and beyond the regulations in terms of openness
15 and transparency. So let me put the question another way.

16 If people are thinking that somehow delaying this
17 action will allow for more projects to be done that will
18 get them more credits than they would get with using the
19 updated science, I'm surprised that we're not hearing from
20 advocacy groups that generally are very concerned about
21 forestry offsets and about forest practices that they are
22 supporting these changes that we're making. Have we had
23 indications that people who are promoting better forestry
24 practices are aware of and in support of what the changes
25 are that we're proposing?

1 ISD CHIEF SAHOTA: We certainly had in our
2 technical meetings and those workshops folks that may not
3 always be supportive of the offset program.

4 CHAIRPERSON NICHOLS: In general.

5 ISD CHIEF SAHOTA: In general. What is
6 noticeable here is that non of them submitted comments
7 that would say they oppose the changes. Usually, their
8 comments are we oppose the changes. And noticeably, all
9 those comments are missing from that group of folks that
10 we generally hear from. So I guess you could take that no
11 notice of -- that's a double negative -- no notice of
12 being unsupportive is in some way a condonement of the
13 changes that are being proposed.

14 CHAIRPERSON NICHOLS: I understand. This is
15 just -- it's coming up rather late in the day. I had not
16 heard previous to today that anyone was complaining about
17 the process. So it's a little bit concerning when this
18 comes up at the last minute. But I understand we just
19 have to decide what we're going to do.

20 So what about the issue of the ongoing
21 discussions about simplifying the reporting requirements?
22 I understand you've made substantial movement in that
23 direction. But there are clearly groups that just want to
24 keep working on this problem more that aren't satisfied
25 that we've gone far enough.

1 MANAGER GRAY: Madam Chair, thank you.

2 I think you heard from folks that discussion is
3 ongoing. The 15-day concepts that we included into the
4 resolution for your consideration reflect that discussion
5 is ongoing. So I appreciate the commentary saying that
6 same thing.

7 What we're intending to do is make sure that we
8 can provide that flexibility while still being able to
9 gather the information we need for market monitoring
10 purposes.

11 The main concepts that were raised in the joint
12 industry proposal that you heard about today, we're
13 working to see to the extent we can include those and
14 still get what staff thinks we need for monitoring. I
15 think we're making really good progress on those
16 discussions on those concepts. That would include
17 providing an option for flexibility on disclosing those
18 unregistered direct corporate associates who are in
19 related market.

20 This would be a narrowing of the scope of that
21 type of disclosure. And also working with folks to see
22 what types of information documentation. You've heard the
23 SEC Form 10k filings can be submitted as well. So we're
24 working with stakeholders and will continue to do that for
25 15-day language. So I think that we're working towards a

1 good end with the same goal in mind.

2 There are some elements in the joint industry
3 proposal that were beyond the scope of this 45-day
4 rulemaking. You heard folks mention that, too. I think
5 those discussions will be going on well. Not for this
6 15-day package, but we're still discussing with people.

7 CHAIRPERSON NICHOLS: Okay. Thank you.

8 Board members, any other questions.

9 BOARD MEMBER ROBERTS: Quick question. It was
10 referred to it was something I remember distinctly we
11 talked about last year when we shifted the compliance
12 period. The Berkeley study on leakage which was supposed
13 to give us better data -- I don't know where that is.
14 There was a question raised in testimony for today. I
15 thought we were going to be seeing something. But maybe I
16 missed it.

17 MANAGER COOMBS: I can provide an update about
18 that.

19 I believe the contract was put on with U.C.
20 Berkeley. We finally got it through January of last year.
21 It's taken a significant amount of time for the
22 researchers to actually get approval to access the US
23 Census data they were required to do the research. There
24 are a number of steps that they have to go to to get
25 approval to access those data.

1 As of June, all the researchers have access to
2 the data and are working on compiling those data so they
3 can do the analysis necessary to update the leakage
4 assistance factors.

5 BOARD MEMBER ROBERTS: When will we have
6 something?

7 MANAGER COOMBS: We expect to have something by
8 the middle of next year. So approximately June of 2015.

9 BOARD MEMBER ROBERTS: That's almost two years
10 from when we said we were going to do the study.

11 MANAGER COOMBS: That is the reason I believe the
12 Board approved the extension of the 100 percent assistance
13 factor through the second compliance period so that
14 industry would have that certainty.

15 CHAIRPERSON NICHOLS: We've already extended the
16 industry assistance factor. I think industry would like
17 it if we extended it all the way to 2020. But I think we
18 have not thought that that needed to happen until we had
19 the results of this study.

20 BOARD MEMBER ROBERTS: I guess I had expectations
21 we would see it at an earlier date.

22 CHAIRPERSON NICHOLS: No. It's taken longer than
23 I think anybody had thought it would when we first
24 started.

25 Any other questions, comments from Board members?

1 Ms. Berg.

2 BOARD MEMBER BERG: Thank you, Chairman.

3 And I'd like to also echo some of the concerns
4 that have been raised and that is some of these ongoing
5 things that we keep hearing about. We talked a little bit
6 about -- I think the Chairman and I brought up the holding
7 limits last time. And I know we have two studies out.
8 And I had asked for some data, but I'm not finding it here
9 in my Board information regarding some of the holding
10 limit issues. And so that seems to be still on the table.

11 And as we are coming up to the next compliance
12 period and it seems that cap and trade will go into
13 another phase, which will be less industry assistance.
14 And so it seems to me that it might be appropriate for us
15 to get an update of some sort as to how we see cap and
16 trade evolving and the impacts of the new changes that are
17 going to -- that are a natural evolution to the process
18 and things like the holding limits that aren't -- that
19 hasn't been resolved yet.

20 We also have some benchmarking issues that have
21 not been resolved yet. So it is an ongoing program that
22 no question we've got some things we're still learning.
23 But you have some data coming in, my understanding is, and
24 how are we going to get that back to the Board. Because I
25 feel like either I'm not following up enough or I'm not

1 getting the data. So could we talk a little bit about
2 that? It seems like things are going to start moving
3 quickly here and how are we going to keep informed.

4 CHAIRPERSON NICHOLS: Ms. Chang.

5 DEPUTY EXECUTIVE OFFICER CHANG: I think we can
6 definitely come back to the Board for an update. I think
7 you are right, there are a number of different things that
8 are happening within the Cap and Trade Program. And we
9 can definitely give the Board an update. If there is some
10 information you're looking for, we can also talk with you
11 directly about the kind of information on the holding
12 limits that you are looking for.

13 CHAIRPERSON NICHOLS: In terms of packages of
14 proposals for amendments though, these sort of have to be
15 grouped together and they have to come forward. It's a
16 frustrating business because you get a package and it's
17 like a piece of swiss cheese. There is a lot of holes in
18 it. But on the other hand, if you don't do something in
19 the timely fashion, then you're delaying action on things
20 where you are ready to move and the stakeholders are
21 expecting to see the changes made.

22 So I think we're still trying to come up with a
23 kind of an orderly process for doing all of that on a
24 regular basis. I expect that we're going to be seeing
25 another round of proposed amendments coming forward in the

1 reasonably near future though.

2 DEPUTY EXECUTIVE OFFICER CHANG: As we mentioned
3 in the staff presentation, the next time that we will be
4 talking about the cap and trade regulation is actually at
5 a December Board meeting. We're going to be considering
6 two modifications to the forestry protocol and a new
7 offset protocol, the rice protocol. We're going to be
8 seeing those this year.

