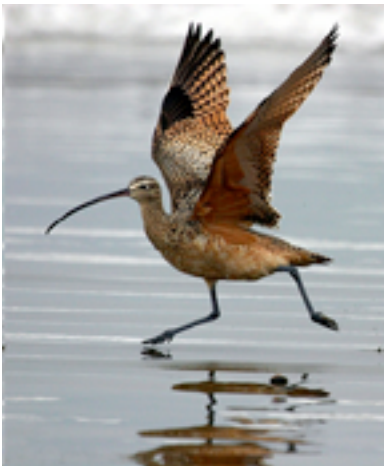


# Environmental Finance

## California bounces back after judge orders AB 32 review

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California's carbon markets have responded positively to a San Francisco judge's ruling that ordered further analysis from the California Air Resources Board (ARB) on alternatives to the state's cap-and-trade scheme, say brokers.



**Carbon takes off following judge's ruling (Photo credit: [Mike Baird](#))**

On Monday, the ARB appealed the decision and the office of the state attorney general simultaneously issued a stay to allow the agency to continue preparations for the scheme while the case is with the appeal court.

Allan Bedwell, vice-president and director of global sustainability strategies at San Francisco-based brokers CantorCO2e, said: "We are seeing an increased level of transactions in the market, which we believe are being spurred by the judge's ruling and the appeal.

"We look at the developments over the last couple of days as providing greater regulatory certainty for the marketplace and expect the ARB to move forward on some critical milestones to get closer to finalising the programme for launch in 2012."

The California Environmental Quality Act (CEQA) requires government agencies to

consider the impacts and alternatives before approving any plan or policy. Judge Ernest Goldsmith ruled last Friday that the ARB had “committed a prejudicial abuse of discretion” under CEQA and failed to adequately analyse alternatives to cap and trade. The judge denied the other challenges to AB 32, California’s climate legislation.

An ARB spokesman said: “ARB is working on a revised scoping plan alternatives analysis that will fully address the issues raised in the court's decision. All interested stakeholders will have an opportunity to participate in the conversation about California's clean energy future. We intend to bring the revised analysis to the board for consideration as soon as possible.”

But in remarks made at the Ceres conference in California earlier this month, the ARB’s chairwoman Mary Nichols ruled out a carbon tax or further regulations.

“In the AB 32 plan itself we devoted three pages worth of discussion to other alternatives to cap and trade such as taxes – we did devote very little time to that because it's not going to happen – or additional regulations which we dismissed as not as feasible as the cap-and-trade programme.”

The Friday ruling could have further delayed critical work, such as allocation of allowances, ahead of the scheme’s launch in January 2012.

But the stay ordered by the office of the recently appointed state attorney, Kamala Harris, will allow the ARB’s preparations to continue.

David Nussbaum, a director at Evolution Markets, a brokerage firm based in White Plains, New York, said that “the Californian allowance contract was actually bid up yesterday morning”.

Nussbaum praised the ARB for its “efficient” response but added that businesses in were becoming increasingly frustrated. “The one thing that these covered entities want is some guidance as to what is coming down the pipe. Knowing what their allocation is going to be is probably one of the most important factors for them.”

The Association of Irrigated Residents brought the challenge to the cap and trade programme because of concerns that cap and trade would enable large emitters to increase local pollution.

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