Comment 1 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Debra
Last Name: Man
Email Address: dman@mwdh2o.com
Affiliation: Metropolitan Water District

Subject: Metropolitan Water District Comments on Cap and Trade Regulation
Comment:

```
Metropolitan Water District is resubmitting our most recent comment
letter on the Cap and Trade Regulation, and I will be speaking at
the Board hearing on October 20th. If possible, I would prefer a
morning time slot for my testimony.

Debra Man
Metropolitan Water District
Assistant General Manager & Chief Operating Officer
```

Attachment: www.arb.ca.gov/lists/capandtrade10/1696-mwd_comments_carb_2nd_15_day_modifications_to_cap_and_trade_language_comments__final___2_.jksign.pdf

Original File Name: MWD Comments CARB 2nd 15 Day Modifications to Cap and Trade Language Comments (FINAL) (2).jksign.pdf

Date and Time Comment Was Submitted: 2011-10-12 12:17:56

No Duplicates.

Comment 2 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Mike
Last Name: Robson
Email Address: mike@edelsteingilbert.com
Affiliation:

Subject: GPI Comments on Benchmarks
Comment:

```
See the attached letter
```

Attachment: www.arb.ca.gov/lists/capandtrade11/8-gpi_letter_to_carb_final_10-13-2011.pdf

Original File Name: GPI Letter to CARB Final 10-13-2011.pdf

Date and Time Comment Was Submitted: 2011-10-13 09:12:47

No Duplicates.

Comment 3 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Tim
Last Name: O'Connor
Email Address: toconnor@edf.org
Affiliation: EDF

Subject: Please approve the AB 32 Cap and Trade Regulation
Comment:

```
Please accept this comment in support of California's cap and trade
regulation for consideration at the October board meeting.
```

Attachment:

Original File Name:

Date and Time Comment Was Submitted: 2011-10-13 14:48:35

No Duplicates.

Comment 4 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Laurie
Last Name: Williams
Email Address: williams.zabel@gmail.com
Affiliation: Volunteer Citizens Climate Lobby

Subject: GHG Offset Protocols and Regulations do not meet Integrity Criteria of AB 32
Comment:

```
I would like an opportunity to present to the Air Resources Board
the reasons that the proposed GHG Offset Protocols and Regulations
do not meet the integrity criteria that are part of the AB 32 law.
In addition, I will present the evidence collected by the Citizens
Climate Lobby (CCL).

Thank you for your consideration.  Laurie Williams

P.S.  Along with my husband, CCL Volunteer Allan Zabel, I have
previously submitted 4 comments for the record.  We will be
submitting additional comments and evidence prior to the October
19, 2011 noon deadline and at the hearing.
```

Attachment:

Original File Name:

Date and Time Comment Was Submitted: 2011-10-14 09:29:37

No Duplicates.

Comment 5 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Allan
Last Name: Zabel
Email Address: williams.zabel@comcast.net
Affiliation: Volunteer Citizens Climate Lobby

Subject: GHG Offset Protocols and Regulations Do Not Meet the Integrity Criteria of AB 32
Comment:

```
I would like an opportunity to present to the Air Resources Board
the reasons that the proposed GHG Offset Protocols and Regulations
do not meet the integrity criteria that are part of the AB 32 law.
In addition, I will present evidence collected by the Citizens
Climate Lobby (CCL).

Thank you for your consideration.  Allan Zabel

P.S.  Along with my wife, CCL Volunteer Laurie Williams, I have
previously submitted 4 comments for the record.  We will be
submitting additional comments and evidence prior to the October
19, 2011 noon deadline and at the hearing.
```

Attachment:

Original File Name:

Date and Time Comment Was Submitted: 2011-10-14 09:53:29

No Duplicates.

Comment 6 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Mike
Last Name: Rogge
Email Address: mrogge@cmta.net
Affiliation: California Manufacturers

Subject: Cap and Trade rulemaking
Comment:

```
I will discuss our concerns about the cap and trade program, the
elements of the rule that will unnecessarily raise costs on
manufacturers and hurt the California economy.  CARB should not
proceed with the program until these issues are resolved to protect
the economy.
```

Attachment:

Original File Name:

Date and Time Comment Was Submitted: 2011-10-14 13:20:14

No Duplicates.

Comment 7 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Greg
Last Name: Karras
Email Address: gkatcbe@gmail.com
Affiliation: Communities for a Better Environment (CB

Subject: CBE-ARB 092711A
Comment:

```
The attached comment on the Air Resources Board's Second Proposed
(15-day) Revisions to the AB 32 Cap-and-Trade Regulation was
submitted by Communities for a Better Environment (CBE) on 27
September 2011. The text of this comment is provided here for the
Board's and public's convenience. The attachments will follow.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/15-cbe-arb_092711a.pdf

Original File Name: CBE-ARB 092711A.pdf

Date and Time Comment Was Submitted: 2011-10-14 13:40:53

No Duplicates.

Comment 8 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Greg
Last Name: Karras
Email Address: gkatcbe@gmail.com
Affiliation: Communities for a Better Environment (CB

Subject: Attachment 1 to CBE-ARB 092711A
Comment:

```
Attachment 1 of 2 to the comment CBE-ARB 092711A is loaded here.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/16-att_1_cbe092711a.pdf

Original File Name: Att 1 CBE092711A.pdf

Date and Time Comment Was Submitted: 2011-10-14 13:55:48

No Duplicates.

Comment 9 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Greg
Last Name: Karras
Email Address: gkatcbe@gmail.com
Affiliation: Communities for a Better Environment (CB

Subject: Attachment 2 of 2 to CBE-ARB 092711A
Comment:

```
Attachment 2 of 2 to CBE-ARB 092711A is loaded here.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/17-att_2_cbe092711a.pdf

Original File Name: Att 2 CBE092711A.pdf

Date and Time Comment Was Submitted: 2011-10-14 13:58:08

No Duplicates.

Comment 10 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Cathleen
Last Name: Galgiani
Email Address: Erasmo.Viveros@asm.ca.gov
Affiliation:

Subject: Callifornia Legislature
Comment:

```
Please see attached.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/40-cathleen.pdf

Original File Name: Cathleen.pdf

Date and Time Comment Was Submitted: 2011-10-14 15:56:43

No Duplicates.

Comment 11 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Fred
Last Name: Krupp
Email Address: toconnor@edf.org
Affiliation: Environmental Defense Fund

Subject: Letter in support of regulation
Comment:

```
Please accept this letter of support for the AB 32 cap-and-trade
regulation.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/41-fk_ltr_to_mary_nichols_oct_14_2011.pdf

Original File Name: FK ltr to Mary Nichols Oct 14 2011.pdf

Date and Time Comment Was Submitted: 2011-10-14 16:08:45

No Duplicates.

Comment 12 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Randy
Last Name: Gordon
Email Address: rwgordon@lbchamber.com
Affiliation:

Subject: Public Hearing to Consider Adoption of the Proposed California Cap on Greenhouse Gas Emis
Comment:

I am not opposed to a well-designed cap-and-trade program as an element of California's greenhouse gas emissions reduction strategy. However, I have significant concerns that the rule currently contemplated by the California Air Resources Board is a poorly designed policy that will increase energy costs and lead to leakage of businesses, jobs and economic activity. This directly contradicts not only the requirement under AB 32 that such regulations must minimize negative economic impacts but the Governor and Legislature's stated goal of preserving and creating jobs as the most important means of fueling our state's economic recovery.

Specifically:

California cannot afford to go it alone. CARB's AB 32 Scoping Plan observes that "California cannot avert the impacts of global climate change by acting alone," and anticipates a regional cap-and-trade program in coordination with states in the Western Climate Initiative. However, no other states in the WCI are pursuing cap-and-trade policies, nor is the federal government. California would be going it alone, to the severe detriment of our competitiveness and economy.

The independent Legislative Analyst's Office concluded last year: "California's economy at large will likely be adversely affected in the near term by implementing climate-related policies that are not adopted elsewhere … this … will adversely impact the state's economy through such avenues as causing the prices of goods and services to rise; lowering business profits; and reducing production, income, and jobs. These adverse effects will occur in large part through economic leakage, as certain economic activity locates or relocates outside of California where regulatory-related costs are lower."

With the second-highest unemployment rate in the nation, California simply can't afford to go it alone on cap-and trade.

Arbitrary 10% "haircut" is an unjustified, job-killing tax. By forcing trade-exposed industries to purchase up to 10% of emissions allowances, CARB will be in effect imposing a new tax on regulated entities. In additional to being legally questionable, this tax will lead to dramatically higher energy costs that will harm virtually every sector of our economy.

CARB staff has been quoted as estimating the amount of this tax will start at $500 million in the first compliance period and grow to $2 billion in subsequent periods. I respectfully disagree with your opinion that putting a multi-billion dollar tax on carbon will send the price signals necessary for a successful cap-and-trade program. On the contrary, such an approach will be successful only in killing jobs, driving more businesses out of California and exporting GHG emissions to unregulated regions.

No environmental benefit. Singling out trade-exposed industries by depriving them of the free allowances which are essential to a California-only cap-and-trade program will do nothing to achieve meaningful GHG reductions. The Analysis Group recently cautioned CARB: "With none of California's neighboring states committing to climate targets, emission leakage will continue as a potential risk to the program's environmental integrity."

California ratepayers and businesses are already facing the burden of higher utility costs associated with existing laws and regulations mandating a transition to lower-carbon and renewable energy sources. In view of the fragile state of California's economy, this is the worst possible time to impose yet another new energy tax on struggling businesses and consumers, especially since not even the other Western Climate Initiative states are willing to risk their own economies on costly cap-and-trade programs.

In summary, the imposition of a new tax on business or other "price signals" are not necessary to achieve the emissions reduction goals of AB 32, and will serve only to further cripple our economy, increase unemployment and impair our competitiveness.

I strongly oppose such taxes in any form, and urge you to modify the cap-and-trade program to avoid the economic consequences they will bring.

Attachment:

Original File Name:

Date and Time Comment Was Submitted: 2011-10-14 17:45:05

No Duplicates.

Comment 13 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Wade
Last Name: Lestage
Email Address: wlestage@thorcousa.com
Affiliation:

Subject: Save Our Jobs - Say NO to Cap and Trade Taxes!
Comment:

```
Board Member California ARB,

Unemployment in California is the second-highest in the country.
Over 2 million people are out of work. The last thing we need is a
regulation that will kill even more jobs.

Please consider this before voting to adopt a flawed cap and trade
rule that will force companies to pay for up to 10% of what would
otherwise have been free emissions allowances.  This multi-billion
dollar tax will lead to lost jobs and the flight of businesses and
revenues to other states.

The other western states that were expected to adopt cap and trade
policies have abandoned them in order to protect jobs and their
economies. The federal government has likewise determined the
economy cannot afford the cost of this new emissions tax.

If California insists on going it alone we should do everything
possible to minimize the negative impacts of a California-only cap
and trade program on our businesses and workers.   This means
rejecting proposals like the 10% "haircut" on emissions
allowances.

Save our jobs, save California's economy - say NO to cap and trade
taxes.

