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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF CALIFORNIA; GAVIN
C. NEWSOM, in his official capacity as
Governor of the State of California; THE
CALIFORNIA AIR RESOURCES BOARD;
MARY D. NICHOLS, in her official
capacity as Chair of the California Air
Resources Board and as Vice Chair and a board member
of the Western Climate Initiative, Inc.; WESTERN
CLIMATE INITIATIVE, INC.; JARED
BLUMENFELD, in his official capacity as Secretary
for Environmental Protection and as a board member
of the Western Climate Initiative, Inc.; KIP LIPPER,
in his official capacity as a board member of the
Western Climate Initiative, Inc., and RICHARD
BLOOM, in his official capacity as a board member
of the Western Climate Initiative, Inc.,

Defendants.

Civil Action No. _____

COMPLAINT

Plaintiff, the United States of America, alleges as follows:

INTRODUCTION

1. The Constitution gives the federal government full and exclusive responsibility to conduct this nation's foreign affairs, representing as it does the collective interests of all its states and territories.

1 2. As the Supreme Court has accentuated, “[o]ur system of government is such that
2 the interest of the cities, counties and states, no less than the interest of the people of the whole
3 nation, imperatively requires that federal power in the field affecting foreign relations be left
4 entirely free from local interference.” *Hines v. Davidowitz*, 312 U.S. 52, 63 (1941).

5 3. Notwithstanding the breadth and exclusivity of the federal government’s
6 responsibility for foreign affairs, Defendants have pursued, or are attempting to pursue, an
7 independent foreign policy in the area of greenhouse gas regulation. Specifically, Defendants
8 have intruded into the federal sphere by entering into a cap-and-trade agreement with the
9 provincial government of Quebec, Canada (the “Agreement”). This intrusion complexifies and
10 burdens the United States’ task, as a collective of the states and territories, of negotiating
11 competitive international agreements. Moreover, California’s actions, as well as the actions of
12 those acting in concert with it, have had the effect of enhancing the political power of that state
13 vis-à-vis the United States. This is due not only to the effect of the Agreement itself but also
14 stems from the fact that the Agreement could encourage other states to enter into similarly illegal
15 arrangements.

16 4. The design of the Constitution requires that the federal government be able to
17 speak with one voice on behalf of the United States in matters of foreign affairs. Allowing
18 individual states in the Union to conduct their own foreign policy to advance their own narrow
19 interests is thus anathema to our system of government and, if tolerated, would unlawfully
20 enhance state power at the expense of the United States and undermine the United States’ ability
21 to negotiate competitive international agreements.

22 5. Because the Agreement, together with certain related provisions of California law,
23 violate the Constitution, this Court should declare them unlawful and enjoin their operation.

24 **JURISDICTION AND VENUE**

25 6. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345.

26 7. Venue is proper in this District under 28 U.S.C. § 1391(b) because Defendants
27 reside here and because a substantial part of the acts or omissions giving rise to this Complaint
28 arose from events occurring within this District.

8. This Court has authority to provide the relief requested under 28 U.S.C. §§ 1345, 1651, 2201 and 2202, and under its inherent legal and equitable powers.

THE PARTIES

9. Plaintiff, the United States of America, has full and exclusive responsibility to conduct the foreign policy of the nation.

10. Defendant State of California is a state of the United States.

11. Defendant Gavin C. Newsom is Governor of the State of California and is sued in his official capacity.

12. Defendant California Air Resources Board (“CARB”) is an agency of the State of California. It has primary responsibility for implementation of the Agreement.

13. Defendant Mary D. Nichols is Chair of CARB and Vice Chair and a voting board member of the Western Climate Initiative, Inc. (WCI), and is sued in her official capacity.

14. Defendant WCI is a non-profit corporation organized under the laws of Delaware. WCI is headquartered in Sacramento, California. *See* 2018 Tax Return, *available at* <http://www.wci-inc.org/fr/docs/TaxForm-USA2018-EN-20190514.pdf> at 1 (last visited October 22, 2019). According to its charter, its first purpose is “to provide technical and scientific advisory services to States of the United States and Provinces and Territories of Canada in the development and collaborative implementation of their respective greenhouse gas emissions trading programs.” Certificate of Incorporation of Western Climate Initiative, Inc., § 3, *available at* http://wci-inc.org/docs/Certificate_of_Incorporation.pdf (last visited October 22, 2019).

15. WCI is a state actor and an instrumentality of the governments of California, Quebec, and Nova Scotia. WCI’s bylaws provide that the Class A voting board members representing the State of California must be “employee[s] or officer[s] of the state, named in accordance with the state’s requirements.” *See* By-Laws of the Western Climate Initiative, Inc., Art. IV, § 4.2(a), *available at* http://wci-inc.org/docs/WCI%20Inc%20Bylaws_10-11-2018.pdf (last visited October 22, 2019). The Class B non-voting board members representing the State of California also must be “employee[s], officer[s] or elected officer[s] of the jurisdiction.” *Id.* § 4.2.

16. Defendant Jared Blumenfeld is the California Secretary for Environmental Protection and a voting board member of WCI, and is sued in his official capacity.

17. Defendant Kip Lipper is an employee of the California State Senate and a non-voting board member of WCI, and is sued in his official capacity. Mr. Lipper was appointed to the board by the California Senate Rules Committee.

18. Defendant Richard Bloom is a state assembly member and a non-voting board member of WCI, and is sued in his official capacity. Mr. Bloom was appointed to the board by the Speaker of the California Assembly.

19. Defendants the State of California, Governor Newsom, CARB, Chair Nichols, WCI, Secretary Blumenfeld, Assembly Member Bloom, and Mr. Lipper are referred to collectively as “California” or as “Defendants.”

APPLICABLE LAW

20. The Constitution provides that “[t]his Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; . . . any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” Art. VI, cl. [2].

21. The Constitution prohibits states from “enter[ing] into any Treaty, Alliance, or Confederation.” Art. I, § 10, cl. [1].

22. The Supreme Court has recognized and held that, “[w]hen a State enters the Union, it surrenders certain sovereign prerogatives. Massachusetts cannot invade Rhode Island to force reductions in greenhouse gas emissions [and] *it cannot negotiate an emissions treaty with China or India . . .*” *Massachusetts v. EPA*, 549 U.S. 497, 519 (2007) (emphasis added).

23. The Constitution prohibits states, “without the Consent of Congress,” from “enter[ing] into any Agreement or Compact . . . with a foreign Power . . .” Art. I, § 10, cl. [3].

24. The Constitution gives Congress “Power . . . [t]o regulate Commerce with foreign Nations” Art. I, § 8, cl. [3].

25. The Supreme Court has interpreted the Foreign Commerce Clause to have a negative application, in the sense that state laws that discriminate against, or impose an undue

burden upon, foreign commerce, are unconstitutional even in the absence of federal legislation regulating the activity in question. *See Barclays Bank PLC v. Franchise Tax Bd. of California*, 512 U.S. 298, 310-13 (1994).

26. Even aside from his military powers as the “Commander in Chief of the Army and Navy,” Art. II, § 2, cl. [1], the Constitution vests broad responsibility for the conduct of foreign affairs in the President of the United States.

27. The President has “Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur.” *Id.* cl. [2].

28. The President “nominate[s], and by and with the Advice and Consent of the Senate, . . . appoint[s] Ambassadors, other public Ministers and Consuls.” *Id.*

29. The President “receive[s] Ambassadors and other public Ministers.” *Id.* § 3.

30. The Constitution authorizes the President to “take Care that the Laws be faithfully executed.” *Id.*

31. The Supreme Court has interpreted the provisions of the Constitution that vest authority over foreign affairs in the President to prohibit actions by the states that lie outside their traditional and localized areas of responsibility and instead interfere with the federal government’s foreign policy, or otherwise implicate the conduct of foreign policy. *See American Ins. Ass’n v. Garamendi*, 539 U.S. 396, 418-20 (2003).

THE UNITED STATES’ FOREIGN POLICY

32. The United States has demonstrated an active and continuous interest in reconciling protection of the environment, promotion of economic growth, and maintenance of national security. It has “in fact . . . addressed” these interwoven issues on a number of occasions. *Id.* at 421.

33. In 1992, President George H. W. Bush signed, and the Senate unanimously approved, the United Nations Framework Convention on Climate Change (“UNFCCC”), with a stated objective of “stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.” *Id.*, Art. 2.

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1 34. The UNFCCC does not set binding limits on greenhouse gas (“GHG”) emissions
2 for individual countries. It contains no enforcement mechanism. Instead, it explains how
3 signatories may negotiate specific international agreements (often referred to as “protocols”) in
4 pursuit of the UNFCCC’s objective.

5 35. One agreement under the UNFCCC is the Kyoto Protocol of 1997. This protocol
6 imposed mandatory GHG emission reduction targets on the United States and other UNFCCC
7 Annex I parties. The protocol placed heavier burdens on the Annex I parties than on
8 economically developing countries.

9 36. Although the United States initially signed the protocol, President Clinton never
10 submitted it to the Senate for ratification. Instead, the Senate passed a unanimous resolution
11 expressing disapproval of this protocol specifically, and generally of any other protocol that
12 similarly provided for disparate treatment of economically developing countries. S. Res. 98,
13 105th Cong. (1997).

14 37. On December 12, 2015, the parties to the UNFCCC agreed to the Paris Climate
15 Accord (the “Accord”).¹

16 38. The Accord sets forth a goal of preventing global temperatures from rising more
17 than two degrees Celsius above pre-industrial levels or, if possible, limiting the increase to 1.5
18 degrees Celsius.

19 39. The Accord tasks each nation with the responsibility to develop its own climate
20 plans, referred to as “nationally determined contributions.” Paris Accord, Art. 4.2. Under its
21 terms, a party may withdraw from the Accord one year after providing notice of intent to
22 withdraw, but such notice may be given no earlier than three years after the Accord has entered
23 into force for that country.

24 40. President Obama accepted the Accord on behalf of the United States by executive
25 action in September 2016.

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28 ¹ We refer to the “Paris Agreement” as the “Paris Accord” to avoid confusion between that
agreement and the Agreement that is the main focus of this Complaint.

1 41. On June 1, 2017, President Trump announced that the United States intended to
 2 withdraw from the Accord and to begin negotiations to either re-enter it or negotiate an entirely
 3 new agreement on terms more favorable to the United States.

4 42. The President stated that withdrawal was necessary because, among other things,
 5 the Accord: (1) undermined the nation’s economic competitiveness and would cost jobs; (2) set
 6 unrealistic targets for reducing GHG emissions while allowing China to increase such emissions
 7 until 2030; and (3) would have negligible impact in any event.

8 **CALIFORNIA’S FOREIGN POLICY**

9 43. In 2006, Arnold Schwarzenegger, Governor of California at the time, declared
 10 that California was a “nation state” with its own foreign policy. Douglas A. Kysar & Bernadette
 11 A. Meyler, *Like a Nation State*, 55 U.C.L.A. L. REV. 1621, 1622 (2008) (quoting Governor
 12 Schwarzenegger). He said this as Tony Blair, Prime Minister of the United Kingdom, stood by
 13 his side. *Id.* See also Adam Tanner, *Schwarzenegger: California is ‘Nation State’ Leading*
 14 *World*, WASHINGTON POST (Jan. 9, 2007) (“‘We are the modern equivalent of the ancient city-
 15 states of Athens and Sparta. California has the ideas of Athens and the power of Sparta,’
 16 Schwarzenegger . . . told legislators ‘Not only can we lead California into the future . . . we
 17 can show the nation and the world how to get there. We can do this because we have the
 18 economic strength, the population, the technological force of a nation-state.’”) (paragraph break
 19 omitted), available at [http://www.washingtonpost.com/wp-dyn/content/article/2007/01/09/](http://www.washingtonpost.com/wp-dyn/content/article/2007/01/09/AR2007010901427.html)
 20 [AR2007010901427.html](http://www.washingtonpost.com/wp-dyn/content/article/2007/01/09/AR2007010901427.html) (last visited October 22, 2019). Governor Schwarzenegger’s assertions
 21 about California’s powers are demonstrably at odds with the state’s “surrender[.]” of “certain
 22 sovereign prerogatives” upon entering the Union. *Massachusetts*, 549 U.S. at 519.

23 44. In the wake of the United States’ announcement that it intends to withdraw from
 24 the Accord — in part because it favors China — California (by or through one or more of the
 25 other Defendants) has entered into numerous bilateral alliances, confederations, agreements, or
 26 compacts on environmental issues with national and subnational governments in China.

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1 45. Indeed, mere days after President Trump announced the United States’ intent to
 2 withdraw from the Paris Climate Accord, Jerry Brown, then-Governor of California, met in
 3 Beijing with China’s President Xi Jinping to discuss environmental issues.

