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May 21, 2009

Via U.S. Mail and Email

California Air Resources Board
1001 "T" Street
Sacramento, CA 95814

ccworkshops@arb.ca.gov

Re: Criteria for Compliance Offsets in a Cap-and-Trade Program

Dear Air Resources Board Staff:

These comments are submitted on behalf of the California Unions for Reliable Energy (CURE). CURE is a coalition of unions whose express purpose is to help solve the State's energy problems by building, maintaining and operating conventional and renewable energy power plants. Since its founding in 1997, CURE has been equally committed to building a strong economy and a healthier environment. CURE appreciates this opportunity to submit comments on criteria for compliance offsets in a cap-and-trade program.

I. Introduction

CARB undoubtedly has a challenging task in evaluating how to contain the costs of AB 32 implementation for consumers, industry, and government while achieving real greenhouse gas emissions reductions. Nevertheless, offsets schemes are not the solution. Allowing obligated entities to continue to emit greenhouse gases by purchasing offsets of questionable value will simply undermine the credibility of California's regulatory system while achieving no net emissions reductions.

Although offsets are touted as a cost-containment mechanism, the truth is that they are unlikely to reduce costs. In fact, offsets originating outside of

California will drain investment, environmental benefits and jobs from California while incurring heavy regulation and enforcement costs. The bottom line is that offsets ultimately achieve no net reduction of greenhouse gas emissions and sometimes result in a net increase of emissions. Mounting evidence of fraudulent or ineffective offset projects leaves little doubt that the use of offsets will impede California's efforts to reduce emissions. The best solution is to reject offsets as a "cost-containment" mechanism and instead defray compliance costs by giving auction proceeds back to the regulated entities to improve their infrastructure so that emissions are reduced at the source.

Offsets also raise fundamental questions about fairness. Unfortunately equity, prosperity and justice have not been the hallmark of offset projects in many communities where offsets are derived. If offsets are allowed to meet entities compliance obligations under AB 32, they should meet strict standards of environmental integrity and economic justice for the communities where they originate.

II. Problems with existing offset programs – Credibility and Reliability

Last month the Government Accountability Office presented evidence before Congress on the performance of various offset programs.¹ After examining the U.S. voluntary market, the European Union's Emissions Trading Scheme and the Kyoto Protocol's Clean Development Mechanism, GAO concluded that "offsets involve fundamental tradeoffs and may not be a reliable long-term approach to climate change mitigation." The GAO noted that "the use of offsets can compromise the integrity of programs designed to reduce [GHG] emissions." The GAO found many problems with offset schemes casting doubt on the integrity of the GHG reduction efforts they represent.

In part this is due to an unknowable baseline from which to measure additional reductions. It is not possible to determine future business as usual emissions because emissions fluctuate for unpredictable reasons. Many offset projects currently in existence should not have been certified in the first place because they would have occurred regardless of an offset incentive. Dr. Michael Wara at Stanford Law School provided examples in testimony before Congress last

¹ Testimony before the Subcommittee on Energy and Environment, Committee on Energy and Commerce, House of Representatives, March 5, 2009.
1299-010a

month concerning the problem with business as usual behavior in the offset framework.² Dr. Wara discussed China's "building spree" of coal-fired power plants. He noted that the drive to build new coal plants has proven unsustainable, straining China's coal production, causing blackouts, and stimulating China's shift toward renewable power development and nuclear. This policy shift is not driven by the offset market but by investor miscalculation.

However, all new renewable projects in China are applying to claim credit for emissions reductions under the Kyoto Protocol's Clean Development Mechanism, the world's largest offset market. This will result in a massive influx of seemingly legitimate offset credits that do not represent actual emissions reductions above the business as usual baseline. California must not allow the enormous efforts associated with AB 32's implementation to be undermined by sham offset projects.

III. Offsets Projects Shift Costs Rather than Contain Them

Ultimately, offset projects don't reduce emissions; they allow emissions to continue unabated while emissions reductions potentially occur elsewhere. For many projects, this will mean sending money to fund investment outside of California while leaving toxic co-emissions in California. In fact this may have the perverse effect of actually deterring investment in California. As the GAO put it, "[i]f most reductions occur elsewhere, there may be little incentive for entities under the compliance program to make infrastructure changes or other technological investments." Investments needed now to eliminate GHG emissions will be delayed as long as less expensive offsets are available that may or may not actually reduce GHG emissions.

