



July 12, 2017

Governor Jerry Brown
Members of the California Legislature
State Capitol
Sacramento, CA, 95814

Re: Air Districts' Opposition to GHG Cap & Trade Proposal Unfunded Mandates and Lack of Funding to Reduce Air Pollution in Impacted Communities

Dear Governor Brown and Members of the California Legislature:

The undersigned California Air Districts strongly support the goals of improving air quality in disadvantaged communities and reducing greenhouse gas emissions through the proposed legislation, AB 398 and AB 617. Reduction of criteria and toxic emissions will yield significant public and environmental health benefits, including, but not limited to, reduced mortality and illnesses associated with high air pollution levels. We also appreciate the proposed amendments to increase the air districts' penalty authority, and the reaffirmation of the air districts' primary authority over criteria and air toxic emissions from stationary sources. *However, as currently written, AB 398 and AB 617 would impose enormous new workloads on air districts without any funding source and without the needed funding to reduce air pollution in impacted communities.* It will be impossible to comply with the far-reaching new mandates of better protecting and improving public health without significant and sustained funding, including both funding to carry out the new work required, and funding to provide incentives to reduce mobile source pollution. Statewide, more than a billion dollars would be needed. Therefore, we must respectfully oppose these new mandates.

While there may be opportunities to further reduce toxic emissions from stationary sources, to really benefit disadvantaged communities, diesel emissions must be drastically reduced. AB 617 does not recognize that the best way to reduce exposure to toxics in disadvantaged communities is to significantly increase funding for diesel emission reduction from mobile sources. *The air districts do not have any ability to raise funds for these purposes on their own.* In South Coast and San Joaquin Valley, over 80% of NO_x emissions contributing to ozone and PM_{2.5}, and about 90% of the basin-wide risk from air toxics, comes from mobile sources (70% from diesel particulates). AB 617 needs to explicitly require reductions from mobile sources, and since the California Air Resources Board (CARB) and the districts have limited regulatory ability to further reduce emissions from mobile sources, incentive funding in the range of more than a billion dollars per year is needed.

AB 617 also requires CARB to prepare a monitoring plan requiring "advanced sensing monitoring networks" for criteria and toxic air pollutants, and requires CARB to identify the

highest priority locations around the state for these networks. The districts must implement such networks, however, the bill does not limit the number of networks that will be required, provide an end date for monitoring, or define "advanced sensing monitoring." For the air districts, new workloads and expenditures could be unlimited. *While the districts have the ability to charge fees for their work related to permitted sources, as a practical matter these fees cannot support the significant new mandates required by this bill.* As an example, assuming the use of filter-based PM_{2.5} samplers for toxic metals such as hexavalent chromium (not some unspecified advanced technology), it costs \$6,000 per week, or over \$300,000 per year, just to maintain one upwind and one downwind sampler at a single location or facility. It is unrealistic to expect a small plating shop or other metalworking facility to be able to support the amount of monitoring required, and this does not even consider the monitoring that is not focused on a given facility, but used to identify areas of high exposure. If the districts were to try to impose fees for this monitoring, it would likely be very controversial as to who should pay the fees when the source of high emissions is likely to be mobile sources or a specific facility that has not yet been identified. Therefore it is not realistic to think the districts could raise their fees sufficiently to support the required monitoring.

Moreover, the South Coast Air Quality Management District, Bay Area Air Quality Management District, Sacramento Metropolitan Air Quality Management District, and the San Joaquin Valley Air Pollution Control District recently increased their permit fees to help cover the costs of existing programs. It would not be realistic to expect permitted sources to pay yet another fee increase, of unknown but likely very large dimensions, to support AB 617 mandates.

AB 617 also requires CARB to select areas in the state for the development of a community emission reduction program, then require the districts adopt and implement such programs. Further, if CARB rejects the community plan, we would need at least 180 days to resubmit a revised plan, not the 30 days currently provided. We expect that the majority of areas selected would be in the larger districts, which already have robust programs to reduce air toxics and criteria pollutants, including in disadvantaged areas. Developing such plans may not be the most cost-effective way to achieve emission reductions, compared to increasing mobile source incentive funding for programs such as Carl Moyer, which sets a goal of expending 50% of its funds in disproportionately impacted areas, which in South Coast is defined as low-income areas that are disproportionately exposed to air toxics and/or particulate air pollution. In South Coast, the program has typically exceeded the 50% goal.