9 As of now, we don't have scheduled to have a cap
10 and trade modification next year. However, as you said, I
11 think as we learn more things as we -- there is ongoing
12 discussions about border carbon adjustments, there are
13 ongoing discussion about many, many implementation issues,
14 and so although we don't have something scheduled, you'll
15 notice if you look at the Resolution, we've modified the
16 cap and trade regulation every single year. So we've had
17 amendments every single year to address these things that
18 we're finding as we go through implementation.

19 So I share the Chairman's observation that I
20 think we're still working out sort of the best way for us.
21 It's a very complicated regulation and the best way for us
22 to sort of stage and batch the modifications.

23 BOARD MEMBER BERG: I would agree it is extremely
24 complicated. I think my frustration is that I get the
25 impression at Board meetings we're going to follow up on

1 some additional issues. And then it comes back to the
2 Board meeting and we: A, haven't followed up; and B, I
3 feel like I need to be more connected so either I'm can
4 bug you more so that we do follow up, or I can understand
5 as to why staff has made a conclusion. And therefore, I
6 need to be brought up to date and either understand that
7 conclusion so I move off of the particular issues that I
8 have been following.

9 CHAIRPERSON NICHOLS: I think that's a very
10 reasonable request. I expect the staff will follow up and
11 schedule a briefing with you, at least individually on the
12 specific items that you're particularly following.

13 This comment about December and the forestry
14 thing though just makes me wonder what harm would be done
15 if we kicked over these two items to December, other than
16 the fact it probably isn't necessary.

17 But if, on the other hand, would there be any
18 damage to the program if we waited and did those two items
19 on page 109 of the proposal in December when we do the
20 other forestry protocol changes.

21 ISD CHIEF SAHOTA: We could certainly do a 15-day
22 change in the current proposal to remove those items now
23 and bring those back as part of the December rulemaking
24 package to look at additional update to the protocol to
25 add Alaska. These are quantification updates driven by

1 data. It would give us more time to have that discussion
2 with stakeholders. At this moment, I'm not certain if we
3 would see a different outcome because it is
4 quantification.

5 CHAIRPERSON NICHOLS: I tend to agree with you
6 that they were asleep at the switch and we're right. But
7 never the less, it's probably better to err on the side of
8 giving them more time.

9 BOARD MEMBER RIORDAN: I think there is a point
10 at which they're going to feel more comfortable and then
11 the Board will feel more comfortable moving forward. I
12 would agree with that.

13 ISD CHIEF SAHOTA: We can certainly do that.
14 There is no reason those two have to go -- those two items
15 need to go forward with this package today.

16 CHAIRPERSON NICHOLS: I would welcome a motion to
17 approve the staff proposal with the amendment that would
18 take out --

19 BOARD MEMBER RIORDAN: So moved, Madam Chair.

20 BOARD MEMBER ROBERTS: Second.

21 CHAIRPERSON NICHOLS: Second from Supervisor
22 Roberts.

23 Do we have any further discussion on this item?
24 All right. I will ask for a vote.

25 All in favor, please say aye.

1 (Unanimouse vote)

2 CHAIRPERSON NICHOLS: Any opposed? Any
3 abstentions? Great. Thank you very much.

4 We'll move into the cap and trade item, which is
5 the mandatory reporting regulation that spells out the
6 requirements and the methods for reporting greenhouse gas
7 emissions data.

8 This obviously represents the foundation of the
9 Cap and Trade Program and provides emissions data that we
10 use in various other climate change programs as well.
11 It's a really critical piece of our overall AB 32
12 regulatory program.

13 The amendments that we're seeing today again are
14 technical revisions intended to clarify the existing
15 regulation with respect to how entities report their data
16 and to integrate the reporting requirements under the cost
17 of implementation fee regulation into the mandatory
18 reporting regulation to allow for more streamlined
19 reporting under these two programs.

20 Dr. Ayala.

21 ACTING EXECUTIVE OFFICER AYALA: Thank you.

22 One of the requirements of AB 32 is mandatory
23 reporting of greenhouse gas emissions data.

24 In 2007, the Board approved the regulation for
25 establishing the nation's first mandatory reporting rule

1 for GHG emissions. Reporting began in early 2009 for data
2 collected in 2008.

3 The Board approved amendments to the regulation
4 in 2010 to harmonize it with EPA's new mandatory
5 greenhouse gas reporting rule and to support the newly
6 approved cap and trade regulation. Further, amendments
7 were approved by the Board in 2012 and 2013.

8 Today, staff is proposing revisions to align the
9 reporting requirements to implement the Cap and Trade
10 Program. These modifications and clarifications,
11 including those to integrate the cost of implementation
12 fee regulation reporting requirements into mandatory
13 reporting, will ensure accurate and consistent data are
14 collected to fully support of all of ARB's climate
15 programs.

16 Patrick Gaffney from the Climate Change Program
17 will provide the staff presentation.

18 (Thereupon an overhead presentation was
19 presented as follows.)

20 STAFF AIR POLLUTION SPECIALIST GAFFNEY: Good
21 afternoon, Chairman Nichols and members of the Board.

22 This Board Item is to discuss staff's proposed
23 amendments to the regulation for the mandatory reporting
24 of greenhouse gas emissions.

25 --o0o--

1 STAFF AIR POLLUTION SPECIALIST GAFFNEY: The
2 amendments we are proposing today provide targeted updates
3 necessary to ensure that reported data are accurate,
4 complete, and fully support ARB's climate programs. The
5 proposed revisions were developed in close coordination
6 with affected stakeholders.

7 For today's presentation, we will provide some
8 background on the mandatory reporting program, summarize
9 the proposed amendments, and describe areas where staff
10 are proposing 15-day changes based on stakeholder input.

11 --o0o--

12 STAFF AIR POLLUTION SPECIALIST GAFFNEY: The
13 regulation before you today is the sixth revision to the
14 greenhouse gas mandatory reporting regulation, which was
15 initially adopted by the Board in 2007.

16 Each year, nearly 750 entities report data under
17 the Greenhouse Gas Mandatory Reporting Program, which
18 supports multiple climate change programs at the ARB.
19 Specifically, today's amendments are to align with both
20 cap and trade and the cost of implementation program
21 needs.

22 The reporting entities subject to the regulation
23 fall into three main categories. First, we have
24 stationary source facilities with greenhouse gas emissions
25 that are greater than 10,000 metric tons of carbon dioxide

1 equivalent or CO2e per year.

2 Next, electricity importers and retail providers
3 must report under the requirements of the regulation.
4 There is no minimum reporting threshold for these
5 entities.

6 Then, in 2010, we included reporting requirements
7 for fuel suppliers, which includes transportation fuel and
8 natural gas suppliers with emissions over 10,000 metric
9 tons of CO2e.

10 Finally, to ensure the quality and accuracy of
11 submitted data, all greenhouse gas reporting entities
12 subject to the Cap and Trade Program are required to have
13 their data fully evaluated by an ARB accredited
14 independent third-party verification body.

15 --o0o--

16 STAFF AIR POLLUTION SPECIALIST GAFFNEY: As I
17 mentioned previously, these targeted amendments are
18 proposed to ensure complete and accurate data used to
19 support many ARB climate programs.

20 The first set of updates are proposed to align
21 the mandatory reporting requirements with the cap and
22 trade regulation, for which amendments just became
23 effective on July 1st, 2014. Primarily, these revisions
24 focus on refinery product data reporting requirements.
25 Product data are the basis of allocation in the Cap and

1 Trade Program.

2 Next, we have proposed updates to integrate the
3 cost of implementation fee regulation data reporting
4 requirements into the mandatory reporting regulation. As
5 you will hear in the next item, this will streamline
6 reporting requirements under the two programs.