The rallying cry of industry seems to be that offset programs will reduce costs of complying with carbon reduction measures. This assumption doesn't withstand scrutiny. Offset programs may relieve industries of near-term compliance costs but this completely ignores the enormous societal costs of verification and enforcement – particularly for projects outside of California's regulatory control. Such minor gains to industry will quickly be outweighed by the costs of enforcement and the harm to society from the leakage of emissions due to waste, fraud and abuse of a complex offset system. A different cost containment method is needed.

² *Id.*

The biggest cost associated with offset projects, is one that is largely unspoken, it is the devastation from global climate change if our carbon regulation fails. Every time California has to declare a drought, it is extremely expensive. If we fail in our endeavor to avert climate change, the losses will be incalculable.

IV. Offset Projects Can Lead to Injustice and Inequity

In the rush to develop offset projects, little consideration has been given to ensuring environmental and economic integrity for the communities where the projects are generated. Projects often rely on the natural resources that were used for communal sustenance. These projects result in poverty, inequality, and lack of access to food sources or clean water and even population displacement. If CARB chooses to allow offsets to meet compliance obligations, offset projects should have to meet strict standards for job equality and environmental justice. Offsets credits should not be certified if they displace workers or increase poverty where they are generated.

Finally, allowing offsets outside of California will discourage investment in the workers and the technology that would lead to economic prosperity that is so desperately needed at home. Offset projects generated outside of California limit investment, jobs and environmental benefits that would have accrued to Californians if direct reductions were required to meet compliance obligations.

V. Offset Discourage Real Emissions Reductions

The entire concept of using offsets to enable flexible compliance is based upon the false assumption that there are measures to reduce emissions that are actually surplus. In fact, there are very few emissions anywhere that are genuinely additional and cannot be captured in a regulatory process. When we look beyond the 2020 goals to 2050, it becomes clear that nothing is surplus.

Even if the offset system works exactly as intended, there will be no net reduction in emissions. Dr. Wara of Stanford Law School points out the failure to reduce emissions when offsets substitute for emissions reductions:

“A carbon offset market, if perfect in both design and implementation, is a zero-sum game. Emissions are reduced at carbon offset projects. These emission reductions then allow firms with compliance obligations to emit more than they otherwise would at a lower per ton cost.”

At best, offsets are a zero-sum game. At worst, offset projects will lead to increased emissions. The time for half-hearted attempts to reduce emissions are over.

VI. Offsets are Inconsistent with AB 32’s Statutory Mandate

AB 32 directs CARB to maximize economic and environmental benefits in California. According to Cal. H&S § 38501(h):

It is the intent of the Legislature that the State Air Resources Board design emissions reduction measures to meet the statewide emissions limits for greenhouse gases established pursuant to this division in a manner that minimizes costs and maximizes benefits for California’s economy, improves and modernizes California’s energy infrastructure and maintains electric system reliability, maximizes additional environmental and economic co-benefits for California, and complements the state’s efforts to improve air quality.

If CARB allows compliance obligations to be satisfied using out-of-state offsets, AB 32’s statutory mandate will be violated. California won’t enjoy the air quality co-benefits, the economic co-benefits or the infrastructure improvements that would occur if permanent verifiable reductions were made at the source of the emissions. CARB should avoid this violation of the statutory language of AB 32 and severely limit or completely omit offset usage from the regulatory framework.


VII. Conclusion

Meeting AB 32’s mandate cannot be achieved without costs. CARB’s job is to make sure that those costs are wisely allocated and that all possible benefits are captured. Offset usage is really like putting these costs onto a credit card that will have to be repaid later, with interest. There is a better way to contain costs. CARB

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should use auction revenues to assist entities in meeting their compliance obligations by investing in technology to make genuine emissions reductions at home where firsthand accounting and enforcement is feasible.

Sincerely,

A handwritten signature in black ink that reads "Loulena Miles". The signature is written in a cursive, flowing style.

Loulena A. Miles

LAM:bh