4 46. In 2017, in what the states in question called a direct response to the United
 5 States’ announcement that it intended to withdraw from the Accord, California and other states
 6 entered into the United States Climate Alliance, committing to reducing GHG emissions in a
 7 manner consistent with the goals of the Accord. *See* Attachment A at 12 (explaining that the
 8 United States Climate Alliance was founded “in response to President Trump’s decision to
 9 withdraw from the Paris Agreement”).²

10 47. According to California, the state is a party to 72 active bilateral and multilateral
 11 “agreements” with national and subnational foreign and domestic governments relating to
 12 environmental policy. *See generally* Attachment A. Additionally, California states that the
 13 purpose of these agreements is “to strengthen the global response to the threat of climate change
 14 and to promote a healthy and prosperous future for all citizens.” [https://www.climate](https://www.climatechange.ca.gov/climate_action_team/partnerships.html)
 15 [change.ca.gov/climate_action_team/partnerships.html](https://www.climatechange.ca.gov/climate_action_team/partnerships.html) (last visited October 22, 2019).

16 48. In 2013, CARB on behalf of California entered into the predecessor of the
 17 Agreement with the provincial government of Quebec, Canada. *See* Agreement Between the
 18 California Air Resources Board and the *Gouvernement du Québec* Concerning the
 19 Harmonization and Integration of Cap-and-Trade Programs for Reducing Greenhouse Gas
 20 Emissions. The Agreement, as renegotiated in 2017, obliges California to work with Quebec
 21 “toward the harmonization and integration of [their] greenhouse gas emissions reporting
 22 programs and cap-and-trade programs for reducing greenhouse gas emissions.” *See* Agreement
 23 on the Harmonization and Integration of Cap-and-Trade Programs for Reducing Greenhouse Gas
 24 Emissions at Art. 1 (attached hereto as Attachment B).

25 49. The Agreement facilitates the California Global Warming Solutions Act of 2006,
 26 (AB 32), which requires the state to reduce its GHG emissions to their 1990 level by 2020 and to

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 28 ² Attachment A amalgamates text from https://www.climatechange.ca.gov/climate_action_team/partnerships.html (last visited October 22, 2019).

1 “facilitate the development of integrated and cost-effective regional, national, and international
2 greenhouse gas reduction programs.” CAL. HEALTH & SAFETY CODE § 38564 (emphasis added).

3 50. The Agreement facilitates a comparable program in Quebec.

4 51. “Cap-and-trade” refers to a regulatory system that imposes a cap on GHG
5 emissions, grants regulated entities “emission allowances”—entitling them to emit a specified
6 quantity of GHGs—and creates a market in which regulated entities may buy and sell
7 allowances.

8 52. Before entering the Agreement, California had promulgated regulations to
9 establish an internal cap-and-trade system in 2011. *See* 17 Cal. Code Regs. (“CCR”) §§ 95801-
10 96022. However, California’s regulations explicitly contemplated that that “compliance
11 instrument[s] issued by an external greenhouse gas emissions trading system (GHG ETS) may be
12 used to meet” the state’s regulatory requirements. 17 CCR § 95940. By formulating its
13 regulations in this fashion, California built its cap-and-trade system in anticipation of expansion
14 beyond state lines.

15 53. Covered entities include manufacturers, electric power generation facilities,
16 natural gas suppliers, importers of electricity and natural gas, intrastate pipelines and others
17 whose annual GHG emissions equals or exceeds specific thresholds. *See id.* §§ 95811-12. Upon
18 information and belief, many covered entities have substantial interstate or foreign activities.

19 54. The regulations establish three separate compliance periods: (1) 2013-2014; (2)
20 2015-2017; and (3) 2018-2020. *See id.* § 95840. Under a complex formula, each covered entity
21 has a compliance obligation for each compliance period. The obligations call for a steady
22 reduction in GHG emissions for each successive compliance period. *See id.* §§ 95850-95858.

23 55. The regulations establish two types of “compliance instruments”: greenhouse gas
24 emissions allowances (“GHG allowances”) and “offset credits.” *See id.* § 95820. One unit of
25 each instrument authorizes a covered entity to emit up to one metric ton of CO₂ or CO₂-
26 equivalent of any of the GHGs covered by the regulations. *See id.* § 95820(c).

27 56. Under the regulations, CARB distributes GHG allowances to covered entities
28 through various methods. *See, e.g., id.* § 95890. Covered entities may obtain additional

1 allowances by purchasing them during periodic auctions, *see id.* §§ 95910-95915, or from other
2 authorized parties, *see id.* §§ 95920-95922.

3 57. A covered entity alternatively can obtain an offset credit by undertaking a project
4 designed to remove CO₂ from the atmosphere. *See id.* § 95970(a)(1).

5 58. The Agreement obligates California and Quebec to “consult each other regularly”
6 and to “continue to examine their respective [cap-and-trade] regulations . . . to promote
7 continued harmonization and integration of the Parties’ programs.” Attachment B at Arts. 3, 4.

8 59. The Agreement provides that “auctioning of compliance instruments by the
9 Parties’ respective programs shall occur jointly.” *Id.*, Art. 9.

10 60. Under the Agreement, covered entities in California are authorized to trade
11 emission allowances with covered entities in Quebec, and vice-versa, “as provided for under
12 their respective cap-and-trade program regulations.” *Id.*, Art. 7.

13 61. Under 17 CCR § 95940, “[a] compliance instrument issued by an external
14 greenhouse gas emissions trading system (GHG ETS) may be used to meet the requirements [of
15 California’s cap-and-trade program] if the external GHG ETS and the compliance instrument
16 have been approved pursuant to this section and [CCR] section 95941.

17 62. Under 17 CCR § 95941, CARB “may approve a linkage with an external GHG
18 ETS after complying with relevant provisions of [California’s] Administrative Procedure Act
19 and after the Governor of California has made the findings required by [CAL. GOV. CODE
20 § 12894(f)].”

21 63. Under 17 CCR § 95942(a), “[o]nce a linkage is approved, a compliance
22 instrument issued by the approved external GHG ETS . . . may be used to meet a compliance
23 obligation under [California’s cap-and-trade program].”

24 64. Under 17 CCR § 95942(d), “[o]nce a linkage is approved, a compliance
25 instrument issued by California may be used to meet a compliance obligation within the
26 approved [e]xternal GHG ETS.”

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65. Under 17 CCR § 95942(e), “[o]nce a linkage is approved, a compliance instrument issued by the linked jurisdiction may be used to meet a compliance obligation in California.”

66. Under 17 CCR § 95943(a)(1), “covered . . . entities may use compliance instruments issued by the [Government of Quebec] to meet their compliance obligation under [California’s cap-and-trade program].”

67. In sum, under the Agreement, California agrees to accept compliance instruments issued by Quebec to satisfy compliance obligations in California, and Quebec agrees to accept compliance instruments issued by California to satisfy compliance obligations in Quebec. *See id.*, Art. 6.

68. Under the Agreement, the parties agree to consult with each other before making changes to their respective offset protocols or to their procedures for issuing offset credits. *See id.*, Art. 5.

69. The Agreement represents that it “does not modify any existing statutes and regulations” of either party. *Id.*, Art. 14.

70. The Agreement allows each party to withdraw, but requires a party to “endeavour to give 12 months[’] notice of intent to withdraw” to the other party. *Id.*, Art. 17 (European spelling in original).

71. Termination of the Agreement requires “written consent” of the parties and is not legally effective until “12 months after the last of the Parties has provided its consent” *Id.*, Art. 22.

72. The Agreement and supporting California law as applied (including CAL. HEALTH & SAFETY CODE § 38564 and 17 CCR §§ 95940-43) have the effect of undermining the ability of the federal government as a whole, and the President in particular, of properly reconciling protection of the environment, promotion of economic growth, and maintenance of national security.

73. The Agreement and supporting California law as applied (including CAL. HEALTH & SAFETY CODE § 38564 and 17 CCR §§ 95940-43) have the effect of undermining the ability of

1 the federal government as a whole, and the President in particular, to speak for the United States
2 with one voice on a variety of complex and sensitive subjects of foreign policy.

3 74. The Agreement and supporting California law as applied (including CAL. HEALTH
4 & SAFETY CODE § 38564 and 17 CCR §§ 95940-43) have the effect of undermining the
5 President's ability to negotiate competitive international agreements in the area of environmental
6 policy. This is particularly true if California were to make similar arrangements with other
7 foreign powers, or if other states were to do so, in the absence of a declaration by this Court that
8 such arrangements violate the Constitution. *See, e.g.*, WCI's 2018 Tax Return ("Currently, the
9 Board of Directors includes officials from the Provinces of Quebec, Novia [sic] Scotia and the
10 State of California. The support provided can be expanded to other jurisdictions that join in the
11 future.") (reformatted into sentence case), available at [http://www.wci-inc.org/fr/docs/TaxForm-](http://www.wci-inc.org/fr/docs/TaxForm-USA2018-EN-20190514.pdf)
12 [USA2018-EN-20190514.pdf](http://www.wci-inc.org/fr/docs/TaxForm-USA2018-EN-20190514.pdf) at pt. III, § 4a (last visited October 22, 2019).

13 75. Unless and until this Court declares unconstitutional the Agreement and
14 supporting California law as applied (including CAL. HEALTH & SAFETY CODE § 38564 and 17
15 CCR §§ 95940-43) and enjoins their operation, these provisions will have the effect of harming
16 the United States' ability to manage its relations with foreign states.

17 **WESTERN CLIMATE INITIATIVE, INC.**

18 76. In the Agreement, the parties acknowledge that they are "participants of [the]
19 Western Climate Initiative, Inc. (WCI, Inc.), a non-profit corporation incorporated in October
20 2011, providing administrative and technical services to its participants to support and facilitate
21 the implementation of their cap-and-trade programs for reducing greenhouse gas emissions."
22 Attachment B (second "WHEREAS" clause).

23 77. In February 2012, CARB and WCI entered into an agreement that acknowledges
24 that they (and other "[p]artner jurisdictions") "established [WCI] to provide coordinated
25 administrative and technical support to linked emissions trading programs implemented by the
26 [participating] jurisdictions." Agreement 11-415 Between Air Resources Board and Western
27 Climate Initiative, Incorporated, Exhibit A ("Agreement 11-415," attached hereto as
28 Attachment C).

78. In Agreement 11-415, CARB and WCI further acknowledge that WCI “enables cap-and-trade programs to be administered at a lower cost than would be possible with independent administration by each of the WCI [p]artner jurisdictions.” *Id.*

79. According to Agreement 11-415, WCI “provides a framework that can be expanded as more jurisdictions implement their respective programs.” *Id.* Nova Scotia became a participating jurisdiction in the WCI in 2018. *See* Funding Agreement, available at http://wci-inc.org/docs/Nova%20Scotia%20Funding%20Agreement_for%20web%20posting.pdf (last visited October 22, 2019). “Nova Scotia intends to have regulations in effect in 2018 to establish its cap and trade program that could ultimately be linked to those in place in . . . Quebec and California.” *Id.* at 1.

80. Upon information and belief, WCI serves California, Quebec, and Nova Scotia jointly, not individually, and thus violates the Constitution by complicating and burdening the United States’ task of regulating foreign commerce and negotiating competitive international agreements. By the nature of its work and its contractual obligations to participants in the Agreement, WCI is an “other person[] . . . in active concert or participation” (within the meaning of the Federal Rules of Civil Procedure) with the other Defendants to this suit and is aiding and abetting the other Defendants’ unlawful actions. As a result, in order for complete relief to be afforded to the United States, WCI must be subject to any injunctive relief that is ordered in this case against the other Defendants.

81. Provision of joint service by WCI to its member states occurs because of the stated “integrated” nature of the programs, and the proof of such joint service is in the possession and control of Defendants, most particularly WCI.

DECLARATORY RELIEF

82. The United States incorporates by reference the allegations in Paragraphs 1 to 81.

83. There is an actual controversy between the United States and Defendants with respect to the constitutionality of the Agreement, Agreement 11-415, and supporting California law as applied (including CAL. HEALTH & SAFETY CODE § 38564 and 17 CCR §§ 95940-43).

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84. This Court has authority under 28 U.S.C. § 2201(a) to declare the legal rights and obligations of the parties with respect to the constitutionality of the Agreement, Agreement 11-415, and supporting California law as applied (including CAL. HEALTH & SAFETY CODE § 38564 and 17 CCR §§ 95940-43).

85. Because the Agreement, Agreement 11-415, and supporting California law as applied (including CAL. HEALTH & SAFETY CODE § 38564 and 17 CCR §§ 95940-43) violate the Constitution, this Court should declare them unlawful.

FIRST CAUSE OF ACTION—TREATY CLAUSE

86. The United States incorporates by reference the allegations in Paragraphs 1 to 85 above.

87. The Constitution prohibits states from “enter[ing] into any Treaty, Alliance, or Confederation.” Art. I, § 10, cl. [1].

88. The Supreme Court has recognized and held that, “[w]hen a State enters the Union, it surrenders certain sovereign prerogatives. Massachusetts cannot invade Rhode Island to force reductions in greenhouse gas emissions [and] *it cannot negotiate an emissions treaty with China or India . . .*” *Massachusetts*, 549 U.S. at 519 (emphasis added).

