TO: California Air Resources Board

FROM: Vessels Coal Gas

DATE: February 14, 2014

RE: Compliance Offset Protocol, Mine Methane Capture Projects
Discussion Draft Dated January 31, 2014

Vessels Coal Gas appreciates the opportunity to comment on the January 31, 2014 discussion draft of the Compliance Offset Protocol ("Protocol") and offers the follow comments.

Broad Comment: Ability to Change Destruction Devices

Vessels interprets the Protocol as allowing Offset Project Operators to switch back and forth destruction devices; however, the Protocol does not explicitly state that an Offset Project Operator may do so. Vessels requests that the Protocol expressly allow operators to change destruction devices.

The Protocol appears to allow an Offset Project Operator to switch between destruction devices after project commencement. Sections 2.1(e), 2.2(e), 2.3(d), and 2.4(f) provide that an existing well, borehole, or shaft that was not connected to a destruction device at the time of offset project commencement may be connected to an existing destruction device. In that case, the Offset Project Operator may choose to classify the change as an offset project expansion or register the addition as a new project. These provisions appear to allow the following scenario:

- A Borehole was not connected to a destruction device at the time of offset project commencement.
- After project commencement, the Borehole is connected to Destruction Device One, which was not operational at the mine prior to offset project commencement.
- Later, the Offset Project Operator disconnects the Borehole from Destruction Device One and connects it to Destruction Device Two. Destruction Device Two was not operational at the mine prior to offset project commencement.
    - This change appears to be permitted by Sections 2.1(e), 2.2(e), 2.3(d), and 2.4(f), and the Offset Project Operator may classify the change as an offset project expansion or register the addition as a new project.
- Then, the Offset Project Operator disconnects the Borehole from Destruction Device Two and re-connects it to Destruction Device One.
    - This change also appears to be permitted by Sections 2.1(e), 2.2(e), 2.3(d), and 2.4(f). The Borehole was not connected to a destruction device at the time of project offset commencement. It is attached to Destruction Device One, which was not operational at the mine prior to offset project commencement. The

connection of the Borehole to the Destruction Device occurred after project commencement.

Thus, the Protocol does not appear to preclude an operator from switching between destruction devices, so long as the destruction devices were not operational at the mine prior to offset project commencement. Vessels believes it is appropriate and consistent with the goals of the Protocol to allow Offset Project Operators to change destruction devices as described above. The Protocol should be revised to explicitly allow Offset Project Operators to switch between destruction devices.

An example of the rationale for this recommendation is the following. An enclosed flare is installed to expedite destruction of the methane emissions. Later after lengthy permitting, contract negotiations etc. electrical generation could be feasible and a portion or all of the methane flowing to the enclosed flare could be diverted to the electrical generation. If the contract for the electricity terminated, was seasonal, was interrupted it could switched back to the flare.

Specific Comments

Section 1.2(9) – "Borehole" is defined as a "hole . . . from which natural gas is extracted." It is unclear whether this definition should refer to "mine methane" rather than "natural gas." Use of the term "natural gas" suggests that the Protocol intends to refer to a different substance than mine methane. Often dilute methane is referred to as natural gas which is of a gas composition which can qualify for injection into a natural gas pipeline. Perhaps this definition should say "natural gas or mine methane" is extracted.

Section 1.2(15) – The definition of "end-use management option" is unclear because it appears to have the same meaning as "destruction device." "End-use management option" is defined essentially as an eligible or ineligible method of methane destruction. The definition does not describe how "end-use management option" differs from, or is a subset of, methane destruction. This definition should be clarified.

Section 3.1(b) – This section (and other subsequent sections) uses the terms "Offset Project Operators" and "Authorized Project Designees" but these terms are not defined in Section 1.2 (Definitions). These terms should be defined in Section 1.2.

Section 3.6(a) – This section states equipment is considered operational on the date on which the system begins capturing and destroying methane "upon completion of an initial start-up period." The Protocol does not, however, define this start-up period or its length. More detail should be added regarding this start-up period.

Section 3.8(a) – This section currently states: "An Offset Project Operator or Authorized Project Designee must fulfill all applicable local, regional, and national requirements on environmental impact assessments that apply based on offset project location."

The phrase "local, regional, and national requirements" is imprecise. Additionally, the phrase "environmental impact assessment" is unclear. Under the National Environmental Policy Act, either an "environmental impact statement" or an "environmental assessment" may be required. Finally, the application of local, regional, and national laws may vary based on factors other than "the offset project location." For example, NEPA applies to federal authorizations (permits, etc.) for activities that may occur on private lands as well as federal lands. Furthermore, the concept that laws will vary depending on location is indirectly captured by the use of "applicable" earlier in this sentence. Therefore, we suggest revising this phrase to state: "An Offset Project Operator or Authorized Project Designee must comply with all applicable local, state, tribal, and/or federal laws and/or regulations requiring review or study of environmental impacts of the offset project, elements thereof, or associated authorizations."

Sections 4.1(a), 4.2(a), 4.3(a), Section 4.4(a) – These sections state that sources, sinks and reservoirs (SSRs) in unshaded boxes in Figures 4.1 – 4.4 are relevant only to project emissions while SSRs in shaded boxes are relevant to the baseline and project emissions. However, in Figure 4.1, the box for SSR2 is shaded while the box for SSR5 is unshaded, even though Table 4.1 identifies emissions from SSR2 and SSR5 as not applicable to either the baseline or project emissions. Similarly, in Figures 4.2, 4.3, and 4.4, the boxes for SSR11 are not shaded and therefore presumably relevant only to project emissions. However, Tables 4.2, 4.3, and 4.4 identify emissions from SSR11 as not applicable to either the baseline or project emissions.

Sections 6.4(d), 6.5(g), 6.6(f), and 6.7(g) – These sections impose monitoring requirements on "Offset Project Operators and Authorized Project Designees." This language suggests that both the Offset Project Operator and the Authorized Project Designee are obligated to monitor the defined parameters, which would be duplicative. Presumably, either the Offset Project Operator or the Authorized Project Designee must monitor the parameters. The language should be revised to reflect that both parties need not monitor the parameters so long as one party is doing so.

Section 7.1(b)(9) – This subpart requires the name and mailing address of the mine methane owner(s), if different than the mine owner. The Protocol should clarify whether the CARB needs the names of the owners of the mine methane (i.e., the parties with fee simple ownership in the mine methane) or parties with the legal authority to capture and destroy the mine methane. The owner or owners of mine methane may have leased the rights to mine methane to a third party who is capturing and destroying it. Indeed, the United States owns mine methane and may authorize third parties to capture it. Vessels Coal Gas, 175 IBLA 8 (2008). Therefore, if the requirement in Section 7.1(b)(9) was intended to seek information regarding the party with the legal authority to capture and destroy the mine methane, it should more clearly state this

requirement. For example, it may state: "Name and mailing address of mine methane owners and any lessees, permittees, holders of contracts, or licensees with rights to capture and destroy the mine methane, if different than the mine owners."

Section 7.1(b)(12) – This subpart requires the name of "[o]ther parties with a material interest in the mine methane." Many parties may hold interest in mine methane, but the Protocol does not clearly explain what constitutes a "material interest" for purposes of capturing and destroying the methane. For example, as noted above, parties may hold leases, permits, contracts or licenses that convey the right to the capture and destroy methane. Other parties, however, may have non-possessory rights to the methane, such as overriding royalty interests; presumably the CARB has little need to identify owners of non-possessory rights to the methane. Accordingly, the Protocol should clarify those owners with "material interests" in mine methane for which CARB seeks identifying information.

Section 7.1(b)(38)(B), (D), – These subparts require a diagram of the mine site that identifies the planned location of additional ventilation shafts, wells and boreholes. These requirements are problematic because they do not identify the time period during which future planned development must be identified. Although the location of planned shafts, wells, and boreholes can be identified over the short term, the location of future shafts, wells, and boreholes over longer periods cannot be identified. This requirement should include a timeframe for which future development must be identified; alternatively, this requirement should only require identification of "known" planned development.