Sincerely,

Wade Lestage
659 E Claiborne Dr
Long Beach, CA 90807
```

Attachment:

Original File Name:

Date and Time Comment Was Submitted: 2011-10-17 08:56:44

73 Duplicates.

Comment 14 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Steven
Last Name: Smith
Email Address: Steven.B.Smith@saint-gobain.com
Affiliation:

Subject: Cap and Trade Comment
Comment:

```
Attached please find Verallia's letter requesting your immediate
attention to our concerns on the proposed California Cap & Trade
regulation.  Also attached are the two enclosures referenced in our
letter.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/73-carb_c_t_letter.zip

Original File Name: CARB C&T Letter.zip

Date and Time Comment Was Submitted: 2011-10-17 15:52:32

No Duplicates.

Comment 15 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Frank
Last Name: Belock
Email Address: fbelock@sdcwa.org
Affiliation: San Diego County Water Authority

Subject: Agenda Item 11-8-1; October 11, 2011 Meeting
Comment:

```
Mr. Jeff Volberg will speak on our behalf at the Board Meeting
```

Attachment: www.arb.ca.gov/lists/capandtrade11/75-california_air_resources_board.pdf

Original File Name: California Air Resources Board.PDF

Date and Time Comment Was Submitted: 2011-10-17 17:19:58

No Duplicates.

Comment 16 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Ann
Last Name: Chan
Email Address: ann_chan@tws.org
Affiliation: The Wilderness Society

Subject: TWS Comments on Adaptive Management Plan
Comment:

```
TWS appreciates the opportunity to provide comment on the Adaptive
Management Plan with respect to forests and commends ARB for its
continued work on sustainable policies that place a strong cap on
greenhouse gas emissions.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/78-tws_comments_on_adaptive_management_plan.pdf

Original File Name: TWS comments on Adaptive Management Plan.pdf

Date and Time Comment Was Submitted: 2011-10-18 11:32:11

No Duplicates.

Comment 17 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Marlin K.
Last Name: Brown
Email Address: buglegroup@yahoo.com
Affiliation:

Subject: Message to All Board Members
Comment:

Dear Board Member: Please vote "NO" on Cap and Trade. If you approve this regulation, you will probably kill my job. This would be immensely hurtful for me and my family.

And if you approve it, you will probably kill many tens of thousands of other jobs in California. This would be immensely hurtful for those families. And immensely hurtful for the California economy.

We do not need another job-killing regulation. We do not need another tax. Our boat is sinking. Do not blow another hole in it.

Marlin K. Brown
THE BUGLE GROUP
2356 Glacier Lane, Santa Maria, CA 93455
(805) 937-4973 Office
(805) 878-8986 Cell
(805) 938-1492 Fax

Attachment:

Original File Name:

Date and Time Comment Was Submitted: 2011-10-18 11:45:15

No Duplicates.

Comment 18 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Bo
Last Name: Buchynsky
Email Address: Non-web submitted comment
Affiliation:

Subject: Wildflower Energy LP
Comment:

```
Please see attached.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/82-wildflower.pdf

Original File Name: Wildflower.pdf

Date and Time Comment Was Submitted: 2011-10-18 12:49:35

No Duplicates.

Comment 19 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Laurie & Allan
Last Name: Williams/Zabel
Email Address: williams.zabel@gmail.com
Affiliation: Citizens Climate Lobby & as Individuals

Subject: Comment Regarding Compliance Offset Protocol Urban Forest Projects
Comment:

Urban Forest Protocol – Summary of Evidence

AB 32 Offsets Challenge – Public Comments on October 19, 2011

Laurie Williams and Allan Zabel, as individuals and as volunteers for Citizens Climate Lobby

Summary of Evidence that Proposed Greenhouse Gas Offset Protocols and Regulations do not meet the AB 32 Integrity Criteria

Standard in Protocol:
The proposed Urban Forest Protocol would provide offset credits for urban forest project that meet the description of such a project and are by or for a municipality, educational institution, or utility. This is contrary to the AB 32 Integrity Criteria -- the requirement that all emission reductions meet the following criteria (See Section 38562(d)):

AB 32 Integrity Criteria:

“(d) Any regulation adopted by the state board pursuant to this part or Part 5 (commencing with Section 38570) shall ensure all of the following:
(1) The greenhouse gas emission reductions achieved are real, permanent, quantifiable, verifiable, and enforceable by the state board.
(2) For regulations pursuant to Part 5 (commencing with Section 38570), the reduction is in addition to any greenhouse gas emission reduction otherwise required by law or regulation, and any other greenhouse gas emission reduction that otherwise would occur.

Evidence of Failure to Meet Integrity Criteria

1. Any Net Tree Gain: In the Protocol, the ARB establishes the standard for additionality as any net tree gain. This ignores the creation and maintenance of urban forests by municipalities as ongoing activity which have occurred and are still occurring without an offset incentive.

a. San Francisco Urban Forest Program: “This year marked the completion of the Mayor’s Trees for Tomorrow campaign to plant 25,000 trees over a 5-year period. The successful program exceeded its goals by planting 26,408 trees in 5 years. Averaged over the course of the Mayor’s Trees for Tomorrow initiative, the City has

been meeting the Urban Forestry Council's goal of planting 5,000 trees per year for each of the past five years. Additionally, San Francisco Unified School District began its 2012 by 2012 campaign to plant 2012 trees by the end of 2012." See Attachment 1, p.1.

b. Los Angeles One Million Tree Program: " Mayor Antonio Villaraigosa of the City of Los Angeles has charted a course for sustainable growth, and the region's community forest is a critical component of that vision. In September 2006, the mayor announced his plan to plant one million trees over the next several years. The Million Trees LA initiative draws attention to the importance of urban forests for the economic, environmental , and social health of Los Angeles." See Attachment 2, p.1.

c. New York City One Million Tree Program: "New York City, the largest city in the United States and one of the world's major global cities, maintains trees as an integral component of the urban infrastructure (Figure 1). Since 1995, over 120,000 trees have been planted along the streets of the city's five boroughs." See Attachment 3, p.1.

2. Urban Forests are Cost Effective for Municipalities: Several studies show that the creation and maintenance of urban forests creates numerous environmental benefits for municipalities and creates economic benefits greater than the costs associated with the urban forest programs. Therefore, these activities are almost certain to continue occurring without an offset incentive program.

a. City of Berkeley: "Total annual benefits produced by Berkeley's street and park trees were estimated to have a value of $3.2 million, about $89 per tree and $31 per resident. Street trees produced benefits valued at $2.8 million ($91/tree, $27/capita), while park tree benefits were valued at about $433,000 ($76/tree, $4/capita). Over the same period, tree-related expenditures were estimated at nearly $2.4 million. Net annual benefits were therefore calculated at $876,000, or $24 per managed tree. The Berkeley municipal forest returned $1.37 to the community for every $1 spent on management." See Attachment 4, pp. 23-4.

b. New York City: "Over the years, the city has invested millions in its urban forest. Citizens are now receiving a return on that investment—trees are providing $5.60 in benefits for every $1 spent on tree planting and care. New York City's benefit-cost ratio of 5.60 exceeds all other cities studied to date, including Fort Collins, Colorado (2.18), Glendale, Arizona (2.41), and Charlotte, North Carolina (3.25)." See Attachment 3, p.3.

3. Air Quality Planning: The creation and maintenance of urban forests is relied upon by California air pollution control districts in their plans to reduce air pollution. These planning projections do not rely on offset incentives.

a. Sacramento Area: "The estimated emission reductions from this urban forest development program for the Sacramento region are summarized in the following table. The estimated 2018 VOC reduction is about 0.8 tpd, but the credited reduction is limited to 0.2 tpd. This is consistent with the EPA policy for incorporating emerging and voluntary measures in a SIP that limits the amount of emission reductions allowed due to the uncertainty and untested nature of the control mechanisms." See Attachment 5, pp. 7-19, 7-20.

4. Benefits to Utilities: Some utilities already have extensive

and long-standing urban forest programs which are of economic benefit to the utility. Therefore, these types of programs occur in the course of business-as-usual.

a. Sacramento MUD: “From SMUD’s perspective, the tree-planting program represents a type of Demand Side Management programs that have a tangible economic value to the utility. This value can be quantified based on avoided supply costs of energy and capacity during high cost of summer peak load periods, or the decrease in supply costs to the utility due to reduced electrical loads. SMUD’s total investment in the program since the program inception in 1990 has been about 30 million dollars and approximately 1.5 million dollars for 2008. Through 2008, over 450,000 trees have been planted through the program.” See Attachment 6, p.2.

List of Attachments
1. San Francisco Urban Forestry Council Annual Report, September 2009
2. The Benefits of One Million Trees in LA, USDA/Forest Service, undated
3. New York City, New York, Municipal Forest Resource Analysis, March 2007
4. City of Berkeley, California, Municipal Tree Resource Analysis, March 2005
5. Sacramento Regional 8-Hour Ozone Attainment and Reasonable Further Progress Plan, December 19, 2008
6. SMUD Shade Tree and Cool Roof Programs: Case Study in Mitigating the Urban Heat Island Effects, undated

Attachment: www.arb.ca.gov/lists/capandtrade11/84-urban_forest_protocol_comment.zip

Original File Name: Urban Forest Protocol Comment.zip

Date and Time Comment Was Submitted: 2011-10-18 13:41:25

No Duplicates.

Comment 20 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Catherine
Last Name: Lyons
Email Address: clyons@bayareacouncil.org
Affiliation: Bay Area Council

Subject: Bay Area Council supports cap-and-trade program
Comment:

Dear Board Members,

My name is Catherine Lyons and I am representing the Bay Area Council, Jim Wunderman and the business community of the Bay Area region.

I am here to announce our support of the implementation of the California cap-and-trade program--Alternative 2 of the Supplement to the AB32 Scoping Plan—without further costly delays to the California economy and environment.

The Bay Area Council is proud to have been the business group to negotiate and the first business group to support California's landmark effort to address global climate change, starting in 2006. We are happy to be at this point in the process. Our members are business leaders of some of the region's largest employers, and they know how much is at stake if we do not take actionable steps toward reducing emissions.

The following reasons compelled the business community to act on this issue:
• California's momentum to become the center of clean technology innovation would be lost if we backpedal on our commitment to become a clean-energy based economy.
• Investors, manufacturers and workers in California's clean energy sector face fierce global competition.
• Our partners in emissions trading are moving forward with developing their growing market and need a clear signal from California that would stabilize carbon pricing.

Now, the real work begins, and the business community is committed to ensuring that our state reduces its emissions by the required 15 percent by 2020.

Thank you for your leadership, and we look forward to working with you in the future.

Attachment: www.arb.ca.gov/lists/capandtrade11/85-carb_public_comment.docx

Original File Name: CARB Public Comment.docx

Date and Time Comment Was Submitted: 2011-10-18 14:03:58

No Duplicates.

Comment 21 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Legislature
Last Name: California
Email Address: Non-web submitted comment
Affiliation:

Subject: Greenhouse Gas Emission Benchmarks for California Container Glass Industry
Comment:

```
Please see attached letter signed by Assemblyman Bill Berryhill,
Assemblymember Kristin Olsen, Senator Anthony Canella, and Senator
Tom Berryhill.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/86-legislature.pdf

Original File Name: Legislature.pdf

Date and Time Comment Was Submitted: 2011-10-18 15:00:34

No Duplicates.

Comment 22 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Patrick
Last Name: Covert
Email Address: pat.covert@valero.com
Affiliation: Valero

Subject: Valero Comments on Adaptive Management Plan
Comment:

```
The attached file contains Valero's comments on the Adaptive
Management Plan for the Cap-and-Trade Regulation.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/87-valero_comment_letter_adaptive_management_plan_for_the_cap-and-trade_regulation.pdf

Original File Name: Valero Comment Letter Adaptive Management Plan for the Cap-and-Trade Regulation.pdf

Date and Time Comment Was Submitted: 2011-10-18 15:31:06

No Duplicates.

