Comments of the Independent Energy Producers Association
On
Criteria for Compliance Offsets
In a Cap-and-Trade Program
Public Workshop Convened April 28, 2009

The Independent Energy Producers Association ("IEP") is pleased to offer these comments on the California Air Resources Board (CARB) "Criteria for Compliance Offsets in a Cap-and-Trade Program" Workshop convened on April 28, 2009. IEP represents over 20,000 MWs of independently owned generation resources in the west, particularly California and Nevada. IEP is active in the joint CPUC/CEC efforts to implement AB32 as well as at CARB.

I. General Comments

The CARB workshop on *Criteria for Compliance Offsets in a Cap and Trade Program* (C&T) addressed primarily the requirements for offset projects and the criteria that will define and measure those requirements. As a general matter, IEP supports offsets as a means for compliance obligated entities to take advantage of lower-cost reductions that, ultimately, will lower the cost of implementing a GHG reduction program. In addition, IEP views the following principles to be necessary to an offset program:

- "A ton is equivalent to a ton" from the perspective of emission reductions, such that an offset is equal to an allowance.
- Offsets should be exchangeable or tradable within carbon reduction programs including the WCI partnership and non-contiguous entities deemed to be partners by the WCI, including the EU, RGGI, etc.
- The offset program must be administered through a third party responsible for determining if the offset is indeed "additional" and "verifiable."

In addressing the proposals that were presented at the recent workshop, while pursuing the goal of reducing compliance costs for obligated entities, IEP recommends the following: (1) "Transparency" and "Simplicity" are Essential Design Features that will Provide Investment Certainty; (2) Offsets should be Tracked like Renewable Energy Credits (RECs); (3) Employ a Hybrid of the "Standardized" and "Project Specific" Analysis; (4) Artificial Geographic Restrictions are Unnecessary; (5) An Offset Project Development Fund Will Capture In-State Benefits; (6) Certification of Offsets Must Provide Regulatory Certainty.

1. **"Transparency" and "Simplicity" are Essential Design Features that will provide Investment Certainty:** AB32 requires that greenhouse gas emission reductions must be real, additional, permanent, quantifiable, verifiable and

enforceable by the state board.[1] Currently CARB is in the process of defining each of the terms above, which will eventually be the criteria for determining if an offset qualifies under the directive of AB 32. While CARB is establishing these defining features, IEP urges CARB to keep the goals of transparency and simplicity in mind. Furthermore, IEP recommends that CARB should not be overly duplicative in its defining criteria and should condense overlapping criteria where possible. For example, there is no need to have a "real" classification that requires "permanence" if "permanence" is an individual category of its own. In addition, if a project is indeed "additional" and "verifiable" is it not "real"?

Along these same lines, it does not seem that the "enforceability" requirement, though referenced in the AB32 legislation, is a defining feature that will distinguish valid offset projects from those that are invalid, at least not initially. To be more precise, it seems that the enforceability requirement was meant to act as an implementation tool that will ensure that an offset project is indeed doing what it says it is doing, while also giving CARB the authority to take punitive actions if it is not. Given that the enforceability requirement will not determine a project's initial acceptability, it should not be set as an upfront test for determining whether an offset project will be allowed.

Essentially, the more concise the requirements are for defining a credible offset project, the more certainty the investment community will have as to what types of projects may indeed count. By combining overlapping criteria within the AB32 requirements, CARB will develop an outline that will easily frame, for the investment community, which types of projects may or may not be viable.

2. **Offsets Should be Tracked like RECs:** In order to ensure that emission reduction projects are indeed additional and are not double counted, offset credits should be treated in a manner similar to Renewable Energy Credits (RECs) under the Western Region Electricity Generation Information System (WREGIS). In WREGIS, RECs are tracked by unique serial numbers and have the capability of being transferred, retired, or exported to a compatible tracking system according to the needs of the certificate owner.[2] This type of mechanism, if employed for offsets will ensure that offset credits will be reputably accounted for and will not be created until they are physically delivered. It will also be a means to measure the physical and economic value that an offset embodies.