89. The Agreement constitutes a “Treaty, Alliance, or Confederation” in violation of the Treaty Clause.

SECOND CAUSE OF ACTION—COMPACT CLAUSE

90. The United States incorporates by reference the allegations in Paragraphs 1 to 85 above.

91. The Constitution prohibits states, “without the Consent of Congress,” from “enter[ing] into any Agreement or Compact . . . with a foreign Power . . .” Art. I, § 10, cl. [3].

92. If the Agreement is not a “Treaty, Alliance, or Confederation” under the Treaty Clause, it is an “Agreement or Compact . . . with a foreign Power” under the Compact Clause.

93. Because Congress has not given its consent to the Agreement, nor have Defendants sought such consent, the Agreement and supporting California law as applied violate the Compact Clause.

THIRD CAUSE OF ACTION—FOREIGN AFFAIRS DOCTRINE

94. The United States incorporates by reference the allegations in Paragraphs 1 to 85 above.

95. The Constitution provides that “[t]his Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; . . . any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” Art. VI, cl. [2].

96. Even aside from his military powers as the “Commander in Chief of the Army and Navy,” Art. II, § 2, cl. [1], the Constitution vests broad responsibility for the conduct of foreign affairs in the President of the United States.

97. The President has “Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur.” *Id.* cl. [2].

98. The President “nominate[s], and by and with the Advice and Consent of the Senate, . . . appoint[s] Ambassadors, other public Ministers and Consuls.” *Id.*

99. The President “receive[s] Ambassadors and other public Ministers.” *Id.* § 3.

100. The Constitution authorizes the President to “take Care that the Laws be faithfully executed.” *Id.*

101. The Supreme Court has interpreted the provisions of the Constitution that vest authority over foreign affairs in the President to prohibit actions by the states that lie outside their traditional and localized areas of responsibility and instead interfere with the federal government’s foreign policy, or otherwise implicate the conduct of foreign policy. *See Garamendi*, 539 U.S. at 418-20.

102. The Agreement, Agreement 11-415, and supporting California law fall outside the area of any traditional state interest.

103. Defendants’ actions individually and collectively interfere with the United States’ foreign policy on greenhouse gas regulation, including but not limited to the United States’ announcement of its intention to withdraw from the Accord, and are therefore preempted.

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FOURTH CAUSE OF ACTION—FOREIGN COMMERCE CLAUSE

104. The United States incorporates by reference the allegations in Paragraphs 1 to 85 above.

105. The Constitution provides that “[t]his Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; . . . any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” Art. VI, cl. [2].

106. The Constitution gives Congress “Power . . . [t]o regulate Commerce with foreign Nations” Art. I, § 8, cl. [3].

107. The Supreme Court has interpreted the Foreign Commerce Clause to have a negative application, in the sense that state laws that discriminate against, or impose an undue burden upon, foreign commerce, are unconstitutional even in the absence of federal legislation regulating the activity in question. *See Barclays Bank PLC*, 512 U.S. at 310-13.

108. The credits and offsets that covered entities may trade under the Agreement and supporting California law constitute articles of commerce.

109. Under the Agreement, 17 CCR §§ 95940-43, and Agreement 11-415, these credits and offsets may only be imported from Quebec to California or exported from California to Quebec.

110. The Agreement, Agreement 11-415, and supporting California law as applied (including CAL. HEALTH & SAFETY CODE § 38564, and 17 CCR §§ 95940-43) discriminate among categories of foreign commerce on their face or as applied.

111. California has no legitimate public interest in discriminating among categories of foreign commerce.

112. The Agreement, Agreement 11-415, and supporting California law as applied (including CAL. HEALTH & SAFETY CODE § 38564 and 17 CCR §§ 95940-43) impose a substantial and undue burden on foreign commerce.

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PRAYER FOR RELIEF

Wherefore, the United States prays that the Court enter judgment against Defendants and award the following relief:

a. a declaration that the Agreement, Agreement 11-415, and supporting California law as applied (including CAL. HEALTH & SAFETY CODE § 38564 and 17 CCR §§ 95940-43) violate the Constitution of the United States;

b. a permanent injunction against the operation and implementation of the Agreement, Agreement 11-415, and supporting California law as applied (including CAL. HEALTH & SAFETY CODE § 38564 and 17 CCR §§ 95940-43) and against all other persons or entities acting in active concert with Defendants to maintain the force and operation of the Agreement;

c. the costs of suit; and

d. such additional relief as the Court deems just and proper.

Respectfully submitted,

/s/ Paul E. Salamanca
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Attachment A

ATTACHMENT A

Bilateral Agreements:

Canada (3)

[Cooperation on Mitigation Measures to Reduce Greenhouse Gas Emissions](#)

Signed: June 26, 2019

Term: Five Years

This Memorandum of Understanding (MOU), entered into by the California Air Resources Board of the State of California, and the Department of Environmental and Climate Change Canada of the Government of Canada, expresses the real and urgent need to collaborate on solutions to help mitigate the devastating impacts of climate change. The purpose of this MOU is to promote and carry out cooperative activities on policy and regulatory measures that reduce emissions from greenhouse gases and air pollutants according to Environment and Climate Change Canada and the California Air Resources Board's respective competencies and based on principles of equality, reciprocity, information exchange, and mutual benefit. Specifically highlighted within this MOU is the role of cleaner vehicles, engines, and fuels, to help combat climate change and reduce air pollution, the deeply integrated North American auto sector, and the need to ensure that all communities benefit from the transition to clean transportation – particularly those which are disadvantaged.

[Province of British Columbia](#)

Signed: December 17, 2009

Term: No Expiration

This MOU is an active measure resulting from the establishment of the Pacific Coast Collaborative (June 2008, Article 6) and the MOU between the Province of British Columbia and the State of California on the Pacific Coast Collaboration to Protect Our Shared Climate and Ocean (May 2007). Further, this MOU expresses the commitment of both parties to move forward in partnership on the development of greenhouse gas vehicle emission standards in British Columbia consistent with California's laws and regulations.

[Government of Quebec](#)

Signed: September 27, 2009

Term: No Expiration

The objective of this agreements was for the parties to work jointly and collaboratively toward the harmonization and integration of cap-and-trade programs for reducing greenhouse gas emissions.

Chile (3)

[National Forest Corporation](#)

Signed: November 10, 2016

Term: 5 years

This MOU promotes joint partnership and cooperation to reduce vulnerabilities and increase resilience to climate change and wildfire threats. Both sides pledge to share best practices, communication strategies, research and technologies, and training opportunities to enhance and promote wildfire prevention and wildland-urban interface awareness to at-risk populations.

[National Emergency Office of the Ministry of the Interior and Public Security](#)

Signed: November 9, 2016

Term: No Expiration

This MOU builds on the Chile-California 21st Century Partnership and Joint Declaration to Cooperate in Emergency Disasters, an MOU signed on April 10, 2010. It focuses on improving efficiencies and capabilities within emergency management by committing to share best practices, expertise, technology, training and research in the areas of drought response, and earthquake and tsunami alert and warning systems.

[Joint Declaration on Climate Change](#)

Signed: September, 2015

Term: No Expiration

This Joint Declaration builds on the Chile-California Plan, which spanned many diverse areas of cooperation, and was signed on the day the 70th session of the United Nations General Assembly opened. This Declaration, in advance of COP21 in Paris, was made to express a common vision for a cleaner and sustainable world as well as the need to achieve the ultimate goal established by the UNFCCC, which is to stabilize the greenhouse gases in the atmosphere and keep warming below 2 degrees Celsius. Further, this Declaration includes a commitment to develop a common work plan on climate change.

China (23)

[Ministry of Ecology and the Environment of the People's Republic of China](#)

Signed: September 12, 2018

Term: No Expiration

This MOU was signed at the China Pavilion, during the Global Climate Action Summit in San Francisco. It seeks to further strengthen and coordinate efforts to combat climate change and promote clean and efficient energy, while protecting public health, the environment, and natural resources. The Parties agree to cooperate on the basis of the principles of equality and mutual benefit. Key areas of focus include, but are not limited to, activities to mitigate carbon emissions, control carbon dioxide, methane and other greenhouse gases; enhancing air pollution control strategies for the industrial and transportation sectors; reducing short lived climate forcers and mitigating hydrofluorocarbons; the implementation of carbon emissions trading systems; and the reduction of energy consumption through improvements in energy efficiency.

[Chinese People's Association for Friendship with Foreign Countries](#)

Signed: September 12, 2018

Term: No Expiration

Signed at the China Pavilion, during the Global Climate Action Summit in San Francisco, this Joint Statement/Declaration on Friendship, Economic Development, and Climate Change expresses the intent to establish the California-China Program coordinated by the California Governor's Office and the Chinese Friendship Association, and affiliated with the US-China Governors' Forum. One of the goals of the California-China Program will be to enhance the bilateral relationship and foster collaboration by building and ensuring a regular dialogue between California and subnational Chinese counterparts in critical areas of mutual interest.

[Cooperation on California-Shenzhen Clean Tech Innovation Center](#)

Signed: November 2, 2017

Term: 3 years

This MOU establishes the fundamental framework for cooperation and the establishment of the Shenzhen-California Clean Tech Innovation Center in order to strengthen exchange and cooperation in clean-tech development and the acceleration of mutually beneficial clean technologies.

[Municipality of Shenzhen](#)

Signed: November 2, 2017

Term: 3 Years

In order to further the goals of previous agreements signed between the Parties - specifically the Memorandum of Understanding to Enhance Cooperation on Emissions Trading Systems, June 2013, and the Memorandum of Understanding to Enhance Cooperation on Low Carbon Development, September 2015 - this MOU addresses the global issue of climate change and seeks to enhance cooperation on low-carbon and clean technology innovation in an effort to accelerate low-carbon development. The Parties agree to cooperate and communicate on matters of research, innovation, and commercialization, with key areas of focus related to emissions trading systems; new-energy vehicle technologies; the reduction of air pollutants and carbon emissions from ports; smart grid, distributed energy production, and energy efficiency; and environmental protection technologies, including pollution mitigation, waste water treatment, and solid waste management technologies.

[Jiangsu Science and Technology Department](#)

Signed: November 1, 2017

Term: 3 years

In furtherance of the California-Jiangsu Clean Technology Partnership established in Nanjing on June 5, 2017, this MOU is the expression of the parties to focus resources on developing the mutually beneficial low-carbon and clean technology innovation categories identified in this Coordinated Joint Investment Plan.

As listed, the categories include:

- Building & Transportation Energy Efficiency
- Renewable Energy
- Grid Modernization & Information Technology
- Energy Storage
- Water-Energy-Food Nexus

[Ministry of Housing and Urban-Rural Development](#)

Signed: October 13, 2017

Term: 3 years

This MOU is focused on enhancing cooperation on Green Building and Low-Carbon Urban Development. It establishes a fundamental framework for the Parties to exchange technical expertise, academic resources, policy design and planning, and unique sustainable and green urban development opportunities based on principles of equality and mutual benefit.

[China Huadian Green Energy Corporation](#)

Signed: June 9, 2017

Term: 5 years

The objective of this MOU is to encourage future collaboration on energy storage between the Participants on the basis of equality and mutual benefit. Areas of mutual interest and potential cooperation include:

- Energy Storage
- Energy Efficiency
- Demand-Side Management
- Renewable Energy Development
- Integrated Resource Planning

[Haidian District of Beijing](#)

Signed: June 7, 2017

Term: 5 years

This MOU establishes the Clean Technology Innovation Partnership between the Haidian District of Beijing and the California Energy Commission in an effort to facilitate cooperation on research, innovation, and investment in low-carbon development and clean energy resources.

[National Ministry of Science and Technology](#)

Signed: June 6, 2017

Term: 5 years

This MOU was signed during Governor Brown's visit to China and the Clean Energy Ministerial (CEM8) in 2017. This MOU set the foundation for additional MOUs at the Provincial level in order to advance cooperation on innovation and technology – specifically technology and innovation aimed at advancing mutually beneficial low-carbon and sustainable, renewable energy development.

[Province of Jiangsu](#)

Signed: June 5, 2017

Term: 5 Years

This MOU was signed in Nanjing, during Governor Brown's visit to China for the Clean Energy Ministerial (CEM8) and the second meeting of the Under2 Coalition. It states the intent of the Parties to facilitate cooperation on research, innovation, and investment in low-carbon development and clean energy resources. Cooperation between the Participants is based on a mutual understanding of shared issues and concerns as they relate to research, innovation, and commercialization of clean technologies. To achieve their objectives, the Participants agree to develop the California-Jiangsu Clean Technology Partnership, which will provide a mechanism for cooperation. Areas of cooperation include, but are not limited to, clean energy technologies;

greenhouse gas emission and air pollution reduction programs; environmental protection technologies; and information technologies and techniques.

Province of Sichuan

Signed: June 4, 2017

Term: 5 years

This MOU establishes a Friendship Province/State Relationship and is a follow up to a similar MOU, signed previously in Seattle, Washington, on September 20, 2015, which promoted practical cooperation in the fields of trade, investment, science, education, smart cities, and culture and tourism. This MOU indicates the commitment of both Parties to maintain regular intergovernmental engagement through ongoing exchange of personnel, culture, and ideas. Additionally, this MOU states the intent of both Parties to strengthen cooperation in low carbon technologies, environmental protection, and clean energy development through the establishment of the California-Sichuan Clean Energy Partnership.

