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Subject: Comments to CEQA Rulemaking on Greenhouse Gas Emissions due 8/27/2009

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Climate Change is highly technical and scientific. Cap and Trade, a financial trading system, will be dependent on the determination of Greenhouse Gas Emissions and the credits generated in areas without the emissions. Without the regulatory agencies over securities for financial instruments, the whole basis of that new market will be on Lead Agencies in the CEQA process. They, in essence, will determine and control a financial market.

There will be no business credentials or licenses for Lead Agencies and their employees. There will be no oversight by any State or Federal agency in the financial market arena.

The projects, under CEQA guidelines, may or may not be considered "industry" in the sense of emissions, but the land use, will in effect, determine those industries the right to trade and bank.

This is the Wild West, similar to the derivatives market and the economic collapse that is occurring in the country because of lax or no regulation of that derivatives market.

There is no Congressional Budget Office in this state that has estimated the cost and effect of such a program. Instead, SB 97 is regulated to rulemaking changes without the benefit of financial forecasting.

Governor Arnold Schwarzenegger has signed California into a signatory for the Western Climate Initiative WCI, an unelected body.

Those states and provinces included in the WCI are:

1. California
2. Arizona
3. Montana
4. New Mexico
5. Oregon
6. Utah
7. Washington
8. British Columbia
9. Manitoba
10. Ontario
11. Quebec

Missing are oil producing Alberta and oil producing Texas .

In terms of Global Warming, most of the globe is missing in this discussion.

“Science” determines Climate Change and sells Cap and Trade. Congressman Henry Waxman emphasized that fact at a conference entitled “Climate Change Forum: Creating Security & Prosperity for the 21st Century-A Public Forum on the American Clean Energy and Security Act (HR 2454) and the California Global Warming Solutions Act (AB 32)” at UCLA with Senator Fran Pavley.

Problem is there is no science in these regulations.

In the WCI “Design Recommendations for the WCI Regional Cap-and-Trade Program September 23, 2008, Appendix B: Economic Modeling Results,” the model outputs are measured for:

“Greenhouse Gas (GHG) Emissions:

GHG emissions are presented in millions of metric tons of carbon dioxide equivalent (MMTCO_{2e}). Emissions for the eight WCI partner jurisdictions included in the analysis are presented by major sector.

Compliance Summary:

The Compliance Summary shows how GHG emissions are reduced to achieve the WCI partners’ regional emissions goal of a 15% reduction from 2005 levels by 2020. The Compliance Summary shows a Compliance Total, which is the calculated emissions minus offsets used and adjusted for any allowances that are banked or that are used from the bank. The running total of emission allowances banked is also reported. The Compliance Total also considers changes in emissions in the non-WCI WECC power sector. The WCI cap-and-trade policies and complementary policies will affect GHG emissions from power generated in the non-WCI WECC states and provinces.”

WECC is the Western Electricity Coordinating Council, an unelected body.

In other words, many industries such as transportation, utilities, aviation, water, appliances, residential property, commercial property, agriculture, passenger transport, freight transport, oil, mining, waste and wastewater.

Again, the CEQA rulemaking mechanism has no conduit to verify credibility of the Lead Agencies and the Environmental Document preparers to address this intricate network of environmental effects that will result in this new financial market and the Climate Registry.

Because of the limitations of Lead Agencies identifying a project that needs full examination, we have concluded the burden of proof is on the resident or property owner residing within 500 feet of a project.

In the City of Los Angeles including state agencies such as the Los Angeles Unified School District , environmental documents are occasionally submitted to the State Clearinghouse.

We have gone on the CEQA-Net website in search of City of Los Angeles projects including the Community Redevelopment Agency and LA World Airports and have found 51 projects in 2009. Yet the City Planning Department, only one faction, publishes in the LA Times anywhere from 6-15 Mitigated Negative Declarations per week.

For the City of Los Angeles , General Plan Amendments alone, by ordinance effective date, total:

2009 to date: 12

2008: 24

2007: 42

2006: 16

2005: 20

2004: 21

2003: 15

2002: 14

2001: 19

2000: 18

1999: 12

1998: 18

1997: 4

1996: 10

1995: 5

1994: 18

1993: 21

1992: 37

1991: 20

1990: 40

1989: 34

1988: 69

1987: 61

It is the Lead Agency decision-making process that has resulted in environmental documents being declared Mitigated Negative Declarations or Negative Declaration. Many Initial Study, Notice of Preparation, Draft Environmental Impact Reports and Final Environmental Impact Reports are not processed through the State Clearinghouse for comment by outside agencies.

There is little to no peer review.

Though there is an appeal process, little result in favor of the appellant, which has led us to conclude, in Los Angeles , that the courts are the only way to be heard.

That process is expensive and certainly is not in the financial capabilities of deprived areas. Environmental justice is unheard.

General Plans and their Elements are not revised regularly to reflect growth and quality of life issues and certainly not often enough to determine a Cap and Trade market.

The quality of life has dissipated to a level of confinement and restriction within a big city, not considered a Finding of Significance.

The City of Los Angeles has included the following elements in the General Plan readopted on August 8, 2001, CF 01-1162 and originally adopted December 1, 1996, CF 95-2259:

- Land Use Element Including 35 Community Plans
- Air Quality Element adopted November 24, 1992, CF 91-2003
- Conservation Element adopted September 26, 2001, CF 01-1094 superseding the Open Space Element originally adopted June, 1973 and the Conservation Element originally adopted December, 1973
- Historic Preservation and Cultural Resources Element, not executed and not adopted
- Housing Element adopted August 13, 2008, CF 08-1933 and re-adopted on January 14, 2009, CF 08-1933-S1
- Infrastructure Systems Element, not executed and not adopted
- Noise Element adopted February 3, 1999, CF 96-1357 superseding the 1975 Noise Element
- Open Space Element, not executed and not adopted
- Public Facilities and Services Element, not executed and not adopted
- Safety Element adopted November 26, 1996, CF 96-1810 superseding the 1975 Safety Plan, the 1974 Seismic Safety Plan and the 1979 Fire Protection and Prevention Plan
- Transportation Element adopted August 8, 1999, CF 97-1387 superseding the Scenic Highways Plan adopted in May 13, 1978, CF 98-0894 and the Highways and Freeways Element adopted in 1959

Only the Housing Element has been updated within the required time.

The Federal Floodplain Management Plan is up for revision, but the City has claimed their lack of funds restricts them into any planning in depth. In other words, the 2001 plan will be repeated for 2009. Floodplain Management is a key factor for landfill and oil field issues during any type of wet weather conditions.

The City of Los Angeles is unusual in that it sits on an oilfield, which is a Greenhouse Gas Emission concern. Landfills may appear on a federal list, but the City may de-commission them. This is a Greenhouse Gas Gases emissions issue. There is no State registry for both federal and state oil wells and landfills.

These old oilfields are not necessarily mapped due to destruction of old records. Oil wells are not inventoried properly, if at all, especially in underground parking facilities.

Methane Mitigation has been an issue. There has been no expertise required in the determination of mitigation. The Chief Legislative Analyst has issued a report on the issue, but with no credentialed expertise in the preparation.

This presents a problem in CEQA disclosure and mitigation. It presents a problem with Conflicts of Interest issues.

Consequently, Urban Runoff Management Plans are not solidified.

The State Clearinghouse is not designed to be a scientific information clearinghouse. There is no depository for the basis of science.

The measurement of GHG Greenhouse Gases requires measurements, analysis and the training and ability draw a conclusion for action.

The following gases are not necessarily recognizable to the general public except the word “smog”:

- Carbon Dioxide (CO₂),
- Methane (CH₄),
- Nitrous Oxide (N₂O),
- Hydrofluorocarbons,
- Perfluorocarbons,
- Sulfur Hexafluoride

Again, the burden to contest is on the back of the resident or property owner within 500 feet of a project.

With the State’s economy in dire shape, pending budget cuts and pension obligations on the local level, the Local Government will not spend the money for proper analysis and determination. The Lead Agency is driven by City Departments, at this level for most Land Use issues.