7 We are also proposing targeted updates for the
8 electric power entity sector, technical clarification for
9 the oil and gas production sector and for fuel suppliers,
10 as well as the addition of reporting needed to quantify
11 natural gas transmission and distribution leaks.

12 I will now walk through each set of updates in a
13 little more detail.

14 --o0o--

15 STAFF AIR POLLUTION SPECIALIST GAFFNEY: The
16 mandatory reporting regulation provides critical
17 emissions, product, and other data needed for cap and
18 trade implementation.

19 Therefore, with the July 2014 cap and trade
20 regulation updates, we will need to make conforming
21 updates to the reporting regulation for consistency and to
22 implement the policies under cap and trade. Specifically,
23 the updates to align with cap and trade regulation are
24 required to support the calculation of compliance
25 obligations and allowance allocations.

1 Because of the significance of product data for
2 allocation under the cap and trade program, we clarified
3 the third party verification procedures for the product
4 data.

5 Staff also made some updates to definitions in
6 the mandatory reporting regulation to harmonize with newly
7 effective cap and trade regulation.

8 --oOo--

9 STAFF AIR POLLUTION SPECIALIST GAFFNEY: Staff
10 released guidance earlier this year to provide regulatory
11 clarifications related to product data reporting for
12 refineries and hydrogen producers. This guidance was
13 developed with significant input from these sectors. The
14 proposed amendments serve to codify the clarification in
15 the published guidance into the regulation so that the
16 regulatory provisions are clearer for future reporting.

17 For the refinery complexity weighted barrel, or
18 CWB, reporting requirements, we have proposed a correction
19 to one equation and an update to another, to provide
20 clarity.

21 We have also proposed revisions for reporting
22 primary refinery products so that refineries only report
23 product actually produced at their facilities, as opposed
24 to product that was produced elsewhere and purchased.

25 The revisions also require reporting of product

1 produced during the year of reporting. This will allow
2 for the cap and trade staff to compare the primary
3 refinery product, also called a simple barrel allocation
4 methodology, to the complexity weighted barrel allocation
5 methodology.

6 These changes are in response to direction from
7 the Board to assess the difference in allocation between
8 the two methodologies.

9 For hydrogen producers, we have proposed
10 modification to definitions to clarify how they report on
11 purpose hydrogen and byproduct hydrogen.

12 --o0o--

13 STAFF AIR POLLUTION SPECIALIST GAFFNEY:

14 Currently, there are overlapping data reporting
15 requirements between the mandatory reporting and cost of
16 implementation fees regulations.

17 The proposed amendments will align the reporting
18 requirements in the cost of implementation fee regulation
19 with the mandatory reporting regulation. This will
20 provide more streamlined and accurate data collection and
21 will reduce the reporting burden on regulated entities.

22 By incorporating the cost of implementation fee
23 regulation data reporting into the reporting regulation,
24 the fees data will also be subject to third party
25 verification requirements. This will provide more

1 accurate data for the cost of the implementation fee
2 program and help minimize follow-up with regulated
3 entities.

4 In general, the proposed updates do not impose
5 any new data reporting requirements, but just streamline
6 the overall reporting process. After the mandatory
7 reporting Board Item, ARB staff will present specific fee
8 regulation amendments.

9 --o0o--

10 STAFF AIR POLLUTION SPECIALIST GAFFNEY: Staff
11 has proposed several updates to clarify reporting
12 requirements for petroleum and natural gas systems and to
13 correct small errors or typos.

14 Staff has added an exemption for small volume,
15 less than 50 standard cubic feet equipment blow downs, to
16 be consistent with U.S. EPA reporting requirements.

17 We have also added a requirement to report
18 emissions associated with compressor start-ups, which only
19 affects a small number of reporters.

20 Next, staff is including provisions that would
21 allow on-shore production facilities to voluntarily report
22 enhanced oil recovery, or EOR, steam volumes generated
23 during renewable -- using renewable energy sources. Staff
24 is aware that several California enhanced oil recovery, or
25 EOR, production fields use solar thermal heat to produce

1 EOR steam. This voluntary reporting provision was added
2 at the request of the sector to enable annual tracking of
3 any potential fossil fuel displacement.

4 In addition, staff is proposing modifications to
5 clarify existing petroleum and natural gas product data
6 reporting requirements. The updates specify acceptable
7 methods for reporting, when and how methods can be
8 changed, and clarifications regarding the reporting of
9 natural gas liquids.

10 --o0o--

11 STAFF AIR POLLUTION SPECIALIST GAFFNEY: For fuel
12 suppliers, we are clarifying the reporting requirements
13 for enterers of imported biofuels and for in-state biofuel
14 production facilities to specify that only the quantity of
15 fuel delivered outside of the bulk transfer system is
16 reportable.

17 Also, staff added renewable diesel fuel as a
18 reportable biofuel to align with revisions made to the cap
19 and trade regulation.

20 In addition, we made minor changes to clarify
21 that only emissions from liquefied petroleum gas products
22 produced on site and sold or delivered in California must
23 be reported.

24 Lastly, minor revisions were made to ensure that
25 natural gas suppliers report biomethane deliveries

1 consistently. None of these changes impose new reporting
2 requirements.

3 --o0o--

4 STAFF AIR POLLUTION SPECIALIST GAFFNEY: We are
5 proposing a few changes for electric power entities. In
6 the proposed amendments, staff has included revisions to
7 account for transmission line loss associated with
8 specified imported electricity.

9 Staff has been working with stakeholders on this
10 requirement, and we expect there to be further
11 clarification to this language in a 15-day proposal based
12 on their feedback.

13 Next, staff clarified the requirements for
14 retaining hourly meter generation data. When an entity
15 schedules power from an intermittent renewable resource,
16 such as wind or solar, it is not guaranteed that the
17 amount of scheduled power will actually be generated from
18 that resource, which is why metered data information is
19 important.

20 Comparing scheduled generation with metered
21 generation for these types of resources ensures that
22 reporters are accurately reporting specified imported
23 power. Staff has already established this policy and
24 communicated hourly metered generation requirements to
25 stakeholders last year. The requirement is being directly

1 incorporated into the regulation to make it clearer.

2 Staff has also worked with stakeholders to exempt
3 specific types of renewable resources from this
4 requirement, such as nuclear. Staff continues to work
5 with stakeholders to tighten up this regulatory language,
6 and we expect minor clarifications to this section in the
7 15-day changes based on that collaboration.

8 And finally, staff included changes that would
9 require publicly-owned utilities and co-ops to report
10 information related to their sales into the California
11 independent system operator or CISO market. These data
12 are needed to under the Cap and Trade Program to ensure
13 these entities are not using freely allocated allowances
14 to meet the compliance obligation associated with those
15 sales.

16 --o0o--

17 STAFF AIR POLLUTION SPECIALIST GAFFNEY: In the
18 proposed 45-day amendments, staff clarified which data
19 sources are used to develop ARB's specified source
20 emission factors for imported power. Staff is refining
21 these requirements and will propose additional 15-day
22 changes in this area.

23 Staff proposes to rely on U.S. EPA data to
24 calculate the emission factors to ensure consistency with
25 the 111(d) federal greenhouse gas powerplant reduction

1 requirements.

2 Previously, the mandatory reporting regulation
3 relied on fuel use data reported to the Energy Information
4 Administration, or EIA. However, in recent years, U.S.
5 EPA data have become available. And for the 2013
6 reporting year, we revised the specified source emission
7 factors to utilize available U.S. EPA data as required
8 from the current regulation.