Beijing Municipal Environmental Protection Bureau

Signed: June 7, 2016

Term: 4 Years

This is the most recent version of the MOU on Environmental Cooperation between the California Environmental Protection Agency and the Beijing Environmental Protection Bureau. It renews and strengthens the cooperative relationship established through previous MOUs in 2005 and 2013. The focus of the agreement is to promote cooperation and collaboration in science, technology, and policies in the field of environmental protection. The main areas of cooperation and common interest include environmental management legislation, policy and regulation; air quality management; water management and services; solid waste management and recycling; capacity building; and public education.

Beijing Municipal Commission of Development and Reform

Signed: June 7, 2016

Term: 3 years

The purpose of this MOU is to commit to agreement of the U.S.-China Joint Statement on Climate Change, and to promote the long-term transformation to a low-carbon, livable, ecological, and environmentally protected society.

Areas of cooperation include:

- Sharing information on low-carbon policies and standards
- Low-carbon planning and technical means
- Promoting the development of clean and sustainable energy and smart grid
- Establishing and developing carbon emission trading
- Advancing low-carbon transportation and relative technology, etc.

Zhenjiang Municipal People's Government

Signed: December 7, 2015

Term: No Expiration

The MOU is a Plan of Actions on Low-Carbon Cooperation between Zhenjiang Municipal People's Government and the State of California. It builds on a previous MOU signed by the Parties in Los Angeles months earlier, on September 15, 2015, and aims to strengthen cooperation on low carbon development in an effort to maximize contributions to addressing climate change. Areas of joint focus include low-carbon urban planning, low carbon industries, renewable and clean energy, low-carbon transportation, new-energy vehicles, clean water industry, eco-building, energy conservation, energy-efficiency, and high-efficiency agriculture. Furthermore, the MOU promotes regular technical exchanges.

Province of Jiangsu

Signed: October 5, 2015

Term: No Expiration

In order to enhance cooperation on low-carbon development and climate change and contribute to the implementation of the 2014 Sino-US Joint Declaration on Climate Change, this MOU provides a framework for the Participants to carry out practical exchanges and cooperation in the areas of low-carbon smart cities

planning, the promotion of clean energy, and the reduction of carbon emissions. Additionally, this MOU states the intent of the Participants to reduce air pollutants, including carbon emissions related to port activities.

Province of Sichuan

Signed: September 22, 2015

Term: 3 Years

This Memorandum of Understanding establishes a relationship of friendly cooperation between Sichuan Province and the State of California. It was signed alongside the US-China Governors' Forum in Seattle Washington in 2015, and includes, among other key areas of focus, the Parties' intention to strengthen cooperation in the areas of clean energy and environmental protection. Additionally, this MOU contains Sichuan's intent to support the subnational climate initiative and low carbon actions led by the State of California (Under2 MOU).

National Development and Reform Commission

Signed: September 15, 2015

Term: 4 years

This MOU aims to further strengthen and coordinate efforts to combat global climate change, promote clean and efficient energy, and support low-carbon development, while protecting public health, the environment, and natural resources. A few areas of cooperation listed include:

- Activities to mitigate carbon emissions
- Implementing controls on carbon, methane, and other gases with high global warming potential
- Activities to implement carbon emissions trading systems and other market-based instruments
- Activities that reduce energy consumption
- Increasing electrified transportation
- Supporting new and expanded markets for clean and efficient energy technologies
- Activities that support subnational climate change leadership on low-carbon development

Municipality of Zhenjiang

Signed: September 15, 2015

Term: No Expiration

This MOU seeks to contribute to the implementation of the 2014 Sino-US Joint Declaration on Climate Change through joint cooperation on low carbon development and climate change. It provides a framework for carrying out practical exchanges and cooperation with specific focus on the reduction of greenhouse gas emissions, energy efficiency, and the development of low carbon smart cities and clean technologies. Additionally, this MOU contains an appendix stating Zhenjiang's intent to endorse the Under2 MOU.

Province of Guangdong

Signed: September 21, 2014

Term: 5 years

This sister-state MOU builds on the MOU signed between the State of California and Guangdong Province on April 15, 2013, and based on the principle of equality and mutual benefits, both State and Province agree to proactively push for the growth of two-way trade and investment. Additionally, this MOU declares a joint commitment to concrete initiatives in areas including, but not limited to, science and technological innovation, low-carbon development, environmental conservation, clean energy, education, training, tourism, and cultural exchange.

Inner Mongolia Autonomous Region of China

Signed: October 14, 2013

Term: No Expiration

This MOU builds on the Memorandum of Understanding on the Establishment of a Joint Working Group on Trade and Investment Cooperation that was signed between Chinese Provinces and California. This MOU seeks to expand cooperation in the fields of trade and investment, with specific focus on the following areas: industrialization of agriculture and animal husbandry; rare earth, coal, and nonferrous metals; new energy development and ecological environmental protection; infrastructure, equipment manufacturing, and modern logistics; biological medicine; cultural tourism; finance; information industry; and modern service industry. This MOU has been inactive and should be reviewed and reevaluated.

[Province of Guangdong](#)

Signed: April 15, 2013

Term: No Expiration

This MOU states the intent of the State of California and the Province of Guangdong to engage in friendly exchange and cooperation in an effort to strengthen cooperation in multiple areas, including, but not limited to, science and technological innovation, environmental conservation, and renewable and sustainable energy.

[Province of Jiangsu](#)

Signed: April 14, 2013

Term: No Expiration

This MOU on friendly cooperation was signed in Nanjing and promotes friendly exchanges in culture, humanities, and the promotion of pragmatic cooperation. Areas of cooperation include new energy and information technology.

[National Ministry of Commerce](#)

Signed: April 10, 2013

Term: No Expiration

This MOU establishes the China Provinces and US California Joint Working Group on Trade and Investment Cooperation, which seeks to expand trade and investment cooperation, strengthen communication, enhance trust, boost economic growth, and create jobs. This MOU was born out of the consensus reached between California Governor, Edmund G. Brown Jr. and China's President Xi (then Vice President Xi), in February 2012. Energy, environmental protection, infrastructure, information technology, agriculture, and manufacturing are included amongst the various sectors of cooperation.

Denmark (2)

[The Government of Denmark](#)

Signed: April 30, 2018

Term: 20 Months

Denmark has experience and history in developing offshore wind energy facilities and California is exploring the feasibility, potential impacts, and appropriate offshore locations for wind facilities. The objective of this MOU is to share knowledge, experiences, data, and best practices relevant to the development of offshore wind energy.

[The Government of the Kingdom of Denmark](#)

Signed: September 19, 2017

Term: 5 years

This MOU is focused on water and climate issues. The Parties have agreed to work cooperatively to promote a mutually beneficial relationship in the field of water technology, management, and regulation.

France (1)

[Government of the French Republic](#)

Signed: December 7, 2015

Term: 4 years

This Joint Declaration to Support Sustainable Economic Development was signed alongside the COP21 in Paris, France. It states the commitment by both Parties to share and cooperate in the application of sustainable policies and practices. Mutually beneficial areas of cooperation and development include climate change mitigation, carbon pricing, adaptation and resiliency, water management, transportation, clean energy, sustainable buildings and cities, and the development of solutions at the regional and local level.

Germany (1)

[Land Baden-Württemberg, Federal Republic of Germany](#)

Signed: September 15, 2018

Term: No Expiration

Over the years, California and Baden Württemberg have enjoyed a strong bilateral relationship. In 2015, California and Baden Württemberg jointly launched the Under2 Coalition as an initiative for climate protection. That Coalition has since developed into a worldwide movement of subnational governments committed to reducing greenhouse gas emissions and limiting the increase in global warming. This Sister-State Agreement expresses the intention of California and Baden Württemberg to engage in future mutually beneficial cooperation in the areas of climate, energy and environmental policies, transportation transformation, urban infrastructure development, economic cooperation, information technology, science, research, arts, and culture.

India (1)

[Forum of Regulators](#)

Signed: March 28, 2014

Term: 5 years

The objective of this MOU is to explore potential future collaboration among the Participants in the field of energy sector planning from various perspectives, including but not limited to providing energy access to all, ensuring affordability, enhancing energy security, and meeting environmental goals.

Israel (2)

[Government of the State of Israel](#)

Signed: June 24, 2014

Term: No Expiration

This MOU states the intent of the Office of the Chief Scientist of the Ministry of Economy of the State of Israel and the Governor's Office of Business and Economic Development of the State of California to cooperate in industrial research and development in order to enhance their industrial competitiveness and strengthen economic and commercial cooperation. This MOU builds on the MOU previously signed between the Parties on March 5, 2014.

[Government of the State of Israel](#)

Signed: March 5, 2014

Term: No Expiration

Seeking to expand the current level of cooperation between Israel and California, this MOU establishes a formal relationship to foster economic cooperation and economic development, facilitate joint industrial research and development, and enhance business relationships and educational opportunities aimed at fostering job creation and the incubation of global solutions from joint California-Israel innovation initiatives. Key sectors of focus include: water conservation and management, alternative energy and related clean technologies, health and biotechnology solutions, cyber security, arts and culture, education, and agricultural technologies.

Japan (4)

[Government of Japan](#)

Signed: September 5, 2016

Term: 4 Years

Both California and Japan share concern about the threat of climate change as outlined in the Intergovernmental Panel on Climate Change, as well as the Scientific Consensus Statement on Maintaining Humanity's Life Support Systems in the 21st Century. Given the global nature of climate change, this MOU states the intent of both Parties to promote dialogue and joint projects on climate change mitigation and adaptation, short-lived climate pollutants, and cleaner freight transport. Additionally, the Parties agree to promote dialogue and joint projects on clean energy technology trade and deployment, with a particular focus

on energy efficiency and renewable energy development. The Parties also agree to cooperate and support the expansion and use of energy storage technologies, while encouraging economic and business development related to the clean technology sector, zero-emission vehicles, high-speed rail, and water conservation and management.

[New Energy & Industrial Technology Development Organization \(NEDO\)](#)

Signed: September 10, 2015

Term: June 30, 2020

This MOU builds upon the original framework set forth in the Memorandum of Cooperation on Climate Change, Renewable Energy, Trade and Investment, Vehicles, High-Speed Rail, and Water between the Government of Japan and the State of California of the United States of America dated September 5, 2014, and defines the objective and outline of the project, which is to demonstrate that a redox flow battery can be used for both fast response and long duration applications and would provide significant assistance for issues caused by increased use of renewable energy resources.

[New Energy & Industrial Technology Development Organization \(NEDO\)](#)

Signed: September 10, 2015

Term: June 30, 2020

This MOU builds upon the original framework set forth in the Memorandum of Cooperation on Climate Change, Renewable Energy, Trade and Investment, Vehicles, High-Speed Rail, and Water, that was signed between the Parties on September 5, 2014, and supersedes the Letter of Intent for Cooperation in a feasibility study between the Parties concerning the demonstration project for electric vehicle driving behavior, dated October 14, 2014.

Specifically, this MOU clarifies previous agreements and provides the objective, outline, and implementation schedule of the joint project to deploy DC Fast Chargers and monitor EV Driving Behavior.

[Osaka Prefecture](#)

Signed: June 11, 2013

Term: No Expiration

This MOU builds on the existing Sister-State relationship between Osaka Prefecture and the State of California. Signed by Governors Matsui and Brown, it expresses the intent to support and encourage economic and trade cooperation between the two Parties in the areas of clean energy, environmental protection, information technology, bio-tech, manufacturing, and tourism. Additionally, the Parties agree to support and encourage cooperation on the reduction of greenhouse gas emissions and the promotion of low-carbon development, mutual understanding and friendship, higher education, and trade and investment.

Mexico (8)

[City of Mexicali](#)

Signed: December 7, 2018

Term: No Expiration

This Memorandum of Cooperation further implements initial priority focus areas identified in the Imperial County-Mexicali Air Quality Work Plan and aims to improve air quality in the border region. Through enhanced availability of air quality data to better understand the causes and severity of air pollution in the region, this agreement aims to facilitate enforcement and regulation of applicable air quality laws in Mexicali by allowing focused control efforts on sources causing the increased concentrations of particulate matter (PM).

The purpose of this Memorandum of Cooperation is to provide for the establishment and operation of a network of 50 PM air sensors in Mexicali, Baja California, by the Municipality. The sensors will be used to enhance PM monitoring in the municipality, facilitate exchange of information related to air quality in the region, and enhance the capacity of municipal authorities to enforce regulations to limit activities known to adversely impact air quality. The ownership of the sensors will remain with the California Air Resources Board and all responsibilities for the operation and maintenance of the sensors will be carried out by the Mexicali municipality. Quarterly submittal of inspection reports will be sent to the California Air Resources Board for three years from the date of signature of this agreement.