AMEND SECTION 15064- DETERMINING THE SIGNIFICANCE OF THE ENVIRONMENTAL EFFECTS CAUSED BY A PROJECT.

Although the Climate Change Scoping Plan, adopted December 2008, mentions the Air Resources Board Local Government Operations Protocol, it is a method for to track progress, not to establish sources and uses.

According to the CAT Climate Action Team report of March 27, 2006, titled “Cap and Trade Program Design Options,” page 8:

“Leakage: An effective cap-and-trade program must encompass all relevant emission sources to prevent ‘emission leakage.’ Emission leakage occurs when some facilities are allowed to operate outside the cap. Under this circumstance, activities that emit GHGs could shift from facilities that fall under the cap to those that do not fall under the cap. The emissions ‘leak out’ from under the cap by shifting to facilities outside the cap.

For example, leakage can occur when the cap applies to facilities in one jurisdiction, but not to facilities in a neighboring jurisdiction. In this case, activities that emit GHGs could shift to the

neighboring jurisdiction to avoid the cap. The end result is that emissions are low at the facilities under the cap, but emissions increase at facilities outside the cap.

Local Environmental Impacts: When pollutants have local environmental impacts, it may not be possible to allow complete compliance flexibility and unlimited emission allowance trading because individual facilities could increase local emissions by purchasing emission allowances. In this circumstance, specific emission restrictions may be needed to protect against increased local impacts. Section 4 discusses environmental justice concerns associated with using a cap-and-trade approach to reducing GHG emissions.”

There is no consistency in Element Plans, timeframes or periodic reporting. There is no repository of inventories of sources and uses not are there a repository for the science around the subject. There is no peer review to verify or challenge the science. There can be no basis for a decision because a significant effect has no proof or test or science or fact. A “careful judgment” means there are no standards or basis. There is no requirement for training in determining “careful judgment” means informed judgment or sector trained judgment.

How will leakage be determined? Nowhere are schools mentioned, yet Los Angeles Unified School District LAUSD has been plagued for years over Belmont Learning Center now known as Roybal Learning Center . Many of the inner city schools are on old oilfields and LAUSD is the largest property owner.

LAUSD can benefit in Cap and Trade if they use playgrounds for a credit without disclosure or cumulative impacts of old oil wells and methane issues.

The Board of the LAUSD has decided to give away over 200 of their under-performing schools, usually in these inner city areas, as well as 50 or so of their new schools. Now, that oversight will be by Charter Schools, or by private non-profits agencies without regulatory requirements or even by Mayor Antonio Villaraigosa, without City Council consent or by the Vote of the People via a Charter amendment. Will leakage decisions be left to the investigative press to uncover?

The Sunshine Canyon Landfill is plagued with cancer clusters surrounding the area and very angry residents who know the problem of leakage remains unsolved year after year.

Not all groundwater basins are adjudicated which means there are no requirements for a Water Quality Control Plan or Integrated Waste Management Plan if there is no jurisdiction.

Who is qualified to determine what environmental change means and how can they measure “substantial.” What are the qualifications and licensing to determine what falls into the category of “evidence.”

The administrative records are the local government record. School districts falls under State regulation; but charter schools falls under local government ordinances and codes, yet are considered a school district unto themselves.

Again, the judge will be the one to determine such loose terms. This methodology takes the responsibility out of the Lead Agency to the courts.

The number of CEQA cases decided, for the entire state totaled, per year:

2008: 21
2007: 31
2006: 34
2005: 32
2004: 19
2003: 7
2002: 15
2001: 17
2000: 12
1999: 12
1998: 3
1997: 15
1996: 11
1995: 20
1994: 16
1993: 23
1992: 12
1991: 15
1990: 17
1989: 10
1988: 13
1987: 12

The courts would be overwhelmed if suing was reasonably priced.

ADD SECTION 15064.4- DETERMINING THE SIGNIFICANCE OF IMPACTS FROM GREENHOUSE GAS EMISSIONS.

With the Lead Agency in complete control and without a Conflict-of-Interest Code and Statement 700 filings for California employees or other Statement of Economic Interests in other states or Canadian provinces, or voluntary disclosure by contracted consultants, this open door to determination is fraught with potential corruption and quid pro quo possibilities.