3. **Employ a Hybrid of the "Standardized" and "Project-Specific" Analysis:** It is clear that not all offset projects will be able to be judged by the same standards because of the innate differences that occur as a result of project

[1] HSC, Section 38562(d)(1) and (2).
[2] Western Renewable Energy Generation Information System. Retrieved May 19, 2009, from http://www.wregis.org/content/view/11/72/

variation. In light of the fact that projects will vary, it is important, especially when determining "permanence", to have different levels of examination from one project to the next. For instance, a project that reduces emissions and with certainty will not re-emit GHGs back into the atmosphere at some later date, will innately need less scrutiny than projects like biologic or geologic sequestration type projects where remittance is a potential factor. Under these circumstances, certain projects by definition will need to go through a more extensive examination process to determine the longevity of the project, etc. Thus, in some situations, one project's assessment under any of the AB32 specified criteria may be more cumbersome than another.

As a result of these variances, a combination of both a standardized assessment and a project-specific assessment should be employed when determining if an offset project will count. To the extent that CARB can standardize projects overall, it should; however, CARB must also have a mechanism that will allow viable projects to come to fruition even if they do not fit within the "standardized" methodology.

4. **Artificial Geographic Restrictions are Unnecessary.** Though the *Scoping Plan* has not previously placed any geographic limitations as to where offset projects may be located, current proposals indicate that CARB (a) will issue compliance offsets for projects in California or for projects implemented in a jurisdiction in agreement with California, but (b) will not approve offset projects for reductions in developed countries from sources that within California are covered by the cap-and-trade program.[3]

As a practical matter, greenhouse gases are global in nature and therefore, where the reduction occurs, from a global perspective, is irrelevant. It is important, particularly at the outset of the program, that we do not place artificial geographic restrictions on offset projects, which would essentially limit offset availability and consequently increase the costs of compliance. We must not forget that the offset program was essentially designed to reduce compliance costs. Accordingly, if an offset project passes the screen of being additional, verifiable, quantifiable etc. (as defined by CARB), that should be enough; in essence, that will *be* the test.

Realistically, offset projects will be undertaken only when the cost of the offset project is less than other compliance measures (e.g. purchase of allowances, construction of low-carbon generation facilities and/or repowers, etc.). Thus, the offset market, coupled with an allowance market, will be self-limiting in terms of the number of offsets employed. To further limit this policy by requiring artificial geographic restrictions will create an inflexible program that

[3] CARB Presentation on *Criteria for compliance Offsets in a Cap-and-Trade Program;* April 28, 2009, page 14.

may not have long-term political viability.

5. **An Offset Project Development Fund Will Capture In-State Benefits:** Though IEP does not advocate for geographic limits on offsets, IEP does recognize the potential benefits, including the creation of local jobs, etc., that California may gain by promoting in-state offset projects. As a means of encouraging project development within California, IEP recommends that CARB establish a fund that would essentially subsidize California based offset projects, with credits that would eventually be sold to interested buyers. Essentially, this fund would act as a mechanism to spur economic growth within California while achieving the overarching goals of an offset program, namely, reducing emissions.

6. **Certification of Offsets Must Provide Regulatory Certainty.** To the extent that offsets are employed, all parties agree that offsets must meet the standards of additional, measurable (i.e., quantifiable and verifiable), and permanent. However, once an offset has been certified by the proper authorities, then the use of the offset for purposes of regulatory compliance ought not to be subject to challenge except in extreme circumstances.[4]

II. In Conclusion, the offset market has the potential to be an asset to obligated entities as a means for lowering the compliance costs that they will inevitably incur as a result of the cap-and-trade program. However, the key to ensuring that the offset program is indeed user-friendly relies primarily on the ARB's efforts to establish a transparent and simple offset program that will provide investors with the clarity and certainty that is necessary to develop a project.

IEP thanks CARB for the opportunity to submit these comments on the *Criteria for Compliance Offsets in a Cap & Trade Program.*

Respectfully submitted,

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[4] In the context of extreme circumstances, IEP believes that challenges to the use of offsets ought to be allowed only in the narrow circumstances in which criminal activity is alleged (e.g. fraud).

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