[State of Aguascalientes](#)

Signed: January 30, 2017

Term: 2 years

The objective of this MOU between the State of Aguascalientes and the California Energy Commission is to encourage collaboration on clean energy policies and programs on the basis of equality and mutual benefit. The areas of cooperation include the promotion of energy efficiency; demand-side management; renewable energy development and grid integration; integrated resource planning; grid operation and management; low and zero-emission vehicles; and clean energy technology.

[Secretariat of Agriculture Development of the State of Baja California](#)

Signed: June 14, 2016

Term: 4 years

The objective of this MOU, between the Baja California's Secretariat of Agriculture Development and California's Department of Food and Agriculture, is to establish a framework for the Parties to carry out cooperative activities and exchange information in the areas of animal health, plant health, and food safety. One of the modalities of cooperation includes the promotion of natural resources in the region by way of maintaining the ecological and economic sustainability of the Parties.

[Secretariat of Tourism](#)

Signed: August 26, 2014

Term: No Expiration

This MOU, between Mexico's Secretariat of Tourism and the State of California, seeks to develop and strengthen cooperation between the two Parties within the tourism sector.

[National Ministry of Economy](#)

Signed: July 30, 2014

Term: No Expiration

The purpose of this MOU is to establish a formal and flexible framework between the Participants in order to strengthen trade and investment cooperation and communication, enhance trust, boost economic development, create jobs, and foster scientific and technological collaboration for business development in key emerging sectors, including, but not limited to, advanced manufacturing, alternative and renewable energy, environmental protection and other related clean technologies, information technologies, cross-border goods movement infrastructure, and agriculture and agricultural technologies.

[National Ministry of Labor & Social Welfare](#)

Signed: July 30, 2014

Term: No Expiration

This Letter of Intent to Cooperate on a Migrant Worker Pilot Program states the intent of the State of California and Mexico's Ministry of Labor and Social Welfare to cooperate in the creation of a voluntary pilot program aimed at preventing abuses in the recruitment of Mexican H-2 temporary workers.

[National Ministry of Energy](#)

Signed: July 29, 2014

Term: 5 years

The objective of the MOU for Cooperation in Clean Energies between the California Energy Commission and Mexico's Ministry of Energy is to encourage and promote technical, bilateral cooperation and joint implementation of programs and activities in the fields of low-carbon energy, clean technologies, biofuels, and energy efficiency. All cooperation will take place on the basis of mutual benefit, equality, and reciprocity in a manner that incorporates best practices and lessons learned while boosting economic development in both regions and enhancing diversity, reliability, and affordability of energy supplies.

[State of Mexico](#)

Signed: July 12, 2013

Term: No Expiration

California has effective and transparent vehicle inspection control systems, which over the years have resulted in vastly improved air quality, and Mexico has made a commitment to implement the enforcement of a modern

environmental protection policy, that shall be inclusive, effective, and transparent regarding the control of contaminant emissions and vehicle inspection. Beyond strengthening friendship, cooperation, and institutional ties, this Letter of Intent Regarding Environmental Protection initiates a process of evaluation and implementation of mechanisms for collaboration and exchange in the area of technology transfer of Verification Centers' Control Systems operated in California, with the goal of reducing emissions of contaminants and training public officers in the State of Mexico for the use of such systems.

Netherlands (3)

[National Ministry of Infrastructure and the Environment](#)

Signed: March 24, 2017

Term: No Expiration

This Letter of Intent on Environmental cooperation is the second renewal of the Letter of Intent signed initially in Sacramento, on October 30, 2013, and then again on March 3, 2015, in The Hague. The initial Letter of Intent, from 2013, referred to the MOU between the California Plug-in Electric Vehicle Collaborative and the Coast to Coast e-Mobility Connection as endorers of the collaboration.

This most recent version of the Letter of Intent on Environmental Cooperation builds on cooperation with other national and subnational jurisdictions to accelerate the electrification of transportation through the International Zero-Emission Vehicle Alliance (ZEV Alliance) and the Agreement to establish the Coast to Coast Sustainable Investment Finance Program on Smart and e-Mobility (C2C SIF).

In this Letter of Intent, the two Parties note that successful collaboration has also enabled the Working Agreements between the Province of Noord-Holland and the California Energy Commission and the California Department of Transportation to collaborate on knowledge exchange and implementation of SolaRoad.

[Kingdom of the Netherlands](#)

Signed: January 9, 2017

Term: 2 Years

This Letter of Intent reaffirms the cooperation on Climate Change, Smart and e-Mobility, and Energy Innovation between California and the Kingdom of the Netherlands and bases continued commitment on the success of former and active cooperation between the two regions. Additionally, this Letter of Intent promotes the exchange of information and understanding with respect to stimulating access to capital and finance for young, innovative companies in an effort to advance ZEV and Smart Mobility market deployment in both regions.

[Province of Noord-Holland](#)

Signed: March 11, 2015

Term: No Expiration

In 2014, Commissioner Scott, of the California Energy Commission, and Vice-Governor Post, of the Province of Noord-Holland, expressed mutual interest to develop a working agreement on sustainable transportation and energy innovation in order to help meet 2050 greenhouse gas and energy goals.

This working agreement outlines areas of focus for information exchange and potential joint projects.

In this Working Agreement, the Coast to Coast e-Mobility Program will serve as the Liaison between the California Energy Commission and the Province of Noord-Holland on the developments of the working agreement, and is required to report annually on the progress of the agreement/developments.

Norway (1)

[Ministry of Climate and Environment](#)

Signed: August 2, 2017

Term: To be reviewed every 2 years

Norway and California share the long-term goal of becoming low-emission societies. Both aim to reduce greenhouse gas emissions by 80% or more as compared to their 1990 levels by 2050. Through this Declaration on Intent, Norway and California seek to foster a closer working relationship to promote climate action at all levels. The key areas of engagement include climate change policy, reduced deforestation, zero-emission transportation, and climate-friendly energy systems.

Peru (1)

[State of Peru](#)

Signed: February 26, 2014

Term: No Expiration

This MOU seeks to strengthen cooperation between the Government of the Republic of Peru and the Government of the State of California and creates a framework for cooperation in areas of mutual benefit, including the areas of climate change mitigation and adaptation, and the reduction of greenhouse gas emissions, including from the agricultural and forestry sectors. As part of the environmental focus of this MOU, the Parties agree to promote dialogue, technical exchange, and joint projects in climate change mitigation and adaptation policies, air quality, forest management, water quality and management, and the promotion of clean technologies.

Scotland (2)

[Government of Scotland](#)

Signed: January 15, 2018

Term: 5 years

This letter of Cooperation builds on the previous letter signed on April 3, 2017, which focused on taking Ambitious Action on Climate Change and the development of a Low-Carbon Economy. This new letter states the intent to continue support for these actions as well as to increase efforts to reduce greenhouse gases, expand renewable energy development, and advance decarbonization efforts. Additionally, this Letter of Cooperation commits the Governments of California and Scotland to share knowledge, experiences, data, and best practices relevant to the development of offshore wind energy.

[Government of Scotland](#)

Signed: April 3, 2017

Term: No Expiration

In this Letter of Cooperation Scotland and California, as members of the Under2 Coalition, affirm their strong commitment to take ambitious action on climate change and further the development of the low-carbon economy.

Spain (1)

[Government of Catalonia](#)

Signed: April 6, 2015

Term: No Expiration

This MOU between the State of California and Catalonia, Spain, is an agreement to support and encourage economic and trade cooperation in various areas, including environmental protection, water resources management, advanced agriculture and food technologies, and clean and sustainable mobility, including public transportation, high-speed train, electric vehicles, and green ports.

Sweden (1)

[Ministry of Environment and Energy](#)

Signed: April 19, 2017

Term: No Expiration

This Letter of Cooperation between the Ministry of the Environment and Energy of the Kingdom of Sweden and the State of California on Cooperation in the Field of Climate Change recognizes the importance of the Paris Agreement and the need for the global community, at various levels of governance, to address climate change. In this Letter of Cooperation, Sweden and California agree to cooperate to combat climate change through various means, including initiatives aimed at reducing transportation emissions, sharing best practices, and supporting the promotion development, and expansion of renewable energy. Additionally, this Letter of Cooperation states that Sweden and California will push for higher global ambitions on climate change through the UNFCCC and the Under2 Coalition, and will work individually and together to link and align

efforts between the two, as well as draw more international attention to the actions and ambitious reduction goals that are needed.

World Bank (1)

[World Bank Sustainable Low-Carbon Development](#)

Signed: November 11, 2016

Term: 3 years

This MOU focuses on sharing knowledge and good practices with other territories and cities to advance sustainable, low-carbon development strategies, tools, and practices consistent with the goal of limiting global warming well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further, to 1.5 degrees Celsius.

Multilateral Agreements:

[Under2 MOU](#)

Signed: May 19, 2015

Term: No Expiration

This first-of-its kind agreement was initially signed by Governor Edmund G. Brown Jr. and international leaders from 11 other states and provinces on May 19, 2015. Over the years the number of signatories has grown into a Coalition of more 200 governments around the world, all committed to keeping global temperature rises to well below 2°C.

[United States Climate Alliance](#)

Signed: June 1, 2017

Term: No Expiration

Founded by the U.S. States of California, Washington, and New York, in response to President Trump's decision to withdraw from the Paris Agreement. The U.S. Climate Alliance is a bipartisan coalition of governors committed to reducing greenhouse gas emissions consistent with the goals of the Paris Agreement. Focused on state-to-state cooperation, Alliance members are committed to the acceleration and deployment of climate solutions needed to help each state achieve their climate goals.

The Alliance is led by three guiding principles:

1. States are continuing to lead on climate change.
2. State-level climate action is benefitting our economies and strengthening our communities.
3. States are showing the nation and the world that ambitious climate action is achievable.

[Governors' Accord for a New Energy Future](#)

Signed: February 16, 2016

Term: No Expiration

The Governors' Accord for a New Energy Future is a bipartisan platform for governors to collaborate on clean energy opportunities. By deploying renewable, cleaner and more efficient energy solutions, we can drive economic growth, provide durable and resilient infrastructure, and protect the health of our communities. While each state's energy needs and resources are unique, collaboration on a national scale is key to energy policy progress in the United States. The Governors' Accord aims to help governors collaborate on policy, planning, and best practices to achieve a stronger national energy future for the 21st century.

[Governors' Climate and Forest Task Force](#)

Signed: November 18, 2008

Term: No Expiration

On November 18, 2008, the U.S. states of California, Illinois, and Wisconsin, the Brazilian states of Amapá, Amazonas, Mato Grosso, and Pará, and the Indonesian provinces of Aceh and Papua signed Memoranda of Understanding on climate and forests cooperation at the Governors' Climate Change Summit in Los Angeles, California. These agreements established the Governors' Climate and Forest (GCF) Task Force designed to advance jurisdiction-wide approaches to low emissions development and Reducing Emissions from Deforestation and forest Degradation (REDD+). Since its first meeting in 2009, the GCF Task Force has more

than tripled its membership and expanded its reach to include jurisdictions from multiple countries. The GCF Task Force provides a foundation for cooperation on a number of issues related to climate policy, financing, technology exchange, and research.

[North American Climate Leaders Statement](#)

Signed: November 13, 2017

Term: No Expiration

The North American Climate Leaders Statement was signed in Bonn, Germany at the Conference of Parties (COP23). Signatories include Canada, Mexico, and the U.S. Climate Alliance committed to standing together to combat climate change and support clean growth across North America. In the Statement, the signatories agreed to strengthen climate initiatives through the North American Climate Leadership Dialogue and share their goals at the 2018 Global Climate Action Summit (which took place in San Francisco in September 2018). Areas of focus include clean transportation and zero-emission vehicles, vehicle efficiency, clean technology, supporting clean power while reducing reliance on coal-fired electricity, carbon pricing initiatives, and the reduction of short-lived climate pollutants.

On September 13, 2018, alongside the Global Climate Action Summit, the North American Climate Leaders signed another Statement, committing to advance improvements in energy efficiency, electrification, and greenhouse gas emission performance of vehicles.

[Pacific Coast Action Plan on Climate & Energy](#)

Signed: October 28, 2013

Term: No Expiration

Signed at the Fourth Annual Leaders' Forum of the Pacific Coast Collaborative, the Governors of California, Washington, Oregon, and the Premier of British Columbia agreed primarily to:

1. Lead national and international policy on climate change
2. Transition the West Coast to clean modes of transportation and reduce the large share of greenhouse gas emissions from this sector
3. Invest in clean energy and climate-resilient infrastructure

[Pacific North America Climate Leadership Agreement](#)

Signed: June 1, 2016

Term: To be Reevaluated in 3 years

In an effort to demonstrate global leadership by providing a model for how decisive, coordinated subnational climate action can contribute to robust regional economic growth and inspire global action on greenhouse gas emissions reductions that meaningfully combat climate change and its impacts, the members of the Pacific Coast Collaborative (PCC) agree to work together on low-carbon development of buildings, transportation, energy systems, and waste.