Even though universities like the University of California at Los Angeles UCLA plan to incorporate 35 centers in their climate program, there is really no authority over the science. There is only opinion. So far, we see no public agency that is moving the Greenhouse Gas Gases issue. We do see private consultants, initiatives, and non-profit corporations such as:

Western Climate Initiative, as mentioned earlier
Ross and Associates
Offset Quality Initiative

Seattle Climate Partnership
The Climate Trust
West Coast Collaborative
Net Green
World Resources Institute

Since the Western Climate Initiative involves Governor Schwarzenegger and the State of California , we attempted to download the document inventory off the website:

<http://www.westernclimateinitiative.org/>

We reach a maximum limit and were denied further access. The Lydia Dobrovolny, the Ross and Associates' consultant responded to our email inquiry:

“For security reasons we have to implement a daily cap on document downloads to protect our bandwidth. The current cap is more than enough to allow every document in the WCI document library to be downloaded at least one time/day, and this cap is reset daily.

With regards to requiring multiple clicks for downloading documents, all of our documents are stored in a database which cannot be directly accessed. This is for site speed, functionality and security. We are sorry for any inconvenience this has caused, but have found it necessary to ensure smooth operation of the site.

Public review of WCI documents is very much encouraged and welcome. We have tried to set-up the website to make it as easy as possible for stakeholders to find and access documents while balancing technical considerations. If you are unable to access the documents within the parameters outlined above, please let me know and we will look into resolving those issues or can forward you the documents directly.

Thank you for your understanding.”

We tried the next day and hit the limit again.

This is not a public process. And we still do not have their document inventory downloaded.

The Governor may have signed an agreement, but the Voter was left high and dry.

AMEND 15064.7- THRESHOLDS OF SIGNIFICANCE.

The definition, as defined in September, 1994, states:

“A quantitative or qualitative standard, or set of criteria, pursuant to which the significance of a given environmental effect may be determined.”

Again, just who determines that standard, a legislative analyst, a legislator, any adopted report, not plan? How are experts being defined—by a paycheck or consulting contract? Are any education requirements enacted or licensing required?

Is substantial evidence just being defined as a written report? For science, is there a conduit for peer review?

AMEND 15065. MANDATORY FINDINGS OF SIGNIFICANCE.

Public review is added, but the necessity of disclosure and distribution to any agency involved, including agencies outside a local planning area. What happens to these regional entities that are not part of the State Clearinghouse distribution list, yet play a role in determining key factors in Cap and Trade?

AMEND 15086. CONSULTATION CONCERNING DRAFT EIR.

This is just a technical change, but you are omitted influence from outside entities and are not considering that renewable energy issues that include Greenhouse Gas Gases may not be in a county next door, i.e. Salton Sea and their geothermal or Calexico and their geothermal.

AMEND 15093. STATEMENT OF OVERRIDING CONSIDERATIONS.

Emissions do not contain themselves within a physical border. How are you defining region-wide?

AMEND 15125. ENVIRONMENTAL SETTING.

The City of Los Angeles has 69 Specific Plans, many are ancient. We understand that the City Planning Department will right into the Community Plans and Specific Plans environmental language. Will generic environmental language replace the science required to determine the Environmental Setting which may lead to a financial market in Cap and Trade?

Also missing is Methane Mitigation plans. So far, they have been swept under the carpet.

AMEND 15126.2. CONSIDERATION AND DISCUSSION OF SIGNIFICANT ENVIRONMENTAL IMPACTS.

“21100.1. The information described in subparagraph (B) of paragraph (2) of subdivision (b) of Section 21100 shall be required only in environmental impact reports prepared in connection with the following:

- (a) The adoption, amendment, or enactment of a plan, policy, or ordinance of a public agency.
- (b) The adoption by a local agency formation commission of a resolution making determinations.
- (c) A project which will be subject to the requirement for preparing an environmental impact statement pursuant to the requirements of the National Environmental Policy Act of 1969.”

Title 24 is about Building Standards Code.

Just what standards are enacted in this revision?