We also have concerns about the new mandates relative to imposing best available retrofit control technology (BARCT). Full implementation by 2023 may be too aggressive given the time it takes to determine BARCT, and the number of source types to consider. In the past, these determinations for a limited number of source types have typically involved at least a 1 to 2 year public process, and another three to five years for implementation. We also request clarification that the law's provisions do not preempt the districts from using information other than the CARB clearinghouse to establish BARCT or BACT.

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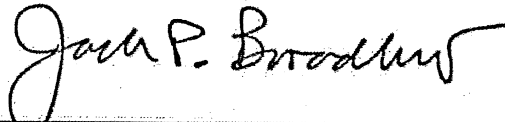
Furthermore, our public health objectives and the emission reduction goals require all interested parties to do their parts. Preempting local districts from working to achieve these goals is a strategic mistake.

Based on the foregoing, the undersigned air districts oppose AB 617 unless the bill is amended to provide that the mandates imposed on air districts must be implemented only to the extent the state provides significant and sustained funding to local air districts to help reduce air pollution in impacted communities

Sincerely,



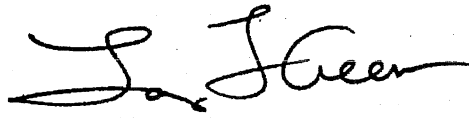
Wayne Natri
Executive Officer
South Coast AQMD



Jack Broadbent
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Bay Area AQMD



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San Joaquin Valley APCD



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Executive Director
Sacramento Metropolitan AQMD



**BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT**

July 12, 2017

The Honorable Governor Edmund G. Brown, Jr.
Members of the California Legislature
State Capitol Building
Sacramento, CA 95814

Dear Governor Brown and Members of the California Legislature:

The Bay Area Air Quality Management District (BAAQMD) has sent a joint letter with other air districts expressing opposition to the recently-released cap-and-trade proposal as embedded in AB 617 and AB 398. A copy of that letter is attached. We are also sending you this letter to expand upon and articulate additional points to those expressed in the joint letter.

First, we want to express our strong support for extending the cap-and-trade program. Both at the state level and locally, we have consistently and aggressively undertaken and supported progressive efforts to cut greenhouse gas emissions (GHGs). We have supported such bills as AB 32, SB 32, SB 535, and renewable portfolio standard legislation. We have adopted multiple plans and implemented many programs focusing on addressing climate issues, often ahead of our colleagues elsewhere in California or other states. We are working collaboratively with the Air Resources Board (ARB) to implement a number of programs focused on cutting climate emissions.

Additionally, we have been a leader in efforts to address air quality concerns in disproportionately impacted communities. For over two decades, the BAAQMD has undertaken trailblazing environmental justice work and programs, including targeted funding programs, regulations, monitoring efforts, work with local advocates and organizations, and more. We sincerely appreciate that the proposal attempts to improve air quality and public health, particularly in communities with unacceptably high levels of air pollution. We are also strongly supportive of the language to increase penalties for those who violate air quality regulations, and indeed have sponsored legislation to address this very issue in the past. Communities are protected when there are strong consequences for those who fail to comply with air regulations.

Nevertheless, we respectfully express an **Oppose unless amended** position on the proposal. Here are our concerns. First, we believe the preemption of local air district authority (Section 12 of AB 398) is bad policy. Our 2030 climate goals are so challenging that we believe California needs all responsible parties to work collaboratively to address these goals, especially agencies with direct experience and a proven track record of cost-effectively and fairly regulating primary sources of GHGs. We believe ARB, local air districts, metropolitan planning organizations, local cities and counties, and others all need to work together if we are to achieve our ambitious emission reduction goals. Given the support from ARB in a recent letter for our effort to cap refinery emissions in our proposed Regulation 12 Rule 16, this preemption comes as an unwelcome surprise.

ALAMEDA COUNTY

Tom Bates
Scott Haggerty
Rebecca Kaplan
Nate Milely

CONTRA COSTA COUNTY

John Gioia
David Hudson
(Secretary)
Karen Mitchoff
Mark Ross

MARIN COUNTY

Katie Rice

NAPA COUNTY

Brad Wagenknecht

SAN FRANCISCO COUNTY

John Avalos
Edwin M. Lee
Eric Mar
(Chair)