9 --o0o--

10 STAFF AIR POLLUTION SPECIALIST GAFFNEY: Sources
11 of fugitive methane emissions are of growing interest,
12 particularly since it is a short-lived climate pollutant
13 and reductions could have near-term impacts on climate
14 effects.

15 Based on ARB's survey conducted in 2009, meter
16 leaks and dig ins that breached gas pipelines resulted in
17 emissions of nearly three-quarters of a million metric
18 tons of CO₂e from these methane or natural gas leaks.
19 Because of the potential magnitude of these sources, we
20 are proposing collection of methane leak data associated
21 with natural gas transmission and distribution activities.

22 In general, this data is already being collected
23 by the affected natural gas companies. The information
24 will support a more accurate estimate of natural gas
25 transmission and distribution emissions, which is needed

1 for the statewide greenhouse gas inventory development and
2 regulatory analysis.

3 --o0o--

4 STAFF AIR POLLUTION SPECIALIST GAFFNEY: In the
5 amendments, staff propose changes to further strengthen
6 our already rigorous conflict of interest requirements to
7 ensure that the relationship between reporters and
8 verifiers remains impartial and unbiased.

9 In addition, staff have included verification
10 requirements related to conformance in the regulation to
11 ensure that data reported and utilized by the cost of
12 implementation fee program for invoicing and the Cap and
13 Trade Program for allocation are accurate and complete.

14 --o0o--

15 STAFF AIR POLLUTION SPECIALIST GAFFNEY: Staff is
16 anticipating a few targeted 15-day revisions, and we will
17 be working very closely with stakeholders to craft the
18 final language. We will be further clarifying which data
19 staff will use to calculate the electricity specified
20 source emission factors. We will propose to rely on U.S.
21 EPA data. But in limited cases when U.S. EPA data is not
22 available, staff would rely on EIA information for fuel
23 use data or GHG emissions. We will also propose to use
24 EIA data for net generation, as this information is not
25 available through U.S. EPA.

1 In addition, we are proposing further updates to
2 the transmission loss factor. In addition, we will also
3 be proposing some clarifications for oil and gas
4 production facilities, refineries, and hydrogen producers.

5 We intend to release the notice of the proposed
6 15-day changes as soon as possible with the intention that
7 all revisions presented to you today, if approved will be
8 effective January 1st, 2015, as reporting is done on a
9 calendar year basis.

10 --o0o--

11 STAFF AIR POLLUTION SPECIALIST GAFFNEY: And
12 finally, staff recommends the approval of the proposed
13 amendments to the regulation for the mandatory reporting
14 of greenhouse gas emissions, including the 15-day changes
15 we have described today. Proposed 15-day changes will be
16 released for public notice and comment pursuant to the
17 Administrative Procedures Act.

18 Thank you for your time.

19 CHAIRPERSON NICHOLS: Thank you.

20 We have a list of witnesses that is now being
21 projected up on the wall. Let's start with Nico Van
22 Aelstyn in a repeat appearance.

23 MR. VAN AELSTYN: Repeat appearance. I can't
24 borrow time from anybody.

25 Very quickly, I'm Nico Van Aelstyn. I speak

1 today now on behalf of Kimberly-Clark Corporation.

2 Thank you for this opportunity to speak directly
3 with you on a matter that stands to dramatically effect
4 the competitiveness of KC's Fullerton facility. You may
5 recall hearing from Dell Majure, KC's global technical
6 leader on air issues, at April's last Board meeting.

7 My comments today address the proposed amendments
8 to the required emission reporting regulations now before
9 the Board, but they are continuation of KC's comments in
10 April.

11 Before turning to those comments, please allow me
12 to again make very clear that KC supports AB 32 and its
13 objectives. As a company, Kimberly-Clark has invested
14 heavily in California and globally to improve energy
15 efficiency and reduce carbon intensity and has already
16 exceeded its 2015 enterprise-wide GHG reduction target and
17 is on track to almost double, while growing the business.

18 However, while KC supports the objectives of AB
19 32, we have very serious objections to the emission
20 benchmark for the tissue industry sector in the cap and
21 trade regulation.

22 These concerns compel us to object to the
23 proposed modifications to the mandatory reporting rules,
24 specifically Sections 95102(b)(10), (37), (45), (75), and
25 (101), which are the new definitions of bathroom, facial,

1 delicate task, paper towel, and tissue produced, adjusted
2 by absorbancy capacity, the key issue. And also Section
3 95119(d) which regulates reporting of production data by
4 the tissue manufacturers.

5 These changes appear to be intended to bring the
6 MRR in line with the new benchmarks for the tissue sector
7 that were adopted in April. As KC noted in its comments
8 during that rulemaking process, that new tissue benchmark
9 is fundamentally flawed. It measures the functionality of
10 bathroom tissue solely by its water absorbent capacity,
11 even though ARB has no scientific basis to do so.

12 Further, the new tissue benchmark segregates all
13 tissue products into sub-categories -- the four I
14 mentioned -- and assigned the discrete benchmark to each,
15 despite the fact that ARB had no data on which to base
16 those benchmarks.

17 The proposed changes to the MRR would incorporate
18 these same errors into the parts of the MRR that apply to
19 the tissue manufacturing sector. As noted, ARB has no
20 scientific basis for adjusting the tissue benchmark to
21 reflect the water absorbancy of bath tissue, a change that
22 dramatic favors technology used by one market participant
23 in the tissue sector at the expense of the other.

24 And ARB still has no scientific basis for now
25 introducing the concept of water absorbancy into the MRR.

1 In addition, the fact that ARB is now five months later
2 proposing to gather data about discrete sub-categories
3 just demonstrates that it did not have the necessary data
4 when it modified the tissue benchmark in April.

5 These proposed modifications to the MRR would
6 perpetuate the deeply flawed tissue benchmark and further
7 entrench an unfair and scientifically untenable
8 regulation.

9 KC therefore asks the Board not to move on the
10 specific changes and to consider directing staff to
11 address the tissue benchmark in the cap and trade
12 regulation.

13 Thank you very much for your time.

14 CHAIRPERSON NICHOLS: Mr. Wang, followed by Bob
15 Lucas.

16 MR. WANG: I'm still Mike Wang. I'm still with
17 the Western States Petroleum Association.

18 We submitted written comments to you all. And as
19 is normally the case with the staff's presentation, some
20 revisions have been made. And we certainly appreciate
21 that.

22 I speak to you on two overarching issues: One,
23 timing of implementation and the need for companies to
24 adequately implement changes. Any amendments related to
25 the implementation or effective date of new regulations

1 covering data collection, calculation, process for this
2 regulation as well as all the others need to be attached
3 to some feasible implementation schedule.

4 For example, data collected in 2015, according to
5 presumably a new regulation, should be -- is required to
6 be submitted to the ARB in the subsequent years.

7 However, there is no explicit allowance for an
8 implementation period in 2015 while those data and
9 procedures are being implemented. So we ask that some
10 explicit definition be made so that it's clear that data
11 collected in 2015 effects -- the rule that's effective
12 January 2015 effects data collected in 2015, but there is
13 some implementation period that allows companies to
14 implement appropriately.

15 Similarly, we want to make sure data collected in
16 2014 that is submitted in 2015 does not fall under those
17 new regulations. That would make a regulation
18 retroactive. That's certainly not the intent of the
19 Board.

20 Those are two clarifications that we think are
21 very, very important that need to be made, especially with
22 respect to the 2014 data submitted in 2015.