AMEND 15126.4. CONSIDERATION AND DISCUSSION OF MITIGATION MEASURES PROPOSED TO MINIMIZE SIGNIFICANT EFFECTS.

A project-by-project basis is not a realistic vision of Greenhouse Gas Emissions, not does it take in migration of gases.

A plan that includes specific measures or policies must have a process of implementation, measurement and enforcement. There needs to be teeth behind a policy. Is it part of the budget- is there funding to substantiate execution of a policy or plan?

AMEND 15130. DISCUSSION OF CUMULATIVE IMPACTS.

How are these plans discussed here included in yearly progress reports or included in updated elements of a plan. How is the effectiveness being measured?

Also, because of zoning variances and conditional use permits, many plans are by-passed by the entitlement process. How are these variances being addressed to the overall local, regional or statewide plan or related planning document.

We have already seen the failure of accessing information if it costs time and money to accumulate.

What are the parameters for “incremental contribution of those emissions may be cumulatively considerable”—judgment?

AMEND 15183. PROJECTS CONSISTENT WITH A COMMUNITY PLAN, GENERAL PLAN, OR ZONING.

If requirements are enacted, then where is the timely reporting, measurement and enforcement? What qualifications are required to interpret the requirements? What variances are allowable and how will those variances affect the Cap and Trade market?

ADD 15183.5. TIERING AND STREAMLINING THE ANALYSIS OF GREENHOUSE GAS EMISSIONS.

Just who is responsible for fraud—the preparer, the lead agency, the local government, state agencies, the public, or the defendant?

Who is required to produce travel patterns? We have attended meetings where it has been revealed that there are no patterns of travel—it is everywhere. How can a Special Situation exist in these terms unless it is limited to a small town?

ADD 15364.5. GREENHOUSE GAS

Are the Greenhouse Gases measured in the air, under the water, under the land? Can they morph into other forms?

How are Greenhouse Gases defined in a forest fire?

AMEND APPENDIX F- ENERGY CONSERVATION

“21100. (b) The environmental impact report shall include a detailed statement setting forth all of the following:

(3) Mitigation measures proposed to minimize significant effects on the environment, including, but not limited to, measures to reduce the wasteful, inefficient, and unnecessary consumption of energy.”

Energy efficiency is an uncharted territory, yet this appendix treats it like reality. In a proprietary department such as the Los Angeles Department of Water and Power, the lead agency can claim their renewable projects as an offset. The Niland Solar Farm Project would be one of these. Problem is that they did not circulate the project in Los Angeles for public comment, but did go through the process in Imperial County as a joint lead agency. The Mitigated Negative Declaration was approved by the LADWP Board, so it would qualify under this definition.

Again, the public has to sue just to get the facts and their right to review projects that may cost them billions of dollars.

Water has not really been discussed. Water drives energy, yet increased usage is not addressed in these changes. Recycled water is also not addressed. Recycled water is not necessarily under a lead agency jurisdiction.

Conservation in one area may not benefit that same area. If City of Los Angeles stormwater or wastewater goes to West Basin for recycled water process, who benefits?

Again Urban Runoff plans are missing from this equation.

AMEND APPENDIX G- ENVIRONMENTAL CHECKLIST FORM

Who maintains and analyzes the effects of the ocean? They do not necessarily fall into a lead agency’s purview?

Soils take a more important role in Greenhouse Gas Emissions. Certain soils retain water, others do not. How does the Greenhouse Gas effect groundwater or effect oceans?

Transportation and traffic issues should include recreational trails, which allow equestrian use. How many plans are updated with the definition of recreational trails?

Parking should NOT be deleted. It is definite an ongoing headache in the Los Angeles region as well as becoming expensive. Parking capacity is a KEY issue for both personal and business lives. This deletion may backfire and result in a flight of residents OUT OF CALIFORNIA to other states. Business seems to be a non-factor here, but they will flee also.

CONCLUSION:

This is part of a subtle process to destroy our Constitutions, both United States and State of California, by regulation that silences the voice of the People, either by omission of their vote for representation, omission of their vote for decisions regarding taxes or their due process.