SAN MATEO COUNTY

David J. Canepa
Carole Groom
Warren Slocum

SANTA CLARA COUNTY

Cindy Chavez
Liz Kniss
(Vice-Chair)
Jan Pepper
Rod G. Sinks

SOLANO COUNTY

James Spering
Osby Davis

SONOMA COUNTY

Teresa Barrett
Shirlee Zane

Jack P. Broadbent
EXECUTIVE OFFICER/APCO

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Additionally, we share the concerns expressed by our colleagues in the attached letter about a lack of funding to cover the major increase in workload AB 617 would impose. The community and fence-line monitoring programs, the community air quality planning efforts, and the Best Available Retrofit Control Technology (BARCT) provisions are very major undertakings. In the real world of constrained resources, we will be forced to choose between continuing our existing programs critical to protecting public health, such as our enforcement and inspection efforts, or these new programs. While additional monitoring and data collection is always helpful, monitors do not reduce emissions; existing programs do. We believe the lack of funding in the proposal forces terrible choices upon us.

We are concerned that the BARCT provisions of Sections 2 and 3 of AB 617 are unworkable. BARCT in both statute and practice is a rulemaking concept, not a permitting concept, and denotes a level of control that can be imposed on existing emissions sources by rule because it can be justified on a technology and cost basis. The provisions of H&SC section 40920.6(a) not modified by AB 617 outline this concept. Sources to which BARCT rules apply are required to comply with those BARCT standards regardless of permit conditions. We are concerned that proposed section 40920.6(c) attempts to transform this well-settled application of the BARCT concept into a permitting exercise, implementation of which may not be possible or yield the intended results. For example, the bill language suggests that if a region is in non-attainment of any state or federal standard for one pollutant, BARCT would need to be applied for all pollutants, including toxics, for all sources at covered facilities. This would impose major new workloads on air district permitting and engineering staff for what in many cases will be no air quality benefit. We are very concerned that such an exercise could likely not be accomplished by 2023 as mandated. By diverting limited resources to this exercise, the BARCT provisions of AB 617 will unfortunately impede air districts' ability to impose BARCT requirements on other facilities that would result in greater improvements to air quality.

The proposed BARCT provisions would also likely impose costs on certain facilities that will be high, and potentially not cost-effective. The selection of a 2007-and-later date as being exempt from these new "BARCT" requirements will prevent air districts from requiring BARCT on such sources where in many cases it is appropriate and cost-effective to require additional reductions. And conversely, facilities that in 2006 installed new equipment pursuant to a BARCT rule, using a cost-effectiveness calculation predicated on, for example, a 25-year boiler lifetime, might be required to change that equipment short of the useful life that made the imposition of the 2006 requirement cost-effective.

The attached joint letter lays out concerns with the monitoring and community plans portions of AB 617 (Sections 7 and 8). In addition to those concerns, we note that as efforts to cut emissions (both independent of and as envisioned by this bill) yield benefits over time, there are no provisions to end monitoring where no longer needed, in order to focus on new, higher-priority areas. Additionally, the requirements fail to acknowledge the robust and extensive work that districts like the BAAQMD have completed and have underway in this arena. Again, in the world of unconstrained resources, the burdens of

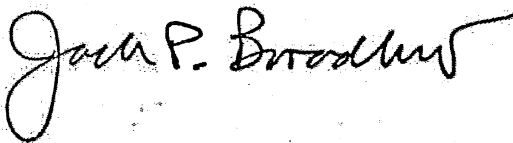
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these requirements will divert district resources away from programs that are achieving real emissions reductions in the very communities this bill is attempting to assist. Furthermore, these provisions (and many other sections of AB 617) insert the ARB inappropriately into local stationary source regulation. It is local districts that have the stationary source engineering and monitoring and local community expertise and knowledge. We appreciate and collaborate closely with the ARB, who we believe does outstanding work and is the preeminent state air agency in the nation if not the world. But as a Sacramento-based agency primarily responsible for mobile sources, this proposal gives them an inappropriate stationary source role.

Furthermore, we remain concerned that this proposal continues to rely on CalEnviroScreen to identify disadvantaged communities. We have long been on record that some of the most disadvantaged communities in the state are not identified as disadvantaged by this well-intentioned but flawed tool. The result is that many communities who most deserve the air quality benefits this bill attempts to provide will continue to be overlooked.

Again, we appreciate the goals of extending the cap-and-trade program, and improving air quality particularly in those communities that are most disproportionately impacted by air pollution. We would sincerely like to be able to support a proposal to address both goals. Amendments to AB 617 and AB 398 to address the concerns we raise in this and the attached letter would enable our support.

Sincerely,



Jack P. Broadbent
Executive Officer/APCO

Attachment: Multi-Agency Letter

cc: Richard Corey, ARB