23 Secondly, with respect to process, there are some
24 process improvements that I've talked with staff and I
25 think we're in pretty good consensus that we need a better

1 interaction amongst staff. There have been a series of
2 what we will consider relatively short fused last-minute
3 changes that have been proposed that we think need
4 additional work. The staff has made some suggestions as
5 part of the resolution. We'd like to make it very clear
6 that should there not be enough time to work within the
7 15-day package, that that issue might be deferred for the
8 future. Again, we're talking about temperature
9 correction.

10 Finally, I'd refer to the Board our letter on
11 this issue. On page three and four, we made a specific
12 request relative to reporting primary refinery products.
13 Want to make clear right now companies are obligated to
14 report under CWB. The new regulation proposed would add a
15 new addition to primary refinery product. And as you
16 heard the staff say in response to a Board Resolution
17 trying to explore the difference between CWB and the
18 single barrel. What we would like to do is pull that
19 requirement out of the regulation. We would be happy to
20 submit it as part of the survey. But putting that data
21 request in a regulation puts companies in between. It's
22 something that's not needed. Thank you.

23 CHAIRPERSON NICHOLS: Thank you.

24 MR. LUCAS: Hi. Bob Lucas again.

25 Chair and members, thank you.

1 My comments are going to follow, not necessarily
2 that closely, but they will follow Mike Wang's comments
3 with regard to process concerns.

4 These changes in data collection can be extremely
5 complicated at large facilities. When the request for
6 data to be collected changes, then procedures need to be
7 placed to get that data. In fact, enough time is needed
8 so they can be sure they can get the data in sufficient
9 quantity and sufficient quality to meet what a verifier
10 might say is absolutely critical.

11 When changes are made toward the ends of the
12 45-day process that come in with new data requirements, we
13 understand it's not meant to be punitive, and we
14 understand that the staff is just doing its job. But
15 practically speaking, until the refinery -- in this case,
16 the refinery has a chance to try to implement this through
17 some reasonable time frame to know whether or not it will
18 even work, then we'll lose -- if the rule is then adopted,
19 then we all lose the opportunity to cure it until we wait
20 several months down the road.

21 So let me just offer two thoughts to you.
22 Recognizing the complexity of significant data changes to
23 major industrial facilities, however simple they may sound
24 on black and white on a piece of paper, we would suggest
25 that, first, before it is inserted into the proposed

1 rulemaking, that somebody, somewhere be certain that the
2 people that are going to have to comply with it are able
3 to comply with it. And if they come up with reasonable
4 explanations as to why they will have difficulties, it
5 would be good if they would be recognized. But if you
6 don't have adequate time at the front end of the process,
7 it's going to be very difficult to do.

8 The second thing I would suggest I think this is
9 something that Mike Wang was saying is that these data
10 changes need to be sequenced into the rulemaking and in a
11 way so they can be accommodated properly. You don't want
12 new data -- or data based on new collection techniques
13 introduced in the middle of the year. If we're in 2014
14 and we want to adopt new data requirements for 2015, as
15 Mike just said, time is going to be needed to figure out
16 how to assimilate that into their data collection process
17 for reporting in 1950. And perhaps some extra time frame
18 should be included in the rule to allow that to happen.

19 And subsequent to that, once they know they can
20 get that data, it shouldn't be required to be reported
21 until 2016 so that we don't interrupt another calendar
22 year by giving incomplete data sets. So I hope that's
23 helpful. Thank you very much.

24 CHAIRPERSON NICHOLS: Thanks.

25 Susie Berlin. You're not Susie Berlin.

1 MS. PARSONS: Little switcharoo.

2 Good afternoon, Madam Chair and members of the
3 Board. My name is Cindy Parsons with the Los Angeles
4 Department of Water and Power.

5 I'd like to start off by saying thank you to the
6 staff for a favorable resolution on the issue with the
7 emission factors for the specified imports and for
8 reverting back to the EPA GHG emission data to ensure that
9 a ton is a ton for both in-state and imported electricity.

10 We filed written comments on the electric power
11 entity reporting requirements. And I'd like to draw your
12 attention to two items, in particular. The first is the
13 proposal to eliminate the 1.0 transmission loss factor
14 for specified imports. This amendment would overestimate
15 GHG emissions for transmission losses when those losses
16 are supported by a California balancing authority or paid
17 back using electricity sourced from within California.

18 As a balancing authority, LADWP uses our internal
19 generating resources to make up for transmission losses
20 within our control area and to pay back losses that we owe
21 outside of our control area.

22 The GHG emissions for this makeup energy are
23 already accounted for under the existing reporting
24 requirements. We estimate this proposed amendment would
25 inflate our reported GHG emissions for imported

1 electricity by approximately 200,000 metric tons per year.
2 That's a big number.

3 We ask that ARB retain the 1.0 transmission loss
4 factor to avoid inaccurate reporting of GHG emissions that
5 don't exist and the associated increase in cap and trade
6 compliance costs.

7 The second is the use of meter data to verify
8 specified imports. Almost a year ago, I spoke to you
9 about the significant increase in administrative burden of
10 having to compare hourly meter and ETech data to verify
11 all specified imports per staff's interpretation of this
12 provision.

13 We do appreciate the proposal to narrow
14 applicability of this provision. However, further
15 clarification is needed to eliminate confusion over
16 whether the requirement to retain meter data applies to
17 all specified imports or just to those imports subject to
18 the lesser of calculation.

19 If the requirement applies to all specified
20 imports and if meter data is not available, we're
21 concerned that this could result in a non-conformance and
22 a qualified positive verification statement.

23 We recommend limiting this provision to only
24 imported renewable energy that is subject to the lesser of
25 analysis under the RPS regulations to be consistent with

1 the CEC and the CPUC.

2 Thank you for the opportunity to speak and your
3 consideration of our concerns.

4 CHAIRPERSON NICHOLS: Thank you.

5 MS. BERLIN: Afternoon, Madam Chair, members of
6 the Board.

7 My name is Susie Berlin. I'm representing the
8 Northern California Power Agency and MSR Public Power.
9 And NCPA and MSR's members are publicly-owned utilities.
10 And today, we are talking obviously about revisions that
11 apply to the electrical utilities.

12 We understand that CARB needs to ensure the
13 integrity of the data reported. However, NCPA and MSR
14 recommend that the proposed amendments for electric power
15 entities be revised in order to remove what we see is
16 ambiguities, ensure accuracy of the data reported, and
17 provide certainty to the compliance entities regarding the
18 materials they'll need to provide.

19 We have been working with staff and potential
20 revisions to the proposal amendments. And we'd like to
21 express our appreciation for all the time and phone calls
22 that you had with us on this issue.

23 Specifically, with regard to reporting sales into
24 the CALISO, NCPA and MSR recommend the reporting
25 requirements be limited in scope to only those

1 transactions that are necessarily must be verified to
2 ensure the confirmation with the restrictions placed on
3 those use of freely allocated allowances. And we also
4 recommend that CARB adopt the definition for sales into
5 the ISO.

6 Staff has suggested several changes that address
7 some of these concerns. And while Attachment B to draft
8 Resolution anticipates 15-day changes on these matters, it
9 was not listed in staff's presentation for areas where
10 there would be changes. So we want to ensure that there
11 is some acknowledgement that there are ongoing discussions
12 and these revisions will be forthcoming.

13 Of particular concern is the manner in which the
14 information will be reported. And that's something that
15 we have, like I said, been working with staff with. And
16 we appreciate their on going discussions.

17 The other issue -- and I won't talk about it in
18 detail because Cindy Parsons did a very good job of
19 addressing this is the treatment of the line loss factors.
20 We believe that application of a 1.02 factor to all
21 transactions provides no more accuracy than using the
22 overuse of the 1.0 factor that staff is attempting to
23 eliminate.

24 We appreciate the recognition that this will also
25 be subject to some 15-day changes based on further

1 discussions with stakeholders on the best way to address
2 this.

3 And likewise with regard to use of the EI -- not
4 use of the EIA data, as the case may be. So we would just
5 like to express our appreciation to staff for working with
6 us and our anticipation of continuing to work on these
7 issues and resolving them in short order. Thank you.

8 CHAIRPERSON NICHOLS: Great. Thank you.

9 Mr. Cox.

10 MR. COX: Good afternoon, Chair Nichols, members
11 of the Board and ARB staff.

12 My name is David Cox. I'm here on behalf of the
13 Coalition for Renewable Natural Gas. We are a trade
14 association representing the biomethane industry.

15 I want to thank you for the opportunity to speak
16 to you here today. And we have submitted written comments
17 on this point.

18 And let me just say that I've heard it said that
19 if you can get ten lawyers in a room, you're a guaranteed
20 to get 15 different interpretations of a document. I
21 represent 50 companies. They all have lawyers. There's
22 nothing they like to debate more than clarifying
23 amendments and what is actually being clarified here.

24 So thank Mr. Gaffney for his presentation today.
25 I heard and I think I heard you loud and clear that there

1 are no new requirements in these amendments. But maybe
2 just to get affirmation from the Board to get it on the
3 record and help my members sleep better at night, I'll ask
4 my question anyway.

5 We're seeking clarification from the Board if and
6 whether the biomass derived fuels that are to be reported
7 pursuant to Section 95121 are the only fuels that are in
8 that Section's Table 2. And similarly, if those suppliers
9 of biomass-based transportation fuels that are subject to
10 that reporting requirement are only those suppliers who
11 are deriving those fuels listed in table two.

12 My members are concerned that the way that we're
13 switching the word petroleum fuels to transportation fuels
14 and including that biomass-based fuels phrase in there
15 that we may come up with a situation later in the
16 compliance phases where biomethane is incorporated in
17 there. I just appreciate the Board or staff's
18 clarification on that point. And thank you so much.

19 CHAIRPERSON NICHOLS: Thank you.

20 Mr. Tutt.

21 MR. TUTT: Good afternoon, Chair Nichols and
22 members of the Board. I want to start, as many do, by
23 thanking staff for the work that's gone on on some of
24 these issues over the last year. As Cindy Parsons from
25 LADWP mentioned, we've been talking to staff about some of

1 these issues for over a year.

2 And I wanted to particularly focus on the lesser
3 of hourly meter generation requirement. I think a year
4 ago we were worried that that was applying to all
5 specified source imports of any type basically. And the
6 narrowing has now I believe gotten it down with further
7 potential language changes to only matching the similar
8 lesser of analysis that the Energy Commission requires for
9 certain categories of renewable resources. So we're
10 already having to do that analysis for the Energy
11 Commission.

12 I still wonder why we would have to do it here as
13 well because at the Energy Commission it's dividing up
14 between two kinds of renewables. And here, it seems like
15 what we'd be looking at is only -- we would be dividing up
16 between a renewable and an unspecified source with an
17 emission factor. And then potentially have to go and
18 calculate an RPS adjustment for that one remainder of the
19 division. So that's one question or issue I still have
20 with this.

21 And the second is in SMUD's case, we have one
22 contract in which this applies for which we don't get all
23 of the generation. We only contract for a portion of it.
24 And in that particular case, as I think many commentators
25 have pointed out, the whole lesser-of calculation is kind

1 of moot because it will always be the scheduled amount
2 that is the lesser of. We are go through the exercise,
3 but it won't make any difference in any of the underlying
4 calculations.

5 But I appreciate the narrowing, and I'm glad
6 we're going to have some further talk on 15-day language
7 to further consider some of these issues. And we're
8 working good with staff on it. So thank you.

9 CHAIRPERSON NICHOLS: Great. Thanks.

10 Ms. Raspberry.

11 MS. RASPBERRY: Thank you, Chairman Nichols.

12 Tamara Rasberry representing the SEMPRA Energies,
13 SoCal Gas and San Diego Gas and Electric.

14 I want to thank the Board and the staff for their
15 work on the MRR for the last -- I think going on year
16 three or four now.

17 But SDG&E, we still have concerns on the MRR.
18 And they are detailed in our filed and written comments.
19 I just want to summarize what our concern was for the
20 Board.

21 Section 9511(b)(2), which has been commented on
22 earlier by LADWP. This change to the MRR requires
23 electricity importers to use a transmission loss factor of
24 1.02 for all specified source imports, regardless of where
25 the emissions are measured. But it does make a difference

1 if the generation is measured at or near the plant or if
2 the generation is measured at the border.

3 The proposed change ignores this difference and
4 will put generators -- his measurements are close to the
5 plant at a disadvantage. While the argument could be made
6 for all plants to measure at the border because some
7 plants have been incorporated into the ISO, there is no
8 opportunity to measure at the border.

9 SDG&E further believes that this unfair treatment
10 could be a violation of interstate commerce clause since
11 these plants would have to pay an additional two percent
12 in compliance instruments. I was also glad to hear that
13 this will be addressed in the 15-day comments from staff.

14 Thank you for your time.

15 CHAIRPERSON NICHOLS: Frank Harris. You are the
16 last witness on this one.

17 MR. HARRIS: Thank you, Mr. Chair Nichols.

18 I apologize for tagging on last. I wasn't
19 originally going to comment on this issue.

20 Edison did not submit written comments, but as
21 Dr. Tutt mentioned, I want to also thank staff for the
22 work on this rule. In particular, we have been working
23 were them quite a bit on the data sourcing issue, EPA
24 versus EIA data, using EPA versus EIA data for the
25 reporting.

1 And in our case, this was a significant
2 improvement and I believe correctly represented the
3 generation from one of our plants in particular. So
4 again, thanks for the effort by staff.

5 And I think this just goes back to something I
6 said earlier. On as we continue to have more experience
7 implementing this rule, we're going to continue to find
8 ways to improve it. It's been good to see we've been able
9 to make these changes, these positive changes. Thank you
10 very much.

11 CHAIRPERSON NICHOLS: Thank you.

12 At this point I will close the record and having
13 heard all the witnesses. But there will be a 15-day
14 notice of public availability, at which point the record
15 will be reopened. And written and oral comments that are
16 received after this hearing but before the 15-day notice
17 will not be put into the official record on this agenda
18 item.

19 So when the record is reopened for a 15-day
20 period, the public can then submit comments on the changes
21 only. And they will be considered and responded to in the
22 Final Statement of Reasons for the regulation.

23 All right. We heard a certain number of comments
24 with specific objections, but nothing I heard made me feel
25 like I needed to ask for any particular changes at this

1 moment. Seems like they're more in the direction of
2 ongoing concerns that need to be addressed.

3 The issue about Kimberly-Clark is one I know they
4 are very unhappy about the way they were benchmarked. But
5 we can't fix that today. It could be in the category of
6 things the staff could be looking at further. And they're
7 nodding that they are looking at this issue. But it's
8 nothing we can do about it today.

9 And in terms of the data that we're collecting,
10 again in response to the request, I do want to say that
11 there are no new reporting requirements in this regulatory
12 change. We're not adding, except for one.

13 ISD CHIEF SAHOTA: The one is about the sales
14 into CISO for entities using allowances freely allocated
15 under cap and trade. They are prohibited from using those
16 allowances to cover their megawatt hours sold into CISO.

17 That's an ongoing discussion, and we're trying to
18 keep that as minimal as possible, even as simple as the
19 megawatt hours and an emission factor.

20 CHAIRPERSON NICHOLS: So again, the direction
21 that we're moving in though is to keep our reporting the
22 same as or consistent with reporting that people are doing
23 for other purposes and then enough so we can track what's
24 going on.

25 If there are any Board members or comments for

1 the staff.

2 BOARD MEMBER BERG: We did hear from three
3 separate people regarding this loss factor. Is that a
4 change?

5 MANAGER AGUILA: Yes. And we've been working
6 with the entities. We actually -- in looking at 15-day
7 changes here, we are going to work to retain the 1.0,
8 which is what they are unhappy about us removing. We are
9 looking to retain that. But what we really want to do is
10 ensure that if they chose to use the 1.0 that can be
11 substantiated to a verifier as to why they're using that
12 factor. So I think that overall the entities are going to
13 be happy when we do --

14 CHAIRPERSON NICHOLS: When they see the 15-day
15 changes.

16 BOARD MEMBER BERG: What I'm hearing from you is
17 they'll have a choice to report as they are currently
18 reporting or go with what you're suggesting, whichever
19 might work best for them.

20 MANAGER AGUILA: If they chose to use the 1.0,
21 they have to show the verify is substantiated.

22 BOARD MEMBER BERG: Thank you.

23 CHAIRPERSON NICHOLS: All right then. I think
24 we're ready to move on this item, if we have a motion.

25 BOARD MEMBER BERG: I will move, but I have one

1 other question after you get a second.

2 CHAIRPERSON NICHOLS: Let's get a second. Okay.

3 BOARD MEMBER BERG: Can you comment on -- we did
4 hear from a couple of people of implementation time. It
5 might be worthwhile just to hear a little bit on that.

6 MANAGER AGUILA: Every time we introduce a
7 regulatory amendment that requires a change in reporting
8 of data, for the first year that reporting requirement is
9 in effect, we offer the availability to use best available
10 methods.

11 We understand that for 2014 data that's going to
12 be reported in 2015, you may not be able to foresee what
13 ARB will require you to collect in terms of data in 2014
14 to be able to report. So we suggest that you use best
15 available methods. And that could be an engineering
16 analysis. It could be anything else. That's been the
17 practice the entire time with the mandatory reporting
18 regulation. And that helps people phase into the new
19 reporting requirements and still get the data that we need
20 during the year previous to that reporting requirement
21 kicking in.

22 BOARD MEMBER BERG: My understanding is 2014
23 data, this new requirement, what we're voting on today
24 wouldn't apply to 2014 because it goes into effect January
25 2015.

1 What I'm hearing is that it's September. And so
2 we get this approved on January 1st. They're going to
3 need to collect a whole new set of data they may or may
4 not have the systems to do. So what about 2015 data that
5 will be collected in 2016?

6 MANAGER AGUILA: So there are mechanisms in the
7 mandatory reporting regulation that allow you to request a
8 postponement for meter installations and changes to your
9 facility if it's not timely or available to have those
10 upgrades to those new metering requirements to the conform
11 to the new regulation. Many of industrial sectors that
12 have been subject to the mandatory reporting requirements
13 have made use of that mechanism in the mandatory reporting
14 program already. Where, if you're not able to shut down
15 your facility to put in that new meter on January 1st, you
16 send us a package of materials indicating when you would
17 be able to do it and you get approved for postponement to
18 allow you to get that meter installed.

19 BOARD MEMBER BERG: At that time, they would use
20 best information or best data available, as you described
21 before?

22 MANAGER AGUILA: That's right. They would make
23 an option to us that instead of putting the meter in
24 place, this is what we will provide to you. ARB's
25 technical staff has some back and forth to ensure the data

1 is the best that truly is available and then we move
2 forward with that plan.

3 BOARD MEMBER BERG: Thank you very much.

4 Thank you, Chairman.

5 CHAIRPERSON NICHOLS: So we do have a motion and
6 a second. I would just add I think this is one area where
7 there has been a lot of intersection between staff and the
8 reporters over a period of years and not wait until people
9 have to submit and tell them, no, you didn't submit the
10 right thing. There's been quite a bit of ongoing
11 communication here. I think we can easily be comfortable
12 the changes can be implemented in a reasonable fashion.
13 All right.

14 In that case, we'll call for a vote, unless
15 there's any further discussions. All members wishing to
16 vote aye, please say aye.

17 (Unanimous aye vote.)

18 CHAIRPERSON NICHOLS: Opposed? None.

19 Abstentions, none. Okay. Terrific. Thank you.

20 We have one more item. And that is the fee item.
21 Quick change in a couple of staff members here. While
22 they are coming forward, I'll just say that this proposed
23 amendments here make some changes in the way that we
24 calculate the fee to conform with the amendments in the
25 two items you've just heard. I don't think there is much

1 else in this them, at least not that I'm aware of. But
2 better make sure that we understand exactly what is in
3 front of us here.

4 So without further ado, if you wish to say more
5 about this, Mr. Ayala.

6 ACTING EXECUTIVE OFFICER AYALA: Only to
7 acknowledge that my script is the same as yours. So we'll
8 go to the staff presentation.

9 CHAIRPERSON NICHOLS: Okay. Let's hear from the
10 staff then.

11 (Thereupon an overhead presentation was presented
12 as follows.)

13 AIR RESOURCES ENGINEER STEELE: Good afternoon,
14 Chairman Nichols and members of the Board.

15 --o0o--

16 AIR RESOURCES ENGINEER STEELE: AB 32 authorized
17 the Air Resources Board to adopt a schedule of fees to be
18 paid by sources of greenhouse gas emissions. These fees
19 are used to fund costs directly related to State agencies
20 development, administration, and implementation of AB 32
21 programs that reduce greenhouse gas emissions.

22 ARB adopted the fee regulation in 2009 and made
23 amendments to the regulation in 2011 and 2012. The amount
24 of funding collected each year is determined by the fiscal
25 year state budget, plus any shortfall or surplus

1 adjustments from the previous year.

2 For the first four years of the program, in
3 addition to the annual cost of implementation, the fees
4 included repayment of loans needed to cover the first
5 two years of AB 32 implementation. ARB completed loan
6 repayment last fiscal year, and now fees are based only on
7 the program operation costs and minor carry over
8 adjustments from the previous year.

9 The total fees for fiscal year 2014 through 2015
10 are 20 to 25 percent lower than last fiscal year as a
11 result of completing the loan repayment.

12 --o0o--

13 AIR RESOURCES ENGINEER STEELE: The fee
14 regulation applies to major sources of greenhouse gas
15 emissions in the state. The 250 fee-paying entities
16 account for approximately 80 percent of California's
17 greenhouse gas emissions.

18 These entities represent a variety of emissions
19 sources, as shown on this slide.

20 --o0o--

21 AIR RESOURCES ENGINEER STEELE: Each year, ARB
22 sends invoices to entities approximately 30 days after the
23 fiscal year's budget has been signed by the Governor.

24 To ensure equity in fees, ARB determines annual
25 invoice amounts by calculating a common carbon cost which

1 represents a uniform per metric ton cost for each year.
2 ARB determines the common carbon cost by dividing the
3 total annual program cost, including any carry over
4 adjustments, referred to as the total required revenue, by
5 the sum of the carbon dioxide emissions across all fee
6 payers subject to the regulation.

7 As shown on this slide, the common carbon cost
8 for fees assessed for fiscal year 2014 and 2015 is 12.1
9 cents per metric ton of carbon dioxide emitted.

10 --o0o--

11 AIR RESOURCES ENGINEER STEELE: The proposed
12 amendments before you today are intended to improve fee
13 regulation alignment with the proposed amendments you
14 heard today for the cap and trade and mandatory reporting
15 regulations, transition fee regulation reliance from
16 certified data to third-party verified data, minimize
17 administrative burdens, clarify regulation applicability,
18 and provide the most equitable distribution of fees.

19 --o0o--

20 AIR RESOURCES ENGINEER STEELE: I will now
21 discuss specifics of the proposed amendments. Staff is
22 proposing to assess fees on carbon dioxide equivalent
23 emissions, methane, and noxious oxide, rather than just
24 carbon dioxide, which would align the fee regulation with
25 the mandatory reporting regulation emissions reporting

1 requirements.

2 This amendment would capture a broader range of
3 statewide greenhouse gas emissions and provide a more
4 equitable distribution of fees. This proposed amendment
5 would result in approximately a one percent increase in
6 billable emissions, which is expected to have an overall
7 negligible net effect to each fee payer.

8 The increase in billable emission would be offset
9 by subsequent decrease in the uniform cost per metric ton
10 of greenhouse gases emitted.

11 Staff is proposing to modify the natural gas
12 modifier and threshold to align with the mandatory
13 reporting regulation verification requirements. These
14 amendments would exclude approximately ten natural gas
15 suppliers from fees, redistributing about \$12,000 a month
16 to the remaining 240 fee payers.

17 Staff is also proposing to assess fees on
18 non-biogenic emissions from waste to energy facilities.
19 Non bio-biogenic emissions are the result of combustion
20 fossil fuel, derived wastes such as plastics, textiles,
21 synthetic rubber, and other materials. These fuels were
22 exempted when the fees was adopted because data wasn't
23 available to calculate a fee.

24 Three municipal solid waste, or MSW, facilities
25 would be affected by the amendment. The average MSW

1 facility is currently about \$1,000 per year, and the
2 proposal would result in an average fee increase of
3 approximately \$10,000 per year. The increase in fees for
4 these facilities would also result in a fee decrease for
5 the remaining fee payers. Staff is also proposing updates
6 to emission factors and other minor clarifying changes.

7 --o0o--

8 AIR RESOURCES ENGINEER STEELE: In developing the
9 proposed amendments, staff held a public workshop on June
10 5th. Staff also held individual meetings to discuss the
11 proposed amendments with several affected stakeholders.

12 Generally, staff has heard positive, supportive
13 comments from stakeholders regarding the proposed
14 amendments, as they clarify provisions and streamline
15 reporting requirements.

16 Several MSW facilities have raised concerns
17 regarding staff's proposal to assess fees for combustion
18 emissions from non-biogenic solid waste.

19 Assessing a fee for emissions from the combustion
20 of fossil fuel derived solid waste for electricity
21 generation is consistent with the current fee regulation
22 treatment of fossil fuel based electricity generation.

23 Staff has also heard concerns about the
24 correction to the petroleum coke emission factor. The
25 petroleum coke emission factor in the current regulation

1 is simply incorrect. Correcting the petroleum coke
2 emission factor error is expected to affect twelve out of
3 250 fee payers. The average petroleum coke fee for the
4 facilities that combust the fuel is approximately \$12,000
5 and the average increase would be approximately \$2,500 per
6 facility. The increase in fees for these facilities would
7 result in fee decreases for the remaining fee payers.

8 --o0o--

9 AIR RESOURCES ENGINEER STEELE: Based on ongoing
10 discussions with fee paying entity representatives, staff
11 is proposing 15-day changes tha would further clarify the
12 fee regulation and ensure consistency with the mandatory
13 reporting regulation.

14 Highlights of these changes include clarifying
15 the methodology for calculating emission factors used for
16 transportation fuels and clarifying the definition of
17 petroleum coke by removing the term catalyst coke as that
18 term caused confusion and is not needed in the petroleum
19 coke definition. This clarification is not related to the
20 emission factor correction discussed on the previous
21 slide.

22 --o0o--

23 AIR RESOURCES ENGINEER STEELE: Staff recommends
24 that the Board approve the proposed amendments to the AB
25 32 cost of implementation fee regulation.

1 That concludes my presentation. We would be
2 happy to answer any questions you have.

3 CHAIRPERSON NICHOLS: I'd like to note this is
4 the first time that I can ever recall that we had a
5 regulatory item where no one has signed up to speak.

6 Now, I could say that Mr. Steele either has so
7 completely satisfied all of our stakeholders that they are
8 unwilling to even come forward. On the other hand, if
9 this was American Idol we might say, you know, he lost
10 because people didn't come to talk about his item.

11 BOARD MEMBER ROBERTS: I quickly move approval.

12 BOARD MEMBER RIORDAN: They're probably in shock
13 their fees are going down.

14 CHAIRPERSON NICHOLS: That could be it. I think
15 we have a motion to approve. And a second.

16 BOARD MEMBER RIORDAN: Second.

17 CHAIRPERSON NICHOLS: All right. All in favor,
18 please say aye.

19 (Unanimous aye vote.)

20 CHAIRPERSON NICHOLS: Any opposed? None.

21 Any abstentions?

22 Congratulations. Well done.

23 We do have one witness who signed up for the
24 public comment period, the open period when anyone can
25 stand up and take three minutes to talk about anything

1 that's not covered by one of our agenda items. And the
2 witness is Mr. Townsend from IETA.

3 MR. TOWNSEND: Madam Chair, members of the Board,
4 thank you for your time today. I'll be brief.

5 This topic was mentioned by Mr. Brunello earlier
6 in the day today. I'm now speaking on behalf of the
7 International Emissions Trading Association, or IETA,
8 which is a multi-sector group of more than 140 businesses
9 across California and globally.

10 We are increasingly concerned about program and
11 market impacts linked to ARB's clean harbor ODS
12 investigation. IETA fully supports ARB's efforts to
13 ensure that offsets are generated in full compliance with
14 relevant regulations. However, the process has taken
15 longer, now four months and running, and lacks the
16 transparency many stakeholders were led to expect.

17 IETA and others have written letters and reached
18 out to ARB summarizing these concerns and requesting
19 clarity on status of its clean harbor review and
20 anticipated time line for final determination.

21 We have also worked hard to provide specific
22 suggestions on how to clarify the applicable regulatory
23 language to enable investments in projects and
24 technologies which are needed to make California's program
25 a success.

1 Further delays and a lack of clarity will lead to
2 mounting concern and confusion across California's carbon
3 market community. And this touches a range of
4 stakeholders who are directly and indirectly linked to the
5 clean harbors review.

6 Once more, we request transparency and expediency
7 regarding ARB's review and the timeline by which it will
8 reach a decision on clean harbors.

9 We also take this opportunity to urge ARB to
10 clarify that regulatory compliance for offset projects
11 should be limited to activities that are relevant to
12 project activities.

13 Thank you for your time and today's opportunity
14 to comment.

15 CHAIRPERSON NICHOLS: Thank you. All right.

16 Any additional comments or questions from Board
17 members? If not, we will stand adjourned. See you all in
18 Los Angeles in October.

19 (Whereupon the Air Resources Board adjourned
20 at 3:34 p.m.)

CERTIFICATE OF REPORTER

I, TIFFANY C. KRAFT, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing hearing was reported in shorthand by me, Tiffany C. Kraft, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of October, 2014.

TIFFANY C. KRAFT, CSR, RPR
Certified Shorthand Reporter
License No. 12277