



COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

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STEPHEN R. MAGUIN
Chief Engineer and General Manager

September 22, 2008

Ms. Frances Spivy-Weber, Member
California State Water Resources Control Board
1001 I Street
P.O. Box 2815
Sacramento, CA 95812

Mr. Mark Cowin, Deputy Director
California Department of Water Resources
P.O. Box 942836
Sacramento, CA 94236-0001

Dear Ms. Spivy-Weber and Mr. Cowin:

Essential Public Services in Cap and Trade Programs under the AB 32 Scoping Plan

The purpose of this letter is to set forth the reasons why the Los Angeles County Sanitation Districts (LACSD) believe that essential public services¹ should NOT be included under declining cap and trade programs as part of the AB 32 Scoping Plan. These comments are based on our experiences carefully monitoring the South Coast Air Quality Management District's RECLAIM (Regional Clean Air Incentives Market) program over the years, as well as extensive emission reduction credit purchasing experience in several air districts around the state. As explained in the following paragraphs, we believe that essential public services should not be subjected to marketplace uncertainties to obtain credits to provide needed infrastructure and services. Such competition will only result in project delays and increased costs of credits for all taxpayers.

LACSD provides environmentally sound, cost-effective wastewater and solid waste management for approximately 5.3 million people in Los Angeles County. We convert much of the waste we manage into renewable resources as recycled water, energy and recycled materials. Our service area covers approximately 800 square miles

¹ Borrowing from SCAQMD Rule 1302, "essential public services" include (1) sewage treatment facilities, which are publicly owned or operated, and consistent with an approved regional growth plan; 2) prisons; 3) police facilities; 4) fire fighting facilities; 5) schools; 6) hospitals; 7) construction and operation of a landfill gas control or processing facility; 8) water delivery operations; and 9) public transit.

and encompasses 78 cities and other unincorporated territory within the County through a partnership agreement with 24 independent special districts.

We believe it would be prudent to exclude essential public services from the cap and trade program under development for the following reasons:

- 1) Essential public services should not be subjected to the vicissitudes of supply and demand of credits in fulfilling their mandate to provide needed infrastructure or other services in a timely manner. When facilities, consistent with approved regional plans or changes in regulations are needed, they are needed within a strict time horizon and should not be delayed by the lack of or excessive costs associated with scarce credits.
- 2) Essential public services are at a fundamental competitive disadvantage in the marketplace since they cannot move as fast as private industry because dealing with public funds justifiably requires more approval steps. The consequences of said delays are lost purchasing opportunities that equate to higher costs for taxpayers and, of course, the associated project delays.
- 3) Most essential public services have competitive bidding requirements prescribed by regulations. If an essential public service employs two brokers from a list of qualified brokers, for example, potential sellers see an artificial, increased demand for their credits/offsets/allowances and raise their asking price to *all buyers* accordingly. By employing multiple brokers looking for credits, essential public services are in essence bidding against themselves. Even using one broker selected through a pre-qualification process has transparency issues that may never satisfy an elected board.
- 4) Budget processes and budget cycles of essential public services, especially where user fees are involved, cannot accommodate volatile swings and price increases for credits similar to what occurred in RECLAIM in the 2000-2001 timeframe. Prices in SCAQMD's program jumped from cents per pound for a RECLAIM trading credit to over \$60 per pound in a very short period of time, a two order of magnitude change.

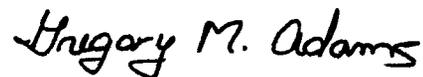
- 5) It is inappropriate in our opinion for essential public services to allocate staff and resources away from their primary role and into trying to find the best credit deals in the marketplace.

The simplest and best alternative to cap and trade regulation for essential public services is *command and control rulemaking principally* because there is adequate time to budget and implement the regulation. It is also usually a completely transparent process.

Finally, while essential public services should not be included under a cap and trade program, they should be allowed to be a source of offsets for *other* source categories regulated under cap and trade programs. Being under command and control regulations makes *additionality*² determinations for credits and offsets for essential public services fairly straightforward, at least initially. Many innovative opportunities for generation of offsets exist within certain essential public service sectors. Such offsets will very much be needed by the entities under cap and trade and such a scheme provides the lowest possible costs for the taxpayers.

Thank you for the opportunity to present these thoughts.

Stephen R. Maguin



Gregory M. Adams
Assistant Departmental Engineer
Air Quality Engineering
Technical Services Department

GMA: bb

cc: Mary Nichols
Chuck Shulock
Edie Chang
Kevin Kennedy

² One of several tests to satisfy to generate a valid offset or credit, *additionality* in essence refers to emissions reductions above and beyond what are required by some other regulatory mechanism. It is a difficult test to satisfy especially as credits/offsets become increasingly rare.