[Pacific Coast Climate Leadership Action Plan](#)

Signed: June 1, 2016

Term: No Expiration

The Governments of British Columbia, California, Oregon, and Washington agree to:

1. Demonstrate global subnational leadership and ambition on climate and clean energy policy and the success of equitable low-carbon regional economies
2. Lead national and international policy on climate change
3. Increase awareness, understanding, and action on ocean acidification and other climate-related changes in ocean conditions"
4. Transition the West Coast to clean modes of transportation and reduce greenhouse gas emissions from this sector
5. Invest in clean energy
6. Increase climate resilience

[State of Washington and Province of British Columbia](#)

Signed: December 18, 2018

Term: No Expiration

This Memorandum of Understanding is a multilateral agreement between California, Washington, and British

Columbia that expresses the richness, value, and many benefits of Pacific Coast Temperate Forests and also the threat of climate change to the forest ecosystem. Within the MOU each signatory pledges to work together to preserve the natural biodiversity and health of forests, to share best practices on forest management, preservation, and conservation, and to engage in scientific study, adaptive practice, improved data and modeling, and indigenous traditional knowledge within their respective jurisdictions in an effort to better understand forest carbon dynamics and response to climate changes.

[State of Acre & State of Chiapas](#)

Signed: November 16, 2010

Term: No Expiration

This Memorandum of Understanding on Environmental Cooperation between the State of Acre, in Brazil, the State of Chiapas, in Mexico, and the State of California, in the U.S. focuses on joint efforts to enhance policies for environmental protection and sustainable natural resources. The MOU prioritizes cooperation on reducing emissions from deforestation and land degradation and also on the sequestration of additional carbon through the restoration and reforestation of degraded lands and forests, through improved forest management practices.

[State Zero-Emission Vehicle Programs](#)

Signed: October 24, 2013

Term: No Expiration

Signatories to the State Zero-Emission Vehicle Programs Memorandum of Understanding agree to coordinate actions to support and ensure the successful implementation of their Zero-Emission Vehicle programs. The Signatory States agree to create and participate in a [Multi-State ZEV Program Implementation Task Force](#) to serve as a forum for coordination and collaboration on the full range of program support and implementation issues to promote effective and efficient implementation of ZEV regulations.

[Transport Decarbonisation Alliance](#)

Signed: September 12, 2018

Term: No Expiration

The [Transport Decarbonisation Alliance](#) (TDA) was launched in 2018, and consists of countries, cities and regions, and companies eager to pave the way for an accelerated worldwide transformation towards a net-zero emission mobility system before 2050. The TDA is part of the 12 commitments made at the One Planet Summit hosted by President Emmanuel Macron in Paris, France, in December 2017. This agreement was signed in San Francisco, alongside the Global Climate Action Summit, in September 2018, by California State Transportation Agency Secretary Brian Annis, making California the first North American member of the International Transport Decarbonisation Alliance.

[The U.S.-China Governors' Accord on Clean Energy and Economic Development](#)

Signed: September 22, 2015

Term: No Expiration

The U.S.-China Governors' Accord on Clean Energy and Economic Development strives to accelerate the utilization of renewable resources and commercialize new clean and renewable energy technologies. Areas of focus include: the commercialization and deployment of clean and renewable energy technologies; the promotion of energy efficiency in buildings and industries; advancing smart grids and other programs to modernize the electrical grid infrastructure; and the reduction of transportation emissions.

[Zero Routine Flaring by 2030 Initiative](#)

Signed: December 28, 2015

Term: No Expiration

On December 28, 2015, California Environmental Protection Agency Secretary, Matt Rodriquez, sent a letter confirming California's endorsement of the "Zero Routine Flaring by 2030" Initiative, and committed to eliminate existing legacy routine flaring no later than by 2030 and to help ensure that new oil fields are developed with plans that include a gas utilization solution without routine flaring or venting.

[ZEV Alliance](#)

Signed: September 29, 2015

Term: No Expiration

On September 29, 2015, California joined with 10 European and North American governments as founding partners of the International ZEV Alliance – an international alliance to accelerate the world’s adoption of zero-emission vehicles. Members of the International ZEV Alliance collaborate on ambitious targets to get more zero-emission vehicles on the roads, share data and best practices and encourage other governments to join them. The founding members were announced during a signing event at the Quebec government in New York. In addition to California, founding members of the Alliance included The Netherlands, Norway and the United Kingdom in Europe; Connecticut, Maryland, Massachusetts, Oregon, Rhode Island and Vermont in the United States; and Québec. Since the founding of the ZEV Alliance, additional governments have joined.

Attachment B



AGREEMENT ON

THE HARMONIZATION AND INTEGRATION

OF CAP-AND-TRADE PROGRAMS

FOR REDUCING GREENHOUSE GAS EMISSIONS

WHEREAS, the Parties publicly adopted their own greenhouse gas emissions reduction targets, their own regulation on greenhouse gas emissions reporting programs and their own regulation(s) on their cap-and-trade programs;

WHEREAS, the Parties are participants of Western Climate Initiative, Inc. (WCI, Inc.), a non-profit corporation incorporated in October 2011, providing administrative and technical services to its participants to support and facilitate the implementation of their cap-and-trade programs for reducing greenhouse gas emissions;

WHEREAS, the Parties share a common interest in working jointly and collaboratively toward the harmonization and integration of their greenhouse gas emissions reporting programs and of their cap-and-trade programs for reducing greenhouse gas emissions;

WHEREAS, the Parties recognize that the harmonization and integration of their greenhouse gas emissions reporting programs and their cap-and-trade programs are to be attained by means of regulations adopted by each Party;

WHEREAS, the Parties have developed constructive working relationships among their respective staff and officials, and have demonstrated the ability to harmonize their programs and integrate their program operations, including by enabling staff to work jointly through workgroups to develop proposed harmonized approaches for consideration by each Party on topics including, but not limited to, greenhouse gas emissions reporting, issuance of compliance instruments, program scopes, compliance requirements, offset protocols, program registry, auction design and execution, auction platform, market regulations, invalidation of offset credits, enforcement, public disclosure of information, and information sharing among the Parties;

WHEREAS, the Parties further recognize that this Agreement is intended to facilitate continued consultation, using and building on existing working relationships, during the implementation and the operation of the Parties' respective programs and supporting the development of any proposed program changes, including new offset protocols, and new program elements, with the objective of maintaining and developing harmonized and integrated approaches that may be considered by each Party;

WHEREAS, the Parties further recognize the importance of effective and timely public consultation regarding their respective program operations, program changes, new offset protocols, and new program elements;

WHEREAS, the Parties further recognize that the present Agreement does not, will not and cannot be interpreted to restrict, limit or otherwise prevail over relevant national obligations of each Party, if applicable, and each Party's sovereign right and authority to adopt, maintain, modify, repeal or revoke any of their respective program regulations or enabling legislation;

WHEREAS, the Gouvernement du Québec and the California Air Resources Board agreed to link their cap-and-trade programs by signing in September 2013 the *"Agreement between the Gouvernement du Québec and the California Air Resources Board concerning the harmonization of cap-and-trade programs for reducing greenhouse gas emissions"*;

WHEREAS, the Gouvernement du Québec and the California Air Resources Board have agreed to terminate their 2013 *“Agreement between the Gouvernement du Québec and the California Air Resources Board concerning the harmonization of cap-and-trade programs for reducing greenhouse gas emissions”* in order to pursue the objectives of this Agreement, including entering into a new Agreement that also includes the Government of Ontario and that provides for other jurisdictions to enter into this Agreement;

WHEREAS, the Parties are committed to harmonize and integrate their greenhouse gas emissions reporting programs and their cap-and-trade programs for reducing greenhouse gas emissions as well as to facilitate the inclusion of new Parties to this Agreement;

THEREFORE, to collaborate in the achievement of the Parties’ respective goals in the fight against climate change through the harmonization and integration of their greenhouse gas emissions reporting programs and cap-and-trade programs for reducing greenhouse gas emissions,

THE PARTIES AGREE TO THE FOLLOWING:

CHAPTER I

GENERAL PROVISIONS

ARTICLE 1

OBJECTIVE

The objective of this Agreement is for the Parties to work jointly and collaboratively toward the harmonization and integration of the Parties’ greenhouse gas emissions reporting programs and cap-and-trade programs for reducing greenhouse gas emissions.

The intended outcome of the harmonization and integration is to enable each Party under its own statutory and regulatory authority to:

- a) achieve the harmonization of its regulation for reporting of greenhouse gas emissions and regulations for the cap-and-trade program such that the regulations will be compatible between the Parties;
- b) provide for the equivalence and interchangeability of compliance instruments issued by the Parties for the purpose of compliance with their respective cap-and-trade programs;
- c) develop and implement an accounting mechanism that provides for a transparent and data-driven calculation that attributes to each Party its portion of the total greenhouse gas emission reduction achieved jointly by the Parties’ linked cap-and-trade programs, the results of which will be used to avoid double claiming of emission reductions by the Parties;

- d) permit the transfer and exchange of compliance instruments between participants registered with the Parties' respective cap-and-trade programs using a common secure registry;
- e) develop compatible market requirements that are applied and enforced for all participants registered in the Parties' respective cap-and-trade programs;
- f) allow for planning and holding joint auctions of compliance instruments;
- g) enable the sharing of information to support effective administration and enforcement of each party's statutes and regulations.

The Parties shall report to the public annually on the status of achieving this objective.

ARTICLE 2

DEFINITIONS

For the purposes of this Agreement:

"Auction" means the process in which one Party sells a determined number of compliance instruments by offering them up for bid, taking bids, and then distributing the compliance instruments to winning bidders;

"Auction platform" means the auction system used to conduct auctions;

"Compliance instruments" means an instrument, issued by one of the Parties, that can be used by a covered entity or a voluntary participant to fulfill a compliance obligation and having a value corresponding to the emission of one metric ton of CO₂ equivalent greenhouse gas;

"Covered entity" means an entity with an obligation to surrender compliance instruments for its greenhouse gas emissions under a Party's statute and regulation(s) for the applicable cap-and-trade program for reducing greenhouse gas emissions;

"Greenhouse gas" means carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulphur hexafluoride (SF₆) or nitrogen trifluoride (NF₃), as well as other greenhouse gases publicly identified as such by the Parties' statutes and regulations;

"Offset protocol" means a documented set of procedures and requirements to quantify ongoing greenhouse gas emission reductions, avoidances, removals or removal enhancements for an offset project as adopted by each Party;

"Voluntary participant" means a person or entity whose voluntary registration creates the obligation to surrender compliance instruments for its greenhouse gas emissions under a Party's statute and regulation(s) for the applicable cap-and-trade program for reducing greenhouse gas emissions;

“Market participant” means a person or an entity who does not report greenhouse gas emissions and is registered in the program registry and participates in one of the respective cap and trade programs for reducing greenhouse gas emissions;

“Program” means a Party’s cap-and-trade program for reducing greenhouse gas emissions, including offsets, and a Party’s greenhouse gas emissions reporting program;

“Program registry” means the data system in which covered entities and voluntary and market participants are registered, and in which compliance instruments are recorded and tracked;

“Registered participant” means a covered entity or a voluntary or market participant who is registered in the Parties’ program registry.

CHAPTER II

HARMONIZATION AND INTEGRATION PROCESS

ARTICLE 3

CONSULTATION PROCESS

The Parties shall consult each other regularly and constructively to achieve the objective of this harmonization and integration Agreement. Consultation shall build on existing working relationships and shall enable Parties’ staff to work constructively through workgroups under the direction of the Parties’ officials.

The procedural requirements of each Party shall be respected, including appropriate and effective openness and transparency of each Party’s public consultations.

The topics of the collaboration and the joint work shall include, but are not limited to, those of the articles in this chapter.

ARTICLE 4

REGULATORY HARMONIZATION

The Parties shall continue to examine their respective regulations for the reporting of greenhouse gas emissions and for the cap-and-trade program in order to promote continued harmonization and integration of the Parties’ programs.

In the case where a difference between certain elements of the Parties’ programs is identified, the Parties shall determine if such elements need to be harmonized for the proper functioning and integration of the programs. If so determined, the Parties shall consult each other regarding a harmonized approach.

A Party may consider making changes to its respective programs, including changes or additions to its emissions reporting regulation, cap-and-trade program regulations, and program related operating procedures. To support the objective of harmonization and integration of the programs, any proposed changes or additions to those programs shall be discussed between the Parties. The Parties acknowledge that sufficient time is required to enable effective public review and comment prior to adoption. The Parties shall consult regarding changes that may affect the harmonization and integration process or have other impacts on any Parties. Each Party's public process for making program changes must be respected.

In the event that program conditions arise that indicate a need for rapid or emergency program changes or other actions by one or all Parties, the Parties shall work to harmonize such changes to maintain harmonization and integration and to resolve the conditions.

ARTICLE 5

OFFSET PROTOCOLS

In order to achieve harmonization and integration of the Parties' cap-and-trade programs, the offset protocols in each of the Parties' programs require that all offset emission reductions, avoidances, removals or removal enhancements achieve the essential qualities of being real, additional, quantifiable, permanent, verifiable, and enforceable.