Comment 23 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Laurie & Allan
Last Name: Williams/Zabel
Email Address: williams.zabel@gmail.com
Affiliation: Citizens Climate Lobby & as Individuals

Subject: Comment Regarding Livestock Digester Protocol
Comment:

Livestock Protocol – Summary of Evidence
AB 32 Offsets Challenge – Public Comments on October 18, 2011
Laurie Williams and Allan Zabel, as individuals and as volunteers for Citizens Climate Lobby
Summary of Evidence that Proposed Greenhouse Gas Offset Protocols and Regulations do not meet the AB 32 Integrity Criteria Standard in Protocol:
The proposed Livestock Project Protocol would provide offset credits for projects that are above "common practice" in the relevant geographic region. This is contrary to the AB 32 Integrity Criteria described below.

AB 32 Integrity Criteria:

"(d) Any regulation adopted by the state board pursuant to this part or Part 5 (commencing with Section 38570) shall ensure all of the following:
(1) The greenhouse gas emission reductions achieved are real, permanent, quantifiable, verifiable, and enforceable by the state board.
(2) For regulations pursuant to Part 5 (commencing with Section 38570), the reduction is in addition to any greenhouse gas emission reduction otherwise required by law or regulation, and any other greenhouse gas emission reduction that otherwise would occur.

(See AB 32 at Section 38562(d).)

Evidence of Failure to Meet Integrity Criteria:
1. Anaerobic Digesters are Already Being Used without Offset Payment Incentive:
USDA News Release July 19, 2010: Release No. 0377.10: "The technology uses generators that are fueled by methane captured from farm animal manure. Currently, only about 2 percent of U.S. dairies that are candidates for a profitable digester are utilizing the technology." (Att. 1 at page 1.)
2. Anaerobic Digesters are Often Cost-Effective:
A. Collaboration by EPA, USDA and DOE, the Agstar Program:
EPA Factsheet: Managing Manure with Biogas Recovery Systems: Improved Performance at Competitive Prices (2002): Presents the reasons that anaerobic digesters can be cost-effective, see e.g. "Anaerobic digestion is cost-competitive when compared to conventional waste management practices. For example, the cost of both a covered lagoon and heated digester (including an attached storage pond) ranges between $200 and $450 per AU [animal unit].

These systems can have financially attractive payback periods of 3 to 7 years when energy gas uses are employed." (Att. 2 at page 8.) "Odor Control. The effluent odor from anaerobic digesters is significantly less than odors from conventional manure management systems. Odor reduction using anaerobic digestion can be very cost-effective when compared to other alternatives such as aeration." (Att. 2 at p.6). Water quality protection. Anaerobic digestion provides several water quality benefits . . .especially heated digesters isolate and destroy disease-causing organisms that might otherwise enter surface waters and pose a risk to human and animal health." (Att. 2 at p.7.)
EPA Agstar Study: A Comparison of the Performance of Three Swine Waste Stabilization Systems. (March 20, 2002.) Environmental benefits are documented in use of an anaerobic digester system. Some cost information is also collected. (Att. 3)

EPA Agstar: A Comparison of Dairy Cattle Manure Management with and without Anaerobic Digestion and Biogas Recovery, by Eastern Research Group, Inc., 2004. Describes economic viability (Att. 4 at pp. 35-36).

EPA Agstar Handbook (2005): Provides advice concerning how to evaluate whether and what type of system will be profitable. (Att. 5).
EPA Agstar: An Evaluation of a Covered Anaerobic Lagoon for Flushed Dairy Cattle Manure Stabilization and Biogas Production, by Eastern Research Group, Inc., June 17, 2008. The results of this study confirm the environmental quality benefits realized by the anaerobic digestion of dairy cattle manure with biogas collection for the generation of electricity. These results also confirm that the economic value of the electricity generated can be adequate to recover the capital investment in a reasonable period and then generate a long-term income stream if there is a reasonable rate of compensation for surplus electricity delivered to the grid." Study of "Castelanelli Brothers Dairy; a 550-acre operation located Lodi, California. The study began in January 2006 and ended in January 2007. Generally, the size of the Castelanelli milking herd is between 1,500 and 1,600 cows." "Economic Impact: $108,000 per year after recovery of capital invested in 6.6 years). (Att.6, p. 8-9 of 46.)

EPA Agstar/USDA: U.S. Anaerobic Digester Status Report. (October 2010.) "Biogas recovery systems are technically feasible at more than 8,000 U.S. dairy and swine operations. These systems offer a substantial business opportunity to increase farm income by offsetting energy purchases or through the sale of produced energy back onto the electricity grid." EPA estimates that 157 digester projects were operating on commercial scale livestock facilities nationwide as of this report. The report also provides updated information on federal grant and loan programs. (Att. 7 p. 4 of 12.)

EPA Agstar Study – Protocol for Quantifying and Reporting the Performance of Anaerobic Digestion Systems for Livestock Manure, March 2011 by Eastern Research Group, Inc., cites numerous benefits of such digesters, including reduced methane emissions (and associated climate impacts), reduced noxious odors, reduced water pollution potential, renewable energy production and revenue. (Att. 8 at p.7 of 48.)

B. USDA Factsheet: Funding Programs for Developing Anaerobic Digestion Systems. April 2011. USDA describes a variety of grant

and loan programs that are already in place to encourage adoption of livestock waste digesters. (Att. 9.)

3. Anaerobic Digesters Help Farmers Avoid Liability: As noted above, anaerobic digesters can help control odor and run-off of contaminants. Farmers have an incentive to adopt anaerobic digesters to obtain these benefits in order to avoid the legal liability from nuisance lawsuits by neighbors and regulators.

A. Nuisance Liability

Manure Related Nuisance Lawsuits by Eldon McAfee (2005) notes that "producers must take all reasonable steps available to them to try to minimize the impact of their operations on neighbors and minimize the risk of a nuisance lawsuit . . . [I]n a 1999 case the Georgia Supreme Court agreed with the district court's order halting the construction of a 22,800-head swine operation with anaerobic and aerobic lagoons. Neighbors objecting to the proposed hog operation claimed that the operation 'would result in groundwater and aquifer contamination as well as impairment of air quality.'" (Att. 10 at p.1.)

Pig Odor Lawsuit: Farm Must Pay Neighbor for Smell by Stephanie Rabiner (findlaw.com blog June 7, 2011.) A pig odor lawsuit was filed against Synergy, which owns the hogs, and Kenoma, which raises them, reports the Associated Press. Their Barton County farm raises about 200,000 hogs per year, which equates to a lot of stank. And waste. A jury verdict decided the hog farmers must now pay its neighbors $1.95 million. (Att. 11 p.1.)

Missouri Plaintiffs Awarded $11 million in hog odor lawsuit by Agweek.com, March 5, 2010. A jury awarded more than $11 million to 15 plaintiffs in a lawsuit over the odors from a Premium Standard Farms hog operation in northern Missouri. The company argued the smells are a normal part of life in an agricultural area. (Att. 12 p.1).

B. Regulatory Liability

US EPA Chino Dairies Press Release: U.S. EPA Orders 13 Chino Dairies to Control Manure Runoff; Joint effort with local Water Board to protect Santa Ana River Release date: 09/26/2011 EPA announced that "Among the violations discovered at the dairies subject to EPA's orders were . . . failure to construct or maintain controls necessary to prevent manure and other contaminants from discharging into waterways . [EPA will] be evaluating whether monetary penalties are appropriate, pursuant to our authority under the federal Clean Water Act." (Att. 13 at p.1.)

Iowa Attorney General Press Release: Feb. 3, 2010. State files lawsuit to enforce manure management plan rules. "Manure management plans are required in order to show that operations have adequate land for application of manure produced by the animals," said Attorney General Tom Miller. "The plans are an important tool to protect the environment." (Att. 14.)

4. The Price of Carbon Offsets is Too Low and Too Uncertain to Be Reliably Claimed as "the" reason for Implementation of an Anaerobic Digester System:

USDA Economic Research Service, Carbon Prices and the Adoption of Methane Digesters on Dairy and Hog Farms: While additional profit is always an incentive, this report makes it clear that, while a steady known carbon offset price could encourage additional adoption of digesters, market price of carbon offsets has been volatile. "The additional revenues that could be earned from carbon offsets could have a large effect on digester profitability and adoption if offset price is sufficiently high. However, future carbon prices are uncertain." The report documents prices in various markets that have varied by 100% or more. Finally, the report notes that other factors are also important, to whether it is profitable for farmers to adoption digesters, including the size

of the operation, electrical usage, price to sell surplus electricity, initial levels of methane, among other factors. (Att.15 at pages 6 -8.)

Attachments:

Livestock Att. 1 - USDA News Release No. 0377.10, July 19, 2010.

Livestock Att. 2 - EPA Factsheet: Managing Manure with Biogas Recovery Systems: Improved Performance at Competitive Prices, 2002.

Livestock Att. 3 - EPA Agstar Study: A Comparison of the Performance of Three Swine Waste Stabilization Systems, March 20, 2002.

Livestock Att. 4 - EPA Agtar: A Comparison of Dairy Cattle Manure Management with and without Anaerobic Digestion and Biogas Recovery, by Eastern Research Group, Inc., 2004.

Livestock Att. 5 - EPA Agstar Handbook, 2005.

Livestock Att. 6 - EPA Agstar: An Evaluation of a Covered Anaerobic Lagoon for Flushed Dairy Cattle Manure Stabilization and Biogas Production, by Eastern Research Group, Inc., June 17, 2008.

Livestock Att. 7 - EPA Agstar/USDA: U.S. Anaerobic Digester Status Report, October 2010.

Livestock Att. 8 - EPA Agstar Study – Protocol for Quantifying and Reporting the Performance of Anaerobic Digestion Systems for Livestock Manure, March 2011.

Livestock Att. 9 - USDA Factsheet: Funding Programs for Developing Anaerobic Digestion Systems. April 2011.

Livestock Att. 10 - Manure Related Nuisance Lawsuits by Eldon McAfee, 2005

Livestock Att. 11 – Pig Odor Lawsuit: Farm Must Pay Neighbor for Smell by Stephanie Rabiner findlaw.com blog, June 7, 2011.

Livestock Att. 12 - Missouri Plaintiffs Awarded $11 million in hog odor lawsuit by Agweek.com, March 5, 2010.

Livestock Att. 13 - US EPA Chino Dairies Press Release: U.S. EPA Orders 13 Chino Dairies to Control Manure Runoff; Joint effort with local Water Board to protect Santa Ana River Release date: 09/26/2011.

Livestock Att. 14 - Iowa Attorney General Press Release, Feb. 3, 2010.

Livestock Att. 15 - USDA Economic Research Service, Carbon Prices and the Adoption of Methane Digesters on Dairy and Hog Farms by Nigel Key and Stacy Sneeringer, Feb. 2011.

See also: the following web excerpts:

This is an excerpt from EERE Network News, a weekly electronic newsletter.

http://apps1.eere.energy.gov/news/news_detail.cfm/news_id=15685

December 16, 2009

Anaerobic Digesters to Help Cut Dairy Emissions by 25% by 2020

The U.S. Department of Agriculture (USDA) announced on December 15 an agreement with U.S. dairy producers to cut their greenhouse gas emissions by 25% by 2020 while turning manure into electricity using anaerobic digesters. Under a Memorandum of Understanding signed by the Innovation Center for U.S. Dairy , the USDA, and dairy producers, the groups agreed to work together to reach the target. USDA will contribute by undertaking research initiatives, allowing implementation flexibility, and enhancing efforts to market anaerobic digesters to dairy producers.

Anaerobic digester technology is a proven method of converting waste products, such as manure, into electricity. The technology utilizes generators that are fueled by methane captured from the animal manure. Currently, only about 2% of U.S. dairies that are candidates for a profitable digester are using the technology, even though dairy operations with anaerobic digesters routinely generate

enough electricity to power 200 homes. Through the agreement, USDA and the Innovation Center for U.S. Dairy will increase the number of anaerobic digesters supported by USDA programs. Beyond promoting the digesters, the agreement will encourage the research and development of new technologies to help dairies reduce their greenhouse gas emissions. See the USDA press release and the description of anaerobic digesters on DOE's Energy Savers Web site.

http://www.energysavers.gov/your_workplace/farms_ranches/index.cfm/mytopic=30005

Economics and Benefits of Anaerobic Digesters

Before you install a anaerobic digester—also known as a biodigester—on your farm or ranch, you should explore its economic value and potential benefits.

A biodigester usually requires manure from more than 150 large animals to cost effectively generate electricity. Anaerobic digestion and biogas production can also reduce overall operating costs where costs are high for sewage, agricultural, or animal waste disposal, and the effluent has economic value.

In the United States, the availability of inexpensive fossil fuels has limited the use of digesters solely for biogas production. However, the waste treatment and odor reduction benefits of controlled anaerobic digestion are receiving increasing interest, especially for large-scale livestock operations such as dairies, feedlots, and slaughterhouses.

Attachment: www.arb.ca.gov/lists/capandtrade11/89-livestock_digester_protocol_comment.zip

Original File Name: Livestock Digester Protocol Comment.zip

Date and Time Comment Was Submitted: 2011-10-18 16:03:13

No Duplicates.

Comment 24 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Laurie & Allan
Last Name: Williams/Zabel
Email Address: williams.zabel@gmail.com
Affiliation: Citizens Climate Lobby & as Individuals

Subject: Offset Protocols and Regulations Do Not Meet Integrity Criteria of AB32
Comment:

AB 32 Offsets Challenge – Public Comments on October 18, 2011
Laurie Williams and Allan Zabel, as individuals and as volunteers for Citizens Climate Lobby
Summary of Evidence that Proposed Greenhouse Gas Offset Protocols and Regulations do not meet the AB 32 Integrity Criteria – Overall Comments - Supplemental
Standards in Protocols and Regulations Do Not Meet Integrity Criteria:
The proposed Protocols and Regulations would provide offset credits for projects that are above "common practice" in the relevant geographic region. This is contrary to the AB 32 Integrity Criteria described below. (We incorporate by reference, all of our prior comments, including our comments submitted on Dec. 13, 2010, Aug. 10, 2011, and Sept. 27, 2011, October 18, 2011.)

AB 32 Integrity Criteria:

"(d) Any regulation adopted by the state board pursuant to this part or Part 5 (commencing with Section 38570) shall ensure all of the following:
(1) The greenhouse gas emission reductions achieved are real, permanent, quantifiable, verifiable, and enforceable by the state board.
(2) For regulations pursuant to Part 5 (commencing with Section 38570), the reduction is in addition to any greenhouse gas emission reduction otherwise required by law or regulation, and any other greenhouse gas emission reduction that otherwise would occur.

(See AB 32 at Section 38562(d).)

Evidence of Urgency
CARB should give special scrutiny to the integrity of offsets because of the urgency of taking effective actions to prevent the very serious impacts that are anticipated from a failure to reduce emissions.

NSF Press Release, Methane Releases From Arctic Shelf may be Much Larger and Faster than Anticipated, March 2010 - National Science Foundation Reported that Methane Emissions indicated that the East Siberian Arctic Shelf has begun leaking large amounts of methane and that further releases of methane through the shelf could "trigger abrupt climate warming." (Att. 1.)

National Academy of Sciences Report Press Release, May 2010. Three

reports issued in 2010 indicate that “climate change is already occurring and poses significant risks. The reports recommend “prompt and sustained efforts to promote major technological and behavioral changes” are needed to avert additional climate impacts. (Att. 2.)

NY Times. Climate Change Seen as Threat to U.S. Security, by John Broder, August 2009. “US military and intelligence analysts anticipate that climate change will contribute to serious security risks to the United States in the coming decades. (Att. 3.)

Revised MIT Climate Model Sounds Alarm, March 2009. MIT scientists found that new information indicated that, without “rapid and massive action” climate change impacts would be twice as severe as modeling showed six years prior. (Att. 4.)

NY Times Tree Death, 2011. Experts are seeing extensive tree death in millions of acres of US Forests as a result of beetle infestations and drought, due in part to climate change. The loss of these trees will make it even more difficult to control global warming. (Att. 5.)

News Report – Global emissions of greenhouse gas emissions hit their highest level ever in 2010, May 30, 2011. Both the chief economist of the International Energy Agency and the UN Climate Change Secretariat made statements indicating that it would be difficult in light of this trend to keep global warming below 2 degrees Centigrade, the target previously set by at the international climate talks in Cancun last year. (Att. 6)
EscienceNews.com, Act now to tackle the health and security threat of climate change, say experts, October 17, 2011. Health experts, government officials and scientists at a British Medical Journal meeting in London warned of “grave and escalating threat to the health and security of people around the globe and must be tackled urgently.” (Att. 7)

Evidence of Failure to Meet Integrity Criteria:
Given the urgency of effective actions to address climate change, the adoption of a compliance mechanism that lacks integrity poses huge risks. Since California’s actions are anticipated to be model for the nation and the international community, it is extremely important that regulations and protocols adopted under AB 32 meet the integrity criteria found in that statute. As shown in the attachments incorporated in this comment, prior experiences in Europe under the European Emissions Trading Scheme (“ETS”) and Clean Development Mechanism (“CDM”), indicate that it is either difficult or impossible to assure the integrity of greenhouse gas offsets and many experts, including those interviewed by the U.S. Government Accountability Office, believe that it may be impossible to achieve such integrity, because it is nearly impossible to know whether the offset projects are “additional” to what would have happened absent the offset program.

U.S. Government Accountability Office report: Climate Change, Observations on the Potential Role of Carbon Offsets in Climate Change Legislation, March 2009. The GAO found that “it is impossible to know with certainty whether any given [greenhouse gas offset] project is additional.” (Att. 8.)

European carbon trading faces sharply dropping prices, E&E Publishing, October 11, 2011. News report documents that carbon markets continue to be very volatile. (Att. 9.)

Proliferation of emissions offsets threatens to depress Europe's carbon trading, Jan, 17, 2011. The CDM has approved lots of new carbon offsets at a time when demand is low, resulting in additional market uncertainty. (Att.10.)

A Realistic Policy on International Carbon Offsets by Michael Wara and David Victor, 2008. Researchers find that most of the offsets approved under the CDM offsets have not been “additional.” They conclude that “any offset market of sufficient scale to provide substantial cost-control for a cap-and-trade program will involve substantial issuance of credits that do not represent real emissions. Finally, they determine that the CDM created perverse incentives that increased emissions. (Att.11.)

California Emissions Plan to Explore the Use of Offsets, by Eli Kintisch, Science Magazine, July 4, 2008. Relying on the work of Michael Wara, David Victor and other experts, the article raises questions about the integrity and efficiency of carbon offsets as a mechanism to address climate change. (Att.12.)

Trading in Fake Carbon Credits: Problems with the Clean Development Mechanism (CDM) by Friends of the Earth and International Rivers, 2009. Additional research provides examples and reasons that offsets approved under the CDM are not additional. (Att.13.)

EU Emissions Trading – Failure at the Third Attempt, by Carbon Trade Watch, April 2011. In a race to the bottom, approximately 80 percent of the carbon offsets approved under the CDM have been industrial gas projects that could have been achieved much more cheaply by regulation or direct payment for the expense of destruction of the gas. The report notes in the words of EU Climate Action Commissioner Connie Hedegaard these offsets suffer from “a total lack of environmental integrity.” However, they will remain legal through 2012. (Att.14.)

Carbon Offsetting: An Efficient Way to Reduce Emissions or to Avoid Reducing Emissions?
An Investigation and Analysis of Offsetting Design and Practice in India and China, by Barbara Haya, 2010. Ms. Haya found that offset developers could make it appear that offsets met the profitability test, the idea that the project would not have been profitable “but for” the offset credit payment, by “turning the knobs.” (Att. 15 at p. 51.) Measuring Emissions Against an Alternative Future: Fundamental Flaws in the Structure of the Kyoto Protocol’s Clean Development Mechanism, by Barbara Haya “Interviewees commonly made statements such as: CDM revenues are just “cream on the top”; developers decide to build projects “on their own terms,” not based on the small and uncertain change in IRR from carbon credit sales; “any project can be registered under the CDM.” Validators, tasked with auditing CDM additionality claims, believe that current additionality testing procedures are subjective and can be manipulated. One validator described the many “knobs you can turn” to change the results of the financial analysis. Several validators suggested ways to lessen the manipulation, but did not believe that it is possible to prevent it.” (Att.16 at p. 14)

Cap-and-Trade Market Issues, by the California Legislative Analyst’s Office (CA LAO), June 29, 2011. The CA LAO sees the potential for gaming and manipulation in carbon markets, including the offsets market. With respect to the “spot” market, the report notes, “ARB has no experience in regulating such markets, and its lack of technical expertise and institutional knowledge of such

matters increases the chance that market manipulation could go undetected, in spite of any monitoring efforts that it puts in place." (Att. 17 at p. 5.)

Subprime Carbon? Re-thinking the World's Largest New Derivatives Market, by Michelle Chan, Friends of the Earth March, 2009. "Subprime carbon would most likely come from shoddy carbon offset credits, which could trade alongside emission allowances in carbon markets." Ms. Chan finds that the impacts of a lack of integrity in these markets could be similar to subprime mortgages. (Att. 18.)

Conning the Climate: Inside the Carbon Market Shell Game, by Mark Schapiro, February, 2010. "As thousands of reductions are claimed worldwide, the projects already far outstrip the UN's ability to police them." Mr. Schapiro's research indicates that whether a project is additional is described as a "counterfactual" inquiry. He concludes that the carbon markets are "in essence, an elaborate shell game, a disappearing act that nicely serves the immediate interests of the world's governments but fails to meet the challenges of our looming environmental crisis." (Att. 19 at pp. 4, 6, 8 and 9.)

Whistleblower Disclosure: Disclosure of Unfixable Flaws of Greenhouse Gas Offsets in Proposed U.S. Climate Legislation, by Laurie Williams and Allan Zabel, July 22, 2010. The authors describe the two tests that have been developed to determine whether projects are additional (the performance test and the economic analysis (or but for") test and why these tests are incapable of determining whether a particular project is additional. The analysis is applied to the U.S. EPA Climate Leaders protocols, many of which are similar to the California AB 32 proposed offset protocols. The authors describe the four unfixable flaws associated with the protocols and the methodologies for determining the additionality of greenhouse gas offset projects. (Att. 20.)

Attachment: www.arb.ca.gov/lists/capandtrade11/91-overall_evidence.zip

Original File Name: Overall Evidence.zip

Date and Time Comment Was Submitted: 2011-10-18 20:57:09

No Duplicates.

Comment 25 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Laurie & Allan
Last Name: Williams/Zabel
Email Address: williams.zabel@gmail.com
Affiliation: Citizens Climate Lobby & as Individuals

Subject: Comment Regarding ODS Protocol
Comment:

Ozone Depleting Substances Protocol – Summary of Evidence

AB 32 Offsets Challenge – Public Comments on October 19, 2011

Laurie Williams and Allan Zabel, as individuals and as volunteers for Citizens Climate Lobby

Summary of Evidence that Proposed Greenhouse Gas Offset Protocols and Regulations do not meet the AB 32 Integrity Criteria

Standard in Protocol:
The proposed Ozone Depleting Substances ("ODS") Protocol would provide offset credits for any ODS projects that meet the description of such a project. This is contrary to the AB 32 Integrity Criteria -- the requirement that all emission reductions meet the following criteria (See Section 38562(d)):

AB 32 Integrity Criteria:

"(d) Any regulation adopted by the state board pursuant to this part or Part 5 (commencing with Section 38570) shall ensure all of the following:
(1) The greenhouse gas emission reductions achieved are real, permanent, quantifiable, verifiable, and enforceable by the state board.
(2) For regulations pursuant to Part 5 (commencing with Section 38570), the reduction is in addition to any greenhouse gas emission reduction otherwise required by law or regulation, and any other greenhouse gas emission reduction that otherwise would occur.

Evidence of Failure to Meet Integrity Criteria

1. All Reductions Are Deemed Additional: In the ODS Protocol, the ARB establishes a standard which treats all ODS reductions from allowed projects as being additional. This standard relies on grossly distorted, misinterpreted, and incomplete information used by the Climate Action Reserve ("CAR") to draft an earlier version of the ODS protocol ("CAR ODS Protocol"). In establishing this standard, the ARB also ignores more recent data gathered and published by the ARB itself concerning California data.

a. Flaws in Earlier CAR ODS Protocol: In Appendix B of the CAR ODS Protocol (Attachment 1, pp. 59-62), CAR sets forth data which, CAR claims, demonstrates that very little ODS is destroyed in the

United States.

Table B.1. Destruction of ODS in the U.S.

CFC	2003 Destroyed (kg)	2004 Destroyed (kg)
CFC-11	58,846	109,884
CFC-12	23,709	62,364
CFC-114	464	4,044
CFC-115	4,401	6,737

Source: Reproduced from ICF, ODS Destruction in the United States of America and Abroad (2009), prepared for U.S. EPA.

However, the "ODS Destruction in the United State of America and Abroad" ("2009 Report") from which CAR took this data very clearly states that the data is very incomplete. "Table 3 presents the total reported quantity of ODS (by type) destroyed in the U.S. for the years 2003 and 2004. Data is only presented for those facilities destroying ODS commercially that provided responses to questionnaires. Several other companies reported sending ODS to other off-site destruction facilities, but these data were not included due to their incomplete nature. Therefore, the data presented are not inclusive of all commercial ODS destruction that occurred in the U.S. in 2003 and 2004. Quantities of ODS destruction as reported in the TRI database, are presented in Appendix C." See Attachment 2, at p. 20 of 2009 Report, emphasis in original. The data in Appendix C, taken from EPA's Toxic Release Inventory, shows that the 2003 data used by CAR understates the actual ODS destruction as follows:

CFC	2003 Destroyed Kg (CAR)	2003 Destroyed Kg (EPA TRI)
CFC-11	58,846	103,995
CFC-12	23,709	38,599
CFC-114	464	1,085,015
CFC-115	4,401	314,143

Even these TRI figures may undercount actual destruction because, as stated in the 2009 report, ODS listed as "Treated Off-Site" in the TRI data base were not included as destroyed due to lack of certainty that they were, in fact, destroyed. See Attachment 2, at pp. 48-9 of 2009 Report).

In addition to understating ODS destruction rates by more than a factor of 17 times for the combination of the 4 CFC listed, CAR also "interpreted" the meaning of this data and added its own completely unverifiable data. CAR decided that the 2003-04 data represented practices of handling ODS which were "not yet influenced" by the potential incentives for generating GAG offsets and further relied up data provided by industry anonymously in minimizing the amount of historic and ongoing ODS destruction which might qualify for generating offsets under the ODS Protocol. Attachment 1, at p. 59-60.

b. Current ODS Recovery From Foam in California: "California has two appliance recycling facilities operated by JACO Environmental, and two facilities operated by Appliance Recycling Centers of America (ARCA). They handle about 145,000 to 150 000 units per year, with the vast majority of units recycled as part of a state-wide electric utility incentive program to remove older working appliances (that are energy efficient) from the electricity grid. JACK and ARCA handle 80,000 units for Southern California Edison, 40,000 units for Pacific Gas & Electric (PG&E) and a further 25,000 units for Sacramento Municipal Utility District

(SAUD). Therefore about 12- 13% of residential refrigerator-freezers reaching end-of-life in California is recycled using a comprehensive foam blowing agent recovery process." See Attachment 3, pp. 51-2.

2. ODS Projects Already Occurring: Projects of the type described in the ODS Protocol are currently being implemented. Therefore, the ODS Protocol would grant credit to projects which have occurred and will continue to occur in the course of business-as-usual.

a. Huge Project in Philadelphia: "GE and ARCA Inc. announced Sept. 9 that the UNTHA Recycling Technology system was ready to crunch its first refrigerator. It will recover about 95 percent of the insulating foam, plus high-quality plastics, aluminum, copper and steel.

The new UNTHA Recycling Technology (URT) system at the Appliance Recycling Centers of America (ARCA)'s facility in Philadelphia is ready to begin recycling as many as 150,000 refrigerators annually, GE and ARCA announced Sept. 9. ARCA hired 50 new employees as part of its $10 million investment in URT and other new capital equipment. Since February, the two companies said, they have doubled the number of states served, feeding 100,000 additional appliance units to the Pennsylvania facility from Massachusetts, Connecticut, Pennsylvania, Maryland, Virginia, West Virginia, New Jersey, New York, North Carolina, Delaware, Rhode Island and Vermont. Consumers bring their used refrigerators to participating retailers, who then send them to ARCA as part of GE's participation in the EPA Responsible Appliance Disposal program." See Attachment 4.

b. Utilities Fund Projects, Realize Benefits: Southern California Edison states that its participation in EPA's RAD Program, which involved recycling old and inefficient but still working refrigerators and freezers, had a benefit-cost ratio of 3:1 or greater, saving the company tens of millions of dollars. See Attachment 5.

c. Retailers Joining Recycling Program: Major retailers, including Home Depot, Sears, and Best Buy have joined EPA's RAD Program to recycle refrigerators and freezers. See Attachment 6.

3. ODS Protocol Ignores Profitability of New Destruction Technology: The standard created by the Protocol ignores recent advances in technology, developed in Europe, which are cost-effective and profitable. This new technology has been established in the United States and, given its competitive advantages, is very likely to gain wide-spread usage.

a. ARCA Shows New Technology is Profitable: The 2010 ARCA annual report shows the refrigerator and freezer recycling, especially with the new control technology, is profitable. "2010 was a solid year for our appliance recycling operations. Appliance recycling revenues increased from $15.9 million in 2009 to $19.4 million in 2010, mainly as a result of new recycling contracts we were awarded during the year. Gross profit as a percentage of total revenues—excluding our new joint venture, ARCA Advanced Processing, which began operations in February 2010—increased to 42.8% from 35.6% in 2009. Gross profit increased 32%, from $9.2 million in 2009 to $12.1 million in 2010, which we attribute to stronger byproduct revenues and improved efficiencies implemented throughout our recycling operations.

We signed twelve contracts with electric utilities last year, making 2010 one of our most productive years ever in terms of adding new customers. Also of note, we were successful in retaining the business of many of our current customers, including renewed contracts with all of our major utility customers in California. Southern California Edison, whose program we have provided turnkey refrigerator and freezer recycling services for since 1994, is rapidly approaching the collection of their 1,000,000th appliance. The consistently high energy savings demonstrated through programs such as Edison's have contributed to making appliance recycling a mainstay of energy efficiency portfolios across North America.

The February 2010 opening of our ARCA Advanced Processing facility in Philadelphia, which was accomplished through a joint venture with 4301 Operations, LLC, was a pivotal event in our efforts to permanently retire old appliances through a highly effective process and technology. Our major contract on the East Coast now provides us with the steady stream of appliances required to make a fully integrated appliance recycling center economically attractive. We expect to complete the installation of an UNTHA Recycling Technology (URT) materials recovery system for refrigerators and freezers in our Philadelphia recycling center during the second quarter of 2011. This equipment will not only significantly reduce emissions of greenhouse gases and ozone-depleting substances that can occur during the disposal of appliances, but will also r educe the typical landfill waste of a refrigerator by approximately 85% by weight. Another benefit of this technology is that the URT system will enable us to generate a finer grade of byproduct materials to sell to metals and plastics recyclers." See Attachment 7, p. 7.

4. New ODS Destruction Technology Creates Market Advantage: Marketing information created and published by General Electric shows there is a very significant marketing advantage for retail sellers of refrigerators in being able to offer and perform environmentally friendly recycling of customers' old refrigerators.

a. Recycling Creates Market Advantage: 70% of customers want appliance recycling (see Attachment 8, p. 2), 82% of customers will go out of their way to purchase from a manufacturer that recycles (see Attachment 9, p. 2), and 67% of customers are willing to pay more if a retailer offers recycling programs (see Attachment 9, p. 2).

List of Attachments

1. Climate Action Reserve, U.S. Ozone Depleting Substances Project Protocol, February 3, 2010
2. ICF International, ODS Destruction in the United State of America and Abroad, May 2009, as attached to, Compilation of Strategies for the Environmentally Sound Management of Banks of Ozone-Depleting Substances, United Nations Environment Programme, June 26, 2009
3. California Air Resources Board and California Environmental Protection Agency, Developing a California Inventory for Ozone Depleting Substances (ODS) and Hydrofluorocarbon (HFC) Foam Banks and Emissions from Foams, March 14, 2011
4. Environmental Protection, Big Goals for Philadelphia Refrigerator Recycling Project, September 3, 2011
5. EPA and Southern California Edison, Safeguarding the Environment One Appliance at a Time, undated

6. Consumer Reports, It's Getting Easier to Recycle Your Old Appliances, September 9, 2011
7. Appliance Recycling Centers of America, Inc., 2010 Annual Report
8. General Electric, GE Partners with EPA on Responsible Appliance Disposal (RAD) Program to Reduce Greenhouse Gas Emissions and Landfill, February 8, 2011
9. New York Times, GE Expands Appliance Recycling for Consumers and Retailers – How RAD, September 9, 2011

Attachment: www.arb.ca.gov/lists/capandtrade11/92-ods_docs_10-11.zip

Original File Name: ODS docs 10-11.zip

Date and Time Comment Was Submitted: 2011-10-18 21:49:10

No Duplicates.

Comment 26 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Michael
Last Name: Mazowita
Email Address: mmazowita@olympuspower.com
Affiliation:

Subject: PE-Berkeley's Additional Comments
Comment:

```
Please see the attached comments from PEB.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/95-peb_comment_letter_to_arb__10_19_2011_final.pdf

Original File Name: PEB Comment Letter to ARB _10 19 2011_Final.pdf

Date and Time Comment Was Submitted: 2011-10-19 05:36:14

No Duplicates.

Comment 27 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Rick
Last Name: Horne
Email Address: rick.horne@graphicpkg.com
Affiliation: Graphic Packaging Int

Subject: Benchmarking for Recycled Boxboard Manufacturing Activity
Comment:

```
Graphic Packaging International, with its recycled boxboard
manufacturing facility in Santa Clara California, believes that the
proposed benchmark for the recycled boxboard manufacturing activity
was unfairly constructed.  We ask the Board direct ARB Staff to
work with us to develop a fair benchmark, free of the impacts of
early action projects we conducted to reduce GHG emissions, over
the next 12 months.  Please accept the attached comments.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/97-gpi_comment_10-19-11.pdf

Original File Name: GPI Comment 10-19-11.pdf

Date and Time Comment Was Submitted: 2011-10-19 09:24:53

No Duplicates.

Comment 28 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Audrey
Last Name: Chang
Email Address: achang@efficiencycouncil.org
Affiliation: CA Energy Efficiency Industry Council

Subject: Support for Adoption of Proposed Regulation
Comment:

```
Dear Chairman Nichols,

Please find attached the California Energy Efficiency Industry
Council's letter in support of the Proposed California Cap on
Greenhouse Gas Emissions and Market-Based Compliance Mechanisms
Regulation. We also provide suggestions relating to the
implementation and enforcement of the cap-and-trade regulations.

Sincerely,
Audrey Chang
Executive Director
```

Attachment: www.arb.ca.gov/lists/capandtrade11/98-carb_efficiency_council_letter_re_c_t_10-20-11.pdf

Original File Name: CARB Efficiency Council Letter re C&T_10-20-11.pdf

Date and Time Comment Was Submitted: 2011-10-19 09:47:22

No Duplicates.

Comment 29 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Laurie & Allan
Last Name: Williams/Zabel
Email Address: williams.zabel@gmail.com
Affiliation: Citizens Climate Lobby & as Indivisuals

Subject: Comment Regarding Early Action Offsets and Market-Based Regulation
Comment:

AB 32 Offsets Challenge – Public Comments on Early Action Offsets & Other Proposed Offset Regulations - October 19, 2011

Laurie Williams and Allan Zabel, as individuals and as volunteers for Citizens Climate Lobby

Summary of Evidence that Proposed Greenhouse Gas Offset Regulations and Early Action Offsets do not meet the AB 32 Integrity Criteria:

In the proposed "Article 5: California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms" (the "Regulation"), the ARB attempts to go far beyond the authority given it by the Legislature in enacting AB32. In addition, through the Regulation the ARB unlawfully creates vague, subjective and unenforceable standards that violate the clear integrity criteria established by AB32 for market-based mechanisms. The ARB fails to distinguish and disallow claimed offset projects that would have occurred without the incentive of the offset program. Through allowing offset credits for "Early Action," the Regulation would provide offset credits for projects that are already happening and/or have happened prior to the adoption of the offset protocols. Finally, by approving "sector based" offsets for "reduced deforestation and degradation," the proposed Regulation creates an imaginary baseline of degradation and permits offset credits for achieving less deforestation and degradation than that imaginary baseline. Each of these problems means that the offset credit provisions of the proposed Regulation are ultra vires and contrary to law because they fail to meet the AB 32 Integrity Criteria described below. (We incorporate by reference, all of our prior comments, including our comments submitted on Dec. 13, 2010, Aug. 10, 2011, and Sept. 27, 2011, October 18, 2011.)

AB 32 Integrity Criteria:

"(d) Any regulation adopted by the state board pursuant to this part or Part 5 (commencing with Section 38570) shall ensure all of the following:
(1) The greenhouse gas emission reductions achieved are real, permanent, quantifiable, verifiable, and enforceable by the state board.
(2) For regulations pursuant to Part 5 (commencing with Section 38570), the reduction is in addition to any greenhouse gas emission reduction otherwise required by law or regulation, and any other greenhouse gas emission reduction that otherwise would occur.

(See AB 32 at Section 38562(d).)

No Legal Basis for Expansion of the ARB's Authority

The regulatory provisions regarding the creation of offset credits far exceed the ARB's statutory mandate. Fundamentally, under California law, an agency does not have the discretion to promulgate an administrative regulation that is not authorized by or is inconsistent with or enlarges the scope of an act of the Legislature. See Sabatasso v. Superior Court, 84 Cal. Rptr. 3d 446 (Cal. App. 4th Dist. 2008), as modified, (Oct. 22, 2008); In re J.G. 159 Cal.App.4th 1056, 1067, 72 Cal.Rptr.3d 42 (2008); Slocum v. State Bd. Of Equalization 134 Cal.App.4th 969, 974, 36 Cal.Rptr.3d 627 (2005).

Here, under the guise of AB32, the ARB has created a massive new regulatory scheme regarding the creation of offset credits and ceded to itself vast discretionary power to determine whether proposed offset projects would occur in the course of "business-as-usual." The Legislature has clearly limited the ARB's legal authority in this area. AB32 states that any regulation adopted by the ARB "must ensure" that any claimed GHG reduction "is in addition to any greenhouse gas emission reduction otherwise required by law or regulation, and any other greenhouse gas reduction that otherwise would occur." AB32 Section 38562(d)

Under the ARB's scheme in the Regulation, "ARB offset credits" must be "additional. Regulation section 95802(a)(12). In order to be "additional," reductions underlying offset credits must "exceed any greenhouse gas reductions or removals that would otherwise occur in a conservative business-as usual scenario." Regulation at section 95802(a)(3). A "business-as-usual scenario" is:

[T]he set of conditions reasonably expected to occur within the offset project boundary in the absence of the financial incentives provided by offset credits, taking into account all current laws and regulations, as well as current economic and technological trends.

Regulation at section 95082(a)(36).

The Regulation provides no further guidance on how one can objectively analyze conditions that are "reasonably expected to occur." The Regulation places the chief responsibility for making this standardless determination on either the offset project operator, which is the entity responsible for implementing the offset project, Regulation at § 95082(a)(179), or the operator's agent (the "authorized project designee, Regulation at § 95082(a)(22)) and the offset verifier. Thus, this key, inherently governmental function has been delegated to private industry.

Once a request to create an offset credit is submitted to CARB, CARB must make a decision within 45 days. Regulation at § 95981(c). Through this process, then, the public is provided no opportunity to weigh in on the determination made by the project developer and the private independent verifier on the determination of what is "reasonably expected to occur," compounding the prospect of erroneous or inconsistent determinations of what may reasonably be expected to occur. This unauthorized, behind-closed doors process regarding this key element of offset creation has no statutory basis, and therefore does not meet the requirements of California law.

Evidence of Failure to Meet Integrity Criteria

1. The Proposed Regulation contains definitions and other provisions related to the generation and verification of offset

credits that are vague, subjective and unenforceable:

“Additional” means, in the context of offset credits, greenhouse gas emission reductions or removals that exceed any greenhouse gas reduction or removals otherwise required by law, regulation or legally binding mandate, and that exceed any greenhouse gas reductions or removals that would otherwise occur in a conservative business-as-usual scenario. (Proposed Reg, at p. A-5.)
Comment: There is no way to reach an objective (and therefore verifiable and enforceable) determination concerning what would constitute a “conservative business-as-usual scenario.”

“Adverse Offset Verification Statement” means an Offset Verification Statement rendered by a verification body attesting that the verification body cannot say with reasonable assurance that the submitted Offset Project Data Report is free of an offset material misstatement, or that it cannot attest that the Offset Project Data Report conforms to the requirements of this article or applicable Compliance Offset Protocol. (Proposed Reg. at p. A-6.)

Comment: In this definition and in the definition below, the use of a “reasonable assurance” standard is further confirmation that the “verification body” is not being provided with an objective standard against which to compare the project and therefore cannot make a determination that that the project meets the Integrity Criteria.

“Less Intensive Verification” means, for the purposes of this article, the offset verification services provided in interim years between full verifications of an Offset Project Data Report; less intensive verification of an Offset Project Data Report only requires data checks and document reviews of an Offset Project Data Report based on the analysis and risk assessment in the most current sampling plan developed as part of the most recent full offset verification services. This level of verification may only be used if the offset verifier can provide findings with a reasonable level of assurance. (Proposed Reg. at p. A-27.)
Comment: See prior discussion, above, re: “reasonable assurance.”

“Project Baseline” means, in the context of a specific offset project, a conservative estimate of business-as-usual GHG emission reductions or GHG removal enhancements for the offset project’s GHG emission sources, GHG sinks, or GHG reservoirs within the offset project boundary. (Proposed Reg. at pp. A-38-39.) (See prior discussion re “conservative business as usual scenario.”
Comment: Here the use of the term “estimate” inserts another acknowledgement of best guess subjectivity, rather than an objective, enforceable standard.

“Reasonable Assurance” means a high degree of confidence that submitted data and statements are valid. (Proposed Reg. at p. A-41.)
Comment: See discussion of “reasonable assurance” above.

Establish a project baseline that reflects a conservative estimate of business-as-usual performance or practices for the offset project type; (Proposed Reg. at p. A-197.)
Comment: See discussion of “conservative estimate of business-as-usual,” above.

2. The Inclusion of Early Action Offset Credits under Climate Action Reserve Protocols and other Programs Violates the Integrity

Standards

a. The “Early Action” provisions of the Regulation create a mechanism to retroactively approve and issue offset credits for projects which started before, sometime several years before, the enactment of AB32 and the promulgation of offset protocols. Examples of these provisions include:

“Early Action Offset Credit” means a tradable credit issued by an Early Action Offset Program that represents a GHG reduction or GHG removal enhancement equivalent to one metric ton of CO2e and meets the requirements of section 95990(c). (Proposed Regulation at A-17.)

Early Action Offset Project Commencement Date. Offset projects that transition to Compliance Offset Protocols pursuant to section 95990(k) may have an Offset Project Commencement date before December 31, 2006. (Proposed Regulation at A-200.)

Comment: The definitions and rules in the Early Action Offset Credits section allows offset credits from programs that have been ongoing, in some cases as early as 2001. Alleged emissions reductions that occurred between 2001 and 2004, are eligible to be part of a forest buffer account. In addition, offset credits can be provided for alleged emission reductions that occurred between January 1, 2005 and December 31, 2014. The grandfathering of such “reductions” is contrary to the requirement that reductions must be beyond what would have occurred absent the implementation of AB 32. The early action programs are ongoing programs in the voluntary offset market and, by definition, are not “additional” as a result of the offset program created by the proposed Regulation.

b. The scheme for approving “Early Action” offsets lacks any mechanisms for attempting to assure that these projects meet the integrity criteria of AB32. The most blatant truncation of a necessary review process is the following:

§ 95990. Recognition of Early Action Offset Credits: Approval of Early Action Offset Programs. To qualify as an Early Action Offset Program, either the Executive Officer shall issue an Executive Order pursuant to section 95986(k) or the program must demonstrate to ARB that it (among other criteria). . . occurred between January 1, 2005, and December 31, 2014.

Comment: The process of approval of Early Action Offset Credits allows the Executive Officer to approve such offsets with no public notice or transparency and without making any required findings regarding AB 32’s Integrity Criteria.

3. Potential Future Approval of Reduced Emissions from Deforestation and Forest Degradation (REDD):

By including offset credits for REDD, the proposed Regulation provides a future road map for project developers to create an imaginary baseline of degradation and then permits such projects to create offset credits for achieving less deforestation and degradation than that imaginary baseline. This allows California to participate in a program that allows for ongoing degradation, while calling it “additional” emissions reductions.

4. Conclusion:

The offset credit provisions of the proposed Regulation, and the four Offset Protocols incorporated by reference therein (see proposed Regulation incorporated by provisions found at p. A-199, Livestock, ODS, Urban Forest and U.S. Forest Protocols), fail to meet the AB 32 Integrity Criteria and should be removed. All provisions of any revised version of the Regulation must comply with the AB 32's Integrity Criteria (see AB 32 Section 38562(d)).

Attachment: www.arb.ca.gov/lists/capandtrade11/99-regulation___early_action_offsets.doc

Original File Name: Regulation & Early Action Offsets.doc

Date and Time Comment Was Submitted: 2011-10-19 10:07:32

No Duplicates.

Comment 30 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Bart
Last Name: Broome
Email Address: bbroome@sfwater.org
Affiliation: San Francisco Public UtilitiesCommission

Subject: SFPUC Comments Regarding the ARB's Proposed Adoption of Cap and Trade Regulations
Comment:

```
Attached: Comments of the San Francisco Public Utilities Commission
Regarding the California Air Resources Board’s Proposed October
20-21 Adoption of the Cap on Greenhouse Gas Emissions and
Market-Based Compliance Mechanism Regulation and Compliance Offset
Protocols
```

Attachment: www.arb.ca.gov/lists/capandtrade11/100-sfpuc_comments_-_c_t_proposed_regs_10-19-2011_final.pdf

Original File Name: SFPUC Comments - C T Proposed Regs 10-19-2011 final.pdf

Date and Time Comment Was Submitted: 2011-10-19 10:05:12

No Duplicates.

Comment 31 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Robert
Last Name: Lucas
Email Address: bob.lucas@calobby.com
Affiliation: CCEEB

Subject: CCEEB comments Cap and Trade Program
Comment:

```
CCEEB comments to cap and trade program
```

Attachment: www.arb.ca.gov/lists/capandtrade11/101-cceeb_letter_on_cap-and-trade_with_suggested_resolution_language.pdf

Original File Name: CCEEB letter on Cap-and-Trade with Suggested Resolution Language.pdf

Date and Time Comment Was Submitted: 2011-10-19 10:22:40

No Duplicates.

Comment 32 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Steven
Last Name: Kelly
Email Address: steven@iepa.com
Affiliation: 9164489499

Subject: IEP Letter to the Board
Comment:

```
IEP Letter to the Board.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/102-iep_letter_to_the_board_october_2011.pdf

Original File Name: IEP Letter to the Board October 2011.pdf

Date and Time Comment Was Submitted: 2011-10-19 10:20:21

No Duplicates.

Comment 33 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Laurie & Allan
Last Name: Williams/Zabel
Email Address: williams.zabel@gmail.com
Affiliation: Citizens Climate Lobby & as Individuals

Subject: Comment Regarding US Forest Protocol
Comment:

US Forest Protocol B Summary of Evidence

AB 32 Offsets Challenge B Public Comments on October 19, 2011

Laurie Williams and Allan Zabel, as individuals and as volunteers for Citizens Climate Lobby

Summary of Evidence that Proposed Compliance Greenhouse Gas Offset Protocol for U.S. Forest Projects does not meet the AB 32 Integrity Criteria

Standard in Protocol:
The proposed U.S. Forest Protocol would provide offset credits for three different types of projects: reforestation, improved forestry management practices, and avoided conversion of existing forests. Each project type fails to meet one or more of the AB 32 Integrity Criteria described below. (We incorporate by reference all of our prior comments, including our comments submitted on Dec. 13, 2010, Aug. 10, 2011, Sept. 27, 2011, Oct. 18 and 19.)

AB 32 Integrity Criteria:

A(d) Any regulation adopted by the state board pursuant to this part or Part 5 (commencing with Section 38570) shall ensure all of the following:
(1) The greenhouse gas emission reductions achieved are real, permanent, quantifiable, verifiable, and enforceable by the state board.
(2) For regulations pursuant to Part 5 (commencing with Section 38570), the reduction is in addition to any greenhouse gas emission reduction otherwise required by law or regulation, and any other greenhouse gas emission reduction that otherwise would occur.

(See AB32 at Section 38562(d).)

Evidence of Failure to Meet Integrity Criteria

1. Already Happening – rather than “in addition to” emission reductions “that otherwise would occur:” All three types of projects covered by the U.S. Forest Protocol are already happening, without the added incentive of greenhouse gas offsets from the AB 32 program.

a. Numerous Ongoing Projects: The Climate Action Reserve (ACAR@) operates a registry that includes projects that will be eligible to apply for early-action credits for U.S. Forest Projects, including all three types of projects allowed under the U.S. Forest Protocol. See CAR Registry website at https://thereserve1.apx.com/myModule/rpt/myrpt.asp?r=111. Some of these projects began more than 5 years ago, before AB32 was enacted. As a result, it is clear that these projects were viable without the offset incentive provided by AB 32 offset credits and do not meet the AB 32 Integrity Criteria.

b. Preservation Organizations: Organizations whose stated mission is the preservation of forest land have projects listed in the CAR registry. The Northeast Wilderness Trust states on its website that A[t]he mission of the Northeast Wilderness Trust is to conserve forever wild landscapes for nature and people.@ The Northeast Wilderness Trust has at least two projects in the CAR registry. These projects are designated as CAR655 and CAR681. The Nature Conservancy states on its website that A[t]he mission of The Nature Conservancy is to preserve the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive.@ The Nature Conservancy has at least five projects in the CAR registry. These projects are designated as CAR680, CAR686, CAR696, CAR697, and CAR699. While it is understandable that these organizations would like the additional income that may be provided by offset credits to do their valuable work, it is impossible to determine which or what percentage of their CAR projects exist solely because of the extra funding that may be available as a result of the availability of the CAR registry and/or the AB 32 offset credit payments. The very nature of these organizations and their claimed reason for existence indicates that these organizations would undertake projects of the type they have placed in the registry, and would almost certainly continue to do so, without any greenhouse gas (“GHG”) offset credit payments. (See CAR Registry website https://thereserve1.apx.com/myModule/rpt/myrpt.asp?r=111 and Attachment 1, American Forests’ Tree Planting program website, 2011.)

2. The Proposed Protocol’s Tests Will Include Non-Additional Projects: The proposed U.S. Forest Protocol includes three types of projects:
(1) reforestation projects, including:
(a) areas with less than 10 percent tree canopy cover for at least 10 years, and
(b) areas with a significant disturbance that has removed at least 20% of land’s above ground live biomass in trees, (Section 2.1.1, page 9 of Protocol)
(2) improved forestry management practices, and
(3) avoided conversion of existing forests.
The procedures provided for each of these projects in the U.S. Forest Protocol will result in issuance of offset credits for non-additional projects.

1. Reforestation Projects: As evidenced by the descriptions of projects in Attachment 1, many projects are ongoing that meet the criteria laid out in the proposed Protocol for reforestation. Projects are untaken to provide wind breaks, to reforest areas that have been impacted by fire, drought and pests. It will be impossible to determine the percentage of projects that would have occurred but for the incentive of the AB 32 offset credits.

2. Improved Forestry Management Projects: By its terms, the proposed Protocol, allows any activity that is above “common practice” in the relevant Forest Assessment Area to qualify for AB 32 offset credits. This would appear to include even projects that have been ongoing for some time. Since this will always be a range of management practices, any management practice that are “above average” will quality for offsets and this will has the potential to include a large percentage of what is already occurring in each Assessment Area. The Protocol=s reliance on the Acommon practice@ standard as the baseline for determining additionality means that forestry management practices which are merely above-average will be eligible to generate AB 32 offset credits. By definition, an average means that many already-existing management practices will be credited as though they did not occur in the course of business-as usual.

3. Avoided Conversion Projects: The project type relies on an economic analysis. It requires project developers to document that there may be a more profitable use to which a particular forest area could be put. This turning-the-knobs type exercise (to get the answer you are looking for) will be speculative and subjective and will not be objective verification or enforcement.

Under these tests, it is clear that the proposed U.S. Forests Project Protocol will necessarily include non-additional projects that count activities that are ongoing and would have happened without the AB 32 offset credit incentive. However, it will be impossible to know what percentage of the projects would have happened with or without that incentive, give the nature of the tests that verifiers and the Air Resources Board would apply. As a result, the proposed Protocol fails to meet the AB 32 integrity criteria and should not be approved.

3. Leakage completely undercuts the ability of avoided conversion projects to generate additional reductions.

a. World Market Negates Additionality: Wood products exist in a world market. The supply of, and demand for, wood products involves almost every habitable land area of the planet, with wood products being shipped and traded on a global basis. See, e.g., Global Trade Network website at http://www.globalwood.org. Avoided conversion of any particular tract or area of forest will in no meaningful way affect either the supply of or demand for wood products. Therefore, if any particular tract or area of forest is preserved rather than cut, and the demand for wood products remains unaffected, another tract or area of forest will be cut to supply the demand for wood products. This shifting of supply will negate any GHG emissions benefit because there will be no net gain in world-wide forest biomass and the attendant sequestration of carbon. The proposed U.S. Forest Projects Protocol completely ignores this problem. This sort of ASecondary Effect@ is supposed to be taken into account and references are made to “Section O,@ but no such section appears to be included in the Protocol. (See, e.g. Protocol at p. 27.)

4. Impacts from Climate Change – Increases in Forest Death and Wild Fires: Increased prevalence and future likelihood of both Aforest death@ and forest fires as a result of climate change creates such high risks of project failures that such projects fail the integrity criterion of Apermanence,@ notwithstanding the Forest Buffer Account created by the U.S. Forest Projects Protocol. See

Attachments 2 and 3.

5. Subjectivity and Complexity of Standards will make Additionality Unenforceable: Many aspects of the U.S. Forest Protocol are highly subjective and are, therefore, both unenforceable and would allow claimed GHG reductions or sequestration which would happen anyway, without an offset incentive.

The net result of the problems described above is that, if the proposed U.S. Forest Projects Protocol is approved non-additional projects will receive AB 32 offset credits. This in turn will result in California's "capped" sectors emitting greenhouse gases above the alleged "cap" on their emissions. As noted in our earlier comments, since the least additional projects will generally be the cheapest, the flaws in the U.S. Forests Protocol will open the door to non-additional offset credits that will undermine the integrity of the AB 32 program. The Protocol should not be approved.

List of Attachments

1. Tree Planting, by American Forests, www.AmericanForests.org, List of ongoing U.S. projects, in partnership with various organizations and U.S. federal agencies.
https://www.etree.com/TreePlanting.aspx?cc=US&lang=en&bhjs=0&fla=0

2. The Science of the Total Environment, Climate Change and Forest Fires, March 4, 2000
http://www.usgcrp.gov/usgcrp/Library/nationalassessment/forests/forests5.pdf

3. NY Times, With Deaths of Forests a Loss of Key Climate Protectors, by Justin Giller, October 1, 2011
http://www.nytimes.com/2011/10/01/science/earth/01forest.html?pagewanted=all

Attachment: www.arb.ca.gov/lists/capandtrade11/103-us_forest_docs_10-11.zip

Original File Name: US Forest docs 10-11.zip

Date and Time Comment Was Submitted: 2011-10-19 10:47:39

No Duplicates.

Comment 34 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Janet
Last Name: Bell
Email Address: jbell@mwdh2o.com
Affiliation:

Subject: Metropolitan Water District of Southern California Comments
Comment:

```
Please see attached comment letter regarding the ARB's FED Prepared
for the Cap and Trade Program and the Response to Comments on the
FED.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/104-101911_ltr_to_carb_-_goldstene__nichols.jksign.oct2011.pdf

Original File Name: 101911 Ltr to CARB - Goldstene Nichols.JKsign.Oct2011.pdf

Date and Time Comment Was Submitted: 2011-10-19 10:52:37

No Duplicates.

Comment 35 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Laurie & Allan
Last Name: Williams/Zabel
Email Address: williams.zabel@gmail.com
Affiliation: Citizens Climate Lobby & as Individuals

Subject: Supplemental Comment Regarding US Forest Protocol
Comment:

```
US Forest Protocol B Supplemental Comment to Submit Article

AB 32 Offsets Challenge B Public Comments on October 19, 2011

Laurie Williams and Allan Zabel, as individuals and as volunteers
for Citizens Climate Lobby

Summary of Evidence that Proposed Compliance Greenhouse Gas Offset
Protocol for U.S. Forest Projects does not meet the AB 32 Integrity
Criteria

Evidence of Failure to Meet Integrity Criteria

In this Supplemental Comment, we submit an article published by the
Harvard Kennedy School of Government that provides additional
evidence that the project-by-project approach in the U.S. Forest
Projects Protocol will include non-additional projects that fail to
meet the AB 32 Integrity Criteria (cited in our prior comments).

Attachment:

International Forest Carbon Sequestration in a Post Kyoto
Agreement, by Plantinga and Richards, Harvard, Kennedy School of
Government, October 2008.
http://belfercenter.ksg.harvard.edu/files/PlantingaWeb3.pdf  ("We
conclude that project-by-project accounting, as under the Clean
Development Mechanism of the
Kyoto Protocol, is fundamentally flawed due to problems with
additionality, leakage, and
permanence." At p.5)
```

Attachment: www.arb.ca.gov/lists/capandtrade11/105-supplemental_us_forest_comment.zip

Original File Name: Supplemental US Forest Comment.zip

Date and Time Comment Was Submitted: 2011-10-19 11:05:26

No Duplicates.

Comment 36 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Nicholas
Last Name: van Aelstyn
Email Address: nvanaelstyn@bdlaw.com
Affiliation: Beveridge & Diamond, PC

Subject: Comments of Powerex Corp. on ARB's Proposed Final Cap-and-Trade Rule
Comment:

```
Please see the attached letter setting forth the comments of
Powerex Corp.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/106-powerex_comments_re_proposed_final_cap-and-trade_rule__2011-10-19_.pdf

Original File Name: Powerex Comments re Proposed Final Cap-and-Trade Rule (2011-10-19).PDF

Date and Time Comment Was Submitted: 2011-10-19 10:38:19

No Duplicates.

Comment 37 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Catherine
Last Name: Reheis-Boyd
Email Address: joey@wspa.org
Affiliation: WSPA

Subject: Western States Petroleum Association Comments on 2nd 15-day Proposed Regulations: Californ
Comment:

```
Please see attached Western States Petroleum Association Comments
on 2nd 15-day Proposed Regulations: California Cap on Greenhouse
Gas Emissions and Market-Based Compliance Mechanisms.
Thank you.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/107-wspa_comments_october_19__2011.zip

Original File Name: WSPA Comments October 19, 2011.zip

Date and Time Comment Was Submitted: 2011-10-19 11:44:53

No Duplicates.

Comment 38 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Edwin
Last Name: Lombard
Email Address: edwin@lombardmgmt.com
Affiliation: Sacramento Black Chamber of Commerce

Subject: Cap and Trade
Comment:

```
The fees being charged to the energy and oil companies will be
passed down to small business and consumers and will have an
adverse effect on their finances. There has to be a better way.
```

Attachment:

Original File Name:

Date and Time Comment Was Submitted: 2011-10-19 11:52:27

No Duplicates.

Comment 39 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: James
Last Name: Brady
Email Address: jbrady@con10u.com
Affiliation: 100 Black Men

Subject: Cap and Trade
Comment:

```
There has to be a better way to start the Cap and Trade program
instead of causing such and increase in fees for minority
communities and small businesses. I don't think you considered
lower income groups when you decided to do this.
```

Attachment:

Original File Name:

Date and Time Comment Was Submitted: 2011-10-19 11:56:31

No Duplicates.

Comment 40 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Eddie
Last Name: Price
Email Address: wfgeddie@gmail.com
Affiliation: NAACP San Diego

Subject: Cap and Trade
Comment:

```
Don't agree with cap and trade.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/110-cap_naacp.docx

Original File Name: CAP naacp.docx

Date and Time Comment Was Submitted: 2011-10-19 12:04:31

No Duplicates.

Comment 41 for California Cap-and-Trade Program (capandtrade11) - Non-Reg.

First Name: Shelly
Last Name: Sullivan
Email Address: ssullivan@onemain.com
Affiliation:

Subject: California Chamber of Commerce
Comment:

```
Please see attached.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/112-cal_chamber.pdf

Original File Name: Cal Chamber.pdf

Date and Time Comment Was Submitted: 2011-10-25 09:45:13

No Duplicates.

Comment 1 for California Cap-and-Trade Program (capandtrade11). (At Hearing)

First Name: Paul
Last Name: Shepard
Email Address: p.shepard@dgc-us.com
Affiliation:

Subject: Wildflower Energy
Comment:

```
Please see attached.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/113-paul_shepard.pdf

Original File Name: Paul Shepard.pdf

Date and Time Comment Was Submitted: 2011-10-25 11:38:25

No Duplicates.

Comment 2 for California Cap-and-Trade Program (capandtrade11). (At Hearing)

First Name: Nathan
Last Name: Voegeli
Email Address: nvoegeli@yuroktribe.nsn.us
Affiliation:

Subject: Yurok Tribe
Comment:

```
Please see attached.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/114-nathan_voegeli.pdf

Original File Name: Nathan Voegeli.pdf

Date and Time Comment Was Submitted: 2011-10-25 11:38:25

No Duplicates.

Comment 3 for California Cap-and-Trade Program (capandtrade11). (At Hearing)

First Name: Chuck
Last Name: White
Email Address: cwhite1@wm.com
Affiliation:

Subject: Waste Management
Comment:

```
Please see attached.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/115-chuck_white.pdf

Original File Name: Chuck White.pdf

Date and Time Comment Was Submitted: 2011-10-25 11:38:25

No Duplicates.

Comment 4 for California Cap-and-Trade Program (capandtrade11). (At Hearing)

First Name: Tim
Last Name: Rainey
Email Address: Non-web submitted comment
Affiliation:

Subject: California Labor Federation
Comment:

```
Please see attached.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/116-tim_rainey.pdf

Original File Name: Tim Rainey.pdf

Date and Time Comment Was Submitted: 2011-10-25 11:38:25

No Duplicates.

Comment 5 for California Cap-and-Trade Program (capandtrade11). (At Hearing)

First Name: Steve
Last Name: Kelly
Email Address: iep@iepa.com
Affiliation:

Subject: Independent Energy Producers
Comment:

```
Please see attached.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/117-steve_kelly.pdf

Original File Name: Steve Kelly.pdf

Date and Time Comment Was Submitted: 2011-10-25 11:38:25

No Duplicates.

Comment 6 for California Cap-and-Trade Program (capandtrade11). (At Hearing)

First Name: Greg
Last Name: Karras
Email Address: gkatcbe@gmail.com
Affiliation:

Subject: Communities for a Better Environment
Comment:

```
Please see attached.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/118-greg_karras.pdf

Original File Name: Greg Karras.pdf

Date and Time Comment Was Submitted: 2011-10-25 11:38:25

No Duplicates.

Comment 7 for California Cap-and-Trade Program (capandtrade11). (At Hearing)

First Name: Brian
Last Name: Nowicki
Email Address: bnowicki@biologicaldiversity.org
Affiliation:

Subject: Center for Biological Diversity
Comment:

```
Please see attached.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/119-brian_nowicki.pdf

Original File Name: Brian Nowicki.pdf

Date and Time Comment Was Submitted: 2011-10-25 11:38:25

No Duplicates.

Comment 8 for California Cap-and-Trade Program (capandtrade11). (At Hearing)

First Name: Michelle
Last Name: Passero
Email Address: Non-web submitted comment
Affiliation:

Subject: The Nature Conservancy
Comment:

```
Please see attached.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/120-michelle_passero.pdf

Original File Name: Michelle Passero.pdf

Date and Time Comment Was Submitted: 2011-10-25 11:38:25

No Duplicates.

Comment 9 for California Cap-and-Trade Program (capandtrade11). (At Hearing)

First Name: Senator Anthony
Last Name: Cannella
Email Address: Non-web submitted comment
Affiliation:

Subject: The California State Senate
Comment:

```
Please see attached.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/121-anthony_cannella.pdf

Original File Name: Anthony Cannella.pdf

Date and Time Comment Was Submitted: 2011-10-25 11:38:25

No Duplicates.

Comment 10 for California Cap-and-Trade Program (capandtrade11). (At Hearing)

First Name: Rand
Last Name: Swenson
Email Address: Kathy.Elftmann@conocophillips.com
Affiliation:

Subject: Conoco Philips
Comment:

```
Please see attached.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/122-rand_swenson.pdf

Original File Name: Rand Swenson.pdf

Date and Time Comment Was Submitted: 2011-10-25 11:38:25

No Duplicates.

Comment 11 for California Cap-and-Trade Program (capandtrade11). (At Hearing)

First Name: Nidia
Last Name: Bautista
Email Address: Non-web submitted comment
Affiliation:

Subject: Coailition for Clean Air
Comment:

```
Please see attached.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/125-nidia_bautista.pdf

Original File Name: Nidia Bautista.pdf

Date and Time Comment Was Submitted: 2011-10-25 11:38:25

No Duplicates.

Comment 12 for California Cap-and-Trade Program (capandtrade11). (At Hearing)

First Name: Major General Paul
Last Name: Monroe Ret.
Email Address: Non-web submitted comment
Affiliation:

Subject: Operation Free
Comment:

```
Please see attached.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/126-major_general_paul_monroe.pdf

Original File Name: Major General Paul Monroe.pdf

Date and Time Comment Was Submitted: 2011-10-25 11:38:25

No Duplicates.

Comment 13 for California Cap-and-Trade Program (capandtrade11). (At Hearing)

First Name: Aubry
Last Name: Stone
Email Address: Non-web submitted comment
Affiliation:

Subject: California Black Chamber of Commerce
Comment:

```
Please see attached.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/127-aubry_stone.pdf

Original File Name: Aubry Stone.pdf

Date and Time Comment Was Submitted: 2011-10-25 11:38:25

No Duplicates.

Comment 14 for California Cap-and-Trade Program (capandtrade11). (At Hