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Western Environmental Law Center

Mary Nichols, Chair
California Air Resource Board
1001 "I" Street
P.O. Box 2815
Sacramento, CA 95812

March 18, 2009

Dear Chairwoman Nichols,

In November, 2008, we urged ARB to take seriously its mandate under AB 32, Section 38560. See [www.westernlaw.org/our-work/climate/WELC Comments 11 08.pdf](http://www.westernlaw.org/our-work/climate/WELC%20Comments%2011%2008.pdf). We have received no response as yet to that letter.

Our purpose here is to alert you to a related concern, namely that ARB's adoption of a vehicle feebate program could be rendered useless by operation of the cap-and-trade plan that ARB is simultaneously considering -- again, unless ARB takes its mandate under Section 38560 seriously and designs its cap-and-trade program to ensure maximum reductions.

In brief, the cap-and-trade plan, to the extent it is tiered only to the 2020 emissions limit, will function to ensure that deeper than required reductions in one sector are offset by increased allowances in another. This matter is explored in a brief policy memorandum by Ken Johnson, which we have recently printed on our website. See www.westernlaw.org/our-work/climate/PassengerVehicles.pdf.

The Scoping Plan that you approved last December projected a 4 MMT incremental reduction in emissions from Pavley 1 regulations. We share Mr. Johnson's concerns with how this estimate was derived and its relationship, if any, to the mandates in AB 1493 and AB 32 to achieve the "maximum feasible and cost-effective" reduction.

We are also concerned that the developing vehicle regulations will not be constructed so as to achieve the maximum reduction mandates if, pursuant to ARB's simultaneously developing cap-and-trade measure, the climate impacts of additional reductions are nullified by offsetting emission increases in other areas.

We would welcome the opportunity to discuss these matters with you or your staff at your earliest convenience.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Dan Galpern". The signature is fluid and cursive, with a prominent initial "D" and "G".

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