A Party may consider making changes to the offset components of its program, including by adding additional offset protocols, or changing procedures for issuing offset credits. To support the objective of maintaining the harmonization and integration of the programs, any proposed changes shall be discussed between the Parties. The Parties acknowledge that sufficient time is required to enable effective public review and comment prior to adoption of any changes. The Parties shall consult regarding changes that may affect the harmonization and integration process or that may have other impacts on any Party. Each Party's public process for making program changes must be respected.

ARTICLE 6

MUTUAL RECOGNITION OF COMPLIANCE INSTRUMENTS

In order to achieve harmonization and integration of the Parties' cap-and-trade programs, mutual recognition of the Parties' compliance instruments shall occur as provided for under their respective cap-and-trade program regulations.

If a Party determines that a compliance instrument that it has issued should not have been issued or must be voided, it shall notify the other Parties. Each Party recognizes and respects the authority of the other Parties to take actions to recover or void compliance instruments that have been surrendered or that are held by registered participants.

ARTICLE 7

TRADE OF COMPLIANCE INSTRUMENTS

In order to achieve harmonization and integration of the Parties' cap-and-trade programs, trading of compliance instruments among registered participants in the Parties' respective programs shall occur as provided for under their respective cap-and-trade program regulations.

The Parties shall keep each other informed of any investigation, pertaining to but not limited to acts or omissions on the part of any of its registered participants or other persons regulated under the programs and any violation, penalty or fine, or decision rendered following such investigations.

ARTICLE 8

ACCOUNTING MECHANISM AND TREATMENT OF EMISSION REDUCTIONS

In order to ensure clarity and transparency in how greenhouse gas reductions from cap-and-trade programs are counted toward each Party's emission reduction target, the Parties agree to develop and implement an accounting mechanism that provides a transparent and data-driven calculation that attributes to each Party its portion of the total greenhouse gas emission reduction achieved jointly by the Parties' linked cap-and-trade programs.

The agreed upon accounting mechanism should achieve a high level of transparency and careful and secure management of confidential and market sensitive information in the Parties' cap-and-trade programs. The Parties will build on international principles and criteria, namely those pertaining to environmental integrity and robust accounting, with an emphasis on transparency and on avoiding double counting.

The Parties recognize that to avoid double claiming of emission reductions, only the Party to which an emission reduction is attributed by the accounting mechanism can use that reduction when assessing its progress toward meeting its emission reduction target, and other Parties will appropriately recognize a corresponding opposite emission impact when assessing their progress toward meeting their respective emission reduction targets.

The Parties acknowledge that when developing and implementing the accounting mechanism, each Party's applicable statutory and regulatory requirements will be respected.

The Parties agree to periodic review of the accounting mechanism in response to the development of laws applicable to each Party or relevant national and international principles and criteria.

ARTICLE 9

JOINT AUCTIONS

In order to achieve harmonization and integration of the Parties' cap-and-trade programs, the auctioning of compliance instruments by the Parties' respective programs shall occur jointly and in accordance with harmonized procedures developed by the Parties, as provided for under their respective cap-and-trade programs.

ARTICLE 10

COMMON PROGRAM REGISTRY AND AUCTION PLATFORMS

The Parties shall work together to develop and use common electronic platforms in order to ensure program compatibility, integrity, and integration, including but not limited to a program registry platform and an auction platform.

The common program registry and auction platforms shall be available in English and French and allow for recording and performing transactions in the currencies of each Party. The program registry and auction platforms shall conform to the requirements of the Parties' statutes, regulations and operating procedures.

CHAPTER III

OPERATION OF THE AGREEMENT

ARTICLE 11

SUPERVISION AND ENFORCEMENT

The Parties shall work cooperatively to maintain market integrity, including preventing fraud, abuse and market manipulation and to ensure the reliability of the joint auction and their respective programs. The Parties shall work cooperatively in applying their respective program requirements governing the supervision of all transactions carried out among registered participants of each of the Parties and of any auction or reserve sale.

The Parties shall facilitate, in accordance with the privacy, and other statutes and regulations applicable in each of their jurisdictions and the provisions of article 15 hereunder, the sharing of information to support the effective administration and enforcement of each party's statutes and regulations.

ARTICLE 12

COORDINATED ADMINISTRATIVE AND TECHNICAL SUPPORT

The Parties shall continue coordinating administrative and technical support through the WCI, Inc., an entity which was created to perform such services, including for the Parties.

If one of the Parties wishes to consider approaches other than WCI, Inc. for coordinating any of the administrative and technical program support, it shall consult the other Parties with the objective of jointly developing a harmonized approach.

If one of the Parties wishes to use the services of a party other than WCI, Inc. for technical or administrative support, or services of another nature required for the development or the operation of common program registry and auction platforms, it shall consult the other Parties with the objective of jointly developing a harmonized approach.

ARTICLE 13

CONSULTATION COMMITTEE

To facilitate the harmonization and integration process of the programs and the operation of the Agreement, the Parties shall create a Consultation Committee composed of one representative from each of the Parties. This Consultation Committee shall meet as needed to ensure timely and effective consultation in support of the objectives of this Agreement.

The representatives of each Party on the consultation committee are presented in Annex 1.

The Consultation Committee shall:

- a) monitor the implementation of all measures that are required for the effective harmonization and integration of the Parties' programs;
- b) recommend measures to improve the harmonization and integration of the Parties' programs, when needed; and
- c) address any other issues at the request of the Parties.

The Consultation Committee shall receive and review updates from the Parties on each area of activity as needed under this Agreement in a timely manner. If the Consultation Committee identifies or becomes aware of differences between the Parties regarding how to maintain the harmonization and integration of their programs, the Consultation Committee shall undertake to resolve the differences in accordance with Article 20.

CHAPTER IV

MISCELLANEOUS PROVISIONS

ARTICLE 14

JURISDICTION

The Parties acknowledge that this Agreement does not modify any existing statutes and regulations nor does it require or commit the Parties or their respective regulatory or statutory bodies to create new statutes or regulations in relation to this Agreement, and agree that the provisions of the Agreement shall not be interpreted by the Parties as amending any agreement or provision of an agreement entered into or to be entered into by any Party.

ARTICLE 15

CONFIDENTIALITY OF INFORMATION

To support and enhance the administration, including the analysis, operation and supervision, and the enforcement of the Parties' respective program requirements, the Parties shall jointly arrange to share information collected or developed under their respective programs. Nothing in this Agreement requires a Party to breach privacy or confidentiality obligations or requirements prohibiting the collection, use or disclosure of information to which it is bound under its own laws, nor compromise the security with which information is held, nor disclose confidential information such as commercially sensitive or personal information.

When information is shared between the Parties, each Party shall undertake to protect the information they disclose and collect, in accordance with the privacy and other statutes and regulations applicable in each of their jurisdictions, and take all necessary measures to such end, particularly with respect to the mode of communication, use, control, management and destruction. Shared information is to be used solely for the purposes of meeting the objectives of this Agreement.

If confidential information must be communicated by a Party to a non-Party to this Agreement under a law or following a court order, it shall notify the other Parties as soon as possible.

ARTICLE 16

PUBLIC ANNOUNCEMENT

The Parties shall keep each other informed in advance of any public announcement related to their respective programs.

Any announcement concerning the harmonization or integration of the Parties' programs shall be prepared and, if possible, made public jointly.

CHAPTER V

FINAL PROVISIONS

ARTICLE 17

WITHDRAWAL PROCEDURE

A Party may withdraw from this Agreement by giving written notice of intent to withdraw to the other Parties. A Party that intends to withdraw from this Agreement shall endeavour to give 12 months notice of intent to withdraw to the other Parties. A Party that intends to withdraw from this Agreement shall endeavor to match the effective date of withdrawal with the end of a compliance period.

Withdrawal from this Agreement does not end a Party's obligations under article 15 regarding confidentiality of information which continue to remain in effect.

If a Party withdraws, the Agreement shall remain in force for the remaining Parties.

ARTICLE 18

AMENDMENTS

Any amendment to this Agreement shall be in writing and requires the consent of all Parties to the Agreement at the time of the amendment.

An amendment that all Parties have agreed to and that has been authorized in accordance with the requirements of each Party shall constitute an integral part of this Agreement beginning on the date of its coming into force.

ARTICLE 19

ACCESSION

Recognizing that the Parties welcome effective, timely, and meaningful action to reduce greenhouse gas emissions by other jurisdictions, a candidate Party may be added as a Party to the Agreement if the candidate Party has adopted a program that is harmonized and can be integrated with each of the Parties' programs, if all of the Parties to the Agreement agree to add the candidate Party by signing an Accession Amending Agreement and then the candidate Party agrees to become a party to the Agreement by signing an Instrument of Accession.

To do so, the legal procedures required by each Party must be respected.

The standard form of the Accession Amending Agreement and the Instrument of Accession that can be found in Annex 2 and Annex 3, respectively, shall be

used. Once the Parties have signed an Accession Amending Agreement, the candidate Party shall sign an Instrument of Accession.

ARTICLE 20

RESOLUTION OF DIFFERENCES

The Parties shall consult each other constructively to resolve differences that may arise regarding how to achieve the objective of harmonizing and integrating their programs.

The Parties shall resolve differences by using and building on established working relationships, including enabling staff to work jointly through workgroups to develop proposed harmonized and integrated approaches for consideration by each Party. If approaches for resolving differences that are acceptable to the Parties cannot be developed in a timely manner through staff workgroups, the Parties shall constructively engage through the Consultation Committee, and if needed with additional officials of the Parties, or their designees. The Parties will endeavor to resolve differences in a timely manner, so that the harmonization and integration of the programs can be maintained.

ARTICLE 21

COMMUNICATIONS

The Parties agree to communicate on matters regarding this Agreement in writing and hand delivered or transmitted by telegram, fax, e-mail, messenger, courier or registered mail to the contact of the Party concerned (see Annex 1 for contacts).

Any change of address of one of the Parties or of the representatives designated in Annex 1 shall be notified to the other Parties.

Each Party shall designate a contact to facilitate communications between the Parties on any matter covered by this Agreement. On the request of any Party, the contact shall identify the office or official responsible for the matter and assist, as necessary, in facilitating communication between the office or official and the requesting Party.

ARTICLE 22

COMING INTO FORCE AND DURATION OF THE AGREEMENT

Each of the Parties shall notify all the other Parties as soon as possible after the Party has completed any procedures required for the Agreement's entry into force.

The Agreement shall enter into full force and effect on the first day of the month following the date of receipt of notification from the last of the Parties informing the other Parties that any legally required measures have been completed.

The Agreement may only be terminated by the written consent of all of the Parties. Termination of the Agreement shall be effective 12 months after the last of the Parties has provided its consent to the other Parties.

Termination of this Agreement does not end a Party's obligations under Article 15 regarding the confidentiality of information, which continue to remain in effect.

ARTICLE 23

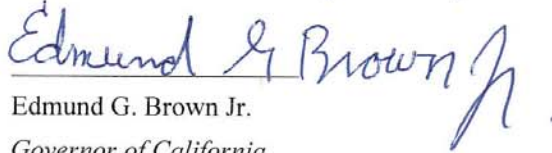
ANNEXES

The Annexes to this Agreement constitute an integral part of this Agreement.

The original English and French texts of this Agreement have the same legal force.

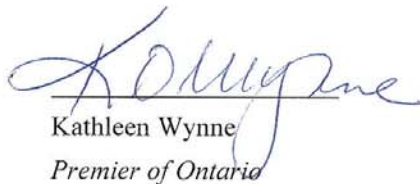
FOR THE GOVERNMENT OF CALIFORNIA

At Quebec City, on Sept 22, 2017


Edmund G. Brown Jr.
Governor of California

FOR THE GOVERNMENT OF ONTARIO

At Quebec City, on Sept. 22 / 17


Kathleen Wynne
Premier of Ontario

FOR THE GOUVERNEMENT DU QUÉBEC

At Quebec City, on Sept 22, 2017


Philippe Couillard
Premier ministre du Québec

FOR THE CALIFORNIA AIR RESOURCES BOARD

At Los Angeles, on October 4, 2017

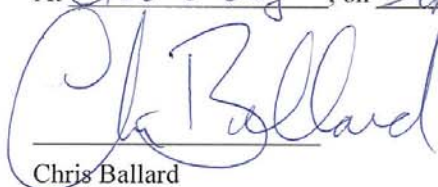
A handwritten signature in black ink, appearing to read "Mary D. Nichols", with a long horizontal flourish extending to the right.

Mary D. Nichols

Chair of the California Air Resources Board

FOR THE GOVERNMENT OF ONTARIO

At Quebec City, on Sept 22, 2017

A handwritten signature in blue ink, appearing to read "Chris Ballard", written over a horizontal line.

Chris Ballard

Minister of the Environment and Climate change

FOR THE GOUVERNEMENT DU QUÉBEC

At QUÉBEC, on 09/22/17



David Heurtel

*Ministre de l'Environnement, du Développement durable
et de la Lutte contre les changements climatiques*

At Quebec, on 22 sept 2017



Jean-Marc Fournier

*Ministre responsable des Relations canadiennes
et de la Francophonie canadienne*

At Quebec, on 22 sept 2017



Christine St-Pierre

Ministre des Relations internationales et de la Francophonie

**ANNEX 1 – PARTIES’ REPRESENTATIVE ON THE CONSULTATION
COMMITTEE AND CONTACT.**

Party	Representative on the consultation committee	Contact
<i>Gouvernement du Québec</i>	Assistant Deputy Minister for the Fight against climate change at the <i>Ministère du Développement durable, de l’Environnement et de la lutte contre les changements climatiques</i>	Director Direction du marché du carbone Ministère du Développement durable, de l’Environnement et de la lutte contre les changements climatiques 675 René-Lévesque Blvd. East, 6th Floor, Box 31 Québec (Québec) G1R 5V7 Phone: 418 521-3868 Fax: 418 646-4920
California Air Resource Board	Executive Officer of the Air Resources Board	Executive Officer California Air Resources Board 1001 I Street Sacramento, California 95814 Phone: 916-322-7077 Fax: 916-323-1045
Government of Ontario	Executive Director of the Ontario Climate Change Directorate	Director Air Policy Instruments and Program Design Branch Ministry of the Environment and Climate Change 77 Wellesley Street West, 10 th Floor Ferguson Block Toronto, Ontario M7A 2T5 Phone: 416-314-6419

ANNEX 2 – [STANDARD FORM]

ACCESSION AMENDING AGREEMENT

TO

**THE AGREEMENT ON THE HARMONIZATION
AND INTEGRATION OF CAP-AND-TRADE PROGRAMS
FOR REDUCING GREENHOUSE GAS EMISSIONS**

WHEREAS the Parties concluded, on [DATE], the Agreement on the harmonization and integration of cap-and-trade programs for reducing greenhouse gas emissions, hereinafter the “Agreement”;

WHEREAS [CANDIDATE PARTY’S NAME], hereinafter the “Candidate Party”, wishes to become a Party to the Agreement in accordance with its articles 18 and 19;

THE PARTIES AGREE TO THE FOLLOWING:

ARTICLE 1

PURPOSE OF THE AMENDING AGREEMENT

The Parties unanimously consent that the Candidate Party becomes a Party to the Agreement.

ARTICLE 2

CANDIDATE PARTY’S INSTRUMENT OF ACCESSION

The Candidate Party indicates it consents and agrees to become a Party to the Agreement by signing the Instrument of Accession, which is annexed to the Agreement.

The Instrument of Accession duly signed by the Candidate Party constitutes an integral part of the Agreement.

ARTICLE 3

PARTIES INTERNAL LEGAL FORMALITIES

The Parties shall complete any procedures required for the entry into force of the Accession Amending Agreement, if necessary, for the accession of the Candidate Party to the Agreement.

ARTICLE 4

ACCESSION OF THE CANDIDATE PARTY

The accession of the Candidate Party to the Agreements shall enter into full force and effect as described in the Instrument of Accession signed by the Candidate Party.

ARTICLE 5

**ENTRY INTO FORCE OF THE ACCESSION
AMENDING AGREEMENT**

This Accession Amending Agreement shall enter into full force and effect on the date on which all the Parties have signed it.

The original English and French texts of this Agreement have the same legal force.

PARTIES' SIGNATURES

ANNEX 3 – [STANDARD FORM]

INSTRUMENT OF ACCESSION

TO

**THE AGREEMENT ON THE HARMONIZATION
AND INTEGRATION OF CAP-AND-TRADE PROGRAMS
FOR REDUCING GREENHOUSE GAS EMISSIONS**

WHEREAS the Parties concluded, on [DATE], the Agreement on the harmonization and integration of cap-and-trade programs for reducing greenhouse gas emissions, hereinafter the “Agreement”;

WHEREAS [CANDIDATE PARTY’S NAME], hereinafter the “Candidate Party”, wishes to become a Party to the Agreement in accordance with its articles 18 and 19;

WHEREAS the Parties unanimously consented, on [DATE], that the Candidate Party becomes a Party to the Agreement.

ACCESSION

The Candidate Party consents and accepts to become a Party to the Agreement.

The accession of the Candidate Party to the Agreements shall enter into full force and effect on the first day of the month following the date of receipt of the last notification from either the Parties or the Candidate Party informing the other Parties and the Candidate Party that any legally required measures have been completed.

FOR [CANDIDATE PARTY’S NAME]

At _____, on _____

SIGNATORY
FUNCTION

Attachment C



Matthew Rodriguez
*Secretary for
Environmental Protection*

Air Resources Board

Mary D. Nichols, Chairman
1001 I Street • P.O. Box 2815
Sacramento, California 95812 • www.arb.ca.gov



Edmund G. Brown Jr.
Governor

Agreement 11-415 Between Air Resources Board and Western Climate Initiative, Incorporated

The Air Resources Board (ARB) has entered into an agreement with Western Climate Initiative, Incorporated (WCI, Inc.) to obtain access to administrative support that WCI, Inc. is developing, including:

- (a) developing, implementing, and maintaining a system for tracking compliance instruments for emissions trading programs;
- (b) developing, implementing, and maintaining capability to execute allowance auction and reserve sales; and
- (c) developing, implementing, and maintaining capability to conduct market monitoring.

The benefits of participating in WCI, Inc. will include reduced administrative costs through cost sharing with other jurisdictions and enhanced security and effectiveness of program infrastructure across programs, including the tracking system, auction operation, and market monitoring.

As shown in the agreement, ARB's share of the WCI, Inc. budget is approximately \$3.7 million over two years. The preliminary WCI, Inc. budget for its first two years of operation is \$5.3 million with Quebec's share of the budget being \$1.6 million. The distribution of funding across jurisdictions is based on the number of participating jurisdictions and the total emissions covered by each jurisdiction's emissions trading program.

For more information on the ARB's climate program including the cap-and-trade regulation please go to:

<http://www.arb.ca.gov/homepage.htm>

EXHIBIT A

SCOPE OF WORK

Background

The Air Resources Board (ARB) is charged with designing emission reduction measures to meet statewide emission limits for greenhouse gases (GHG). AB 32 directed ARB to design measures that achieve real, quantifiable, cost-effective reductions of GHG emissions and return California to 1990 levels by the year 2020. To achieve this emissions target, ARB was authorized in AB 32 to consider provisions for using market-based compliance mechanisms, such as a cap-and-trade program. Additional information on AB 32 can be found on the ARB website at www.arb.ca.gov/climatechange.

After a multi-year policy development and stakeholder involvement process, ARB adopted a California cap-and-trade regulation that took effect January 1, 2012. The cap-and-trade regulation establishes GHG emission targets for certain sectors of the economy, and provide that these targets would be achieved by establishing an emissions limit, or cap, that declines over time.

California is participating in the Western Climate Initiative (WCI). Four Western Climate Initiative (WCI) Partner jurisdictions (British Columbia, Ontario, Quebec, and California) are considering implementing greenhouse gas (GHG) cap-and-trade programs. The WCI Partner jurisdictions have established a non-profit Regional Administrative Organization (RAO), Western Climate Initiative, Incorporated (WCI, Inc.), to provide coordinated administrative and technical support to the linked emissions trading programs implemented by the jurisdictions. Through this support, WCI, Inc. enables cap-and-trade programs to be administered at a lower cost than would be possible with independent administration by each of the WCI Partner jurisdictions. Having a single operator greatly simplifies market administration and oversight, reduces the potential for fraud or malfeasance within the market, and provides a framework that can be expanded as more jurisdictions implement their respective programs.

ARB will contribute annual participation dues to WCI, Inc., as mentioned in Exhibit B. The participating jurisdictions in WCI, Inc. include California, British Columbia, and Quebec. As a participating jurisdiction, California will hold two positions on the WCI, Inc. Board of Directors. WCI, Inc. can be expanded to support additional WCI jurisdictions that join in the future. The funding contributions to WCI, Inc. differ between the participating jurisdictions based on reported GHG emissions in each jurisdiction. As additional states and provinces join WCI, Inc., the individual jurisdiction participation costs are anticipated to decrease over time.

WCI, Inc. agrees to provide ARB with participation in WCI, Inc. administrative systems being developed to support the implementation of state and provincial greenhouse gas emissions trading programs.

EXHIBIT A
SCOPE OF WORK

The project representatives during the term of this agreement will be:

State Agency: Air Resources Board	Contractor: WCI, Inc.
Name: Ashley Dunn	Name: Tim Leisuk, Secretary for the Board of Directors
Address: 1001 I Street Sacramento, CA 95814	Address: P.O. Box 1796 Sacramento, CA 95812
Phone: (916) 322-7156	Phone: (250) 387-9216
Fax: (916) 445-5023	Fax: (250) 356-7286
Email: adunn@arb.ca.gov	Email:

Direct all administrative inquiries to:

State Agency: Air Resources Board	Contractor: WCI, Inc.
Section/Unit: Administrative Services Division	Section/Unit:
Attention: Sue Bayoneta	Attention: Tim Leisuk, Secretary for the Board of Directors
Address: 1001 "I" Street Sacramento, CA 95814	Address: P.O. Box 1796 Sacramento, CA 95812
Phone: (916) 322-2208	Phone: (250) 387-9216
Fax: (916) 327-2940	Fax: (250) 356-7286
Email: sbayonet@arb.ca.gov	Email:

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. Upon receipt and approval of the invoices, the State agrees to pay Contractor for membership dues on a quarterly basis starting January 2, 2012. Payment for the first quarter of participation in WCI, Inc. in 2012 will be \$800,000. Payment for the second, third and fourth quarters will be \$268,346.00. Payment for the first quarter of participation to WCI, Inc. in 2013 will be \$1,000,000.00. Payment for the second and third quarters will be \$377,737.00, and payment for the fourth quarter will be \$377,739.00.
- B. Contractor shall submit one (1) original and one (1) copy of each invoice. Invoices must include the Agreement Number and shall be submitted not more frequently than quarterly in arrears to:

Air Resources Board
Accounting Section
P.O. Box 1436
Sacramento, CA 95812

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement. The State will promptly notify Contractor if the Budget Act does not appropriate sufficient funds for the program.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

EXHIBIT D
SPECIAL TERMS AND CONDITIONS

1. Termination

This Agreement may be canceled at any time by either party, upon thirty (30) days written notice to the other party.

2. Disputes

- A. ARB reserves the right to issue an order to stop work in the event that a dispute should arise, or in the event that ARB gives the Contractor a notice that this Agreement will be terminated. The stop-work order will be in effect until the dispute has been resolved or this Agreement has been terminated.
- B. Any dispute concerning a question of fact arising under the terms of this Agreement which is not disposed of within a reasonable period of time by agency and Contractor employees normally responsible for the administration of this agreement, shall be brought to the attention of the Executive Officer or designated representative of each party for joint resolution.

3. Amendments

ARB reserves the right to amend this agreement for additional time and/or additional funding.

CIVIL COVER SHEET

Case 2:19-cv-02142-WBS-EFB Document 1-4 Filed 10/23/19 Page 1 of 2

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

(see attachment)

DEFENDANTS

State of California, Governor of California, California Air Resources Board (CARB), and additional defendants listed on attachment

County of Residence of First Listed Defendant Sacramento
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

For the State, the Governor, the CARB, and as shown on attachment:
Attorney General of California, 1300 "I" Street, Sacramento,
CA 95814, (916) 445-9555

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input checked="" type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
The United States Constitution

Brief description of cause:

Challenge to the constitutionality of agreements, state statutes, and regulations identified in complaint.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

10/23/2019

SIGNATURE OF ATTORNEY OF RECORD

/s/ Paul E. Salamanca

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

Attorneys Representing the United States of America

Paul E. Salamanca (paul.salamanca@usdoj.gov)
Peter J. McVeigh (peter.mcveigh@usdoj.gov)
Attorneys
Environment & Natural Resources Division
U.S. Department of Justice
950 Pennsylvania Ave., N.W., Room 2139
Washington, D.C. 20530
(202) 353-9347

Defendants

The State of California, Gavin C. Newsom (in his official capacity as Governor of the State of California), the California Air Resources Board (CARB), Mary D. Nichols (in her official capacity as Chair of the CARB and as board member of the Western Climate Initiative, Inc.), Western Climate Initiative, Inc., Jared Blumenfeld (in his official capacity as Secretary for Environmental Protection and as board member of the Western Climate Initiative, Inc.), Kip Lipper (in his official capacity as board member of the Western Climate Initiative, Inc.), and Richard Bloom (in his official capacity as board member of the Western Climate Initiative, Inc.).

Attorneys Representing Defendants

For the State of California, the Governor, the CARB, Mary D. Nichols (in her official capacity as Chair of the CARB), and Jared Blumenfeld (in his official capacity as Secretary for Environmental Protection):

Attorney General of California
1300 "I" Street
Sacramento, CA 95814
(916) 445-9555

For Mary D. Nichols (as board member of the Western Climate Initiative, Inc.), Western Climate Initiative, Inc., Jared Blumenfeld (as board member of the Western Climate Initiative, Inc.), Kip Lipper (as board member of the Western Climate Initiative, Inc.), and Richard Bloom (as board member of the Western Climate Initiative, Inc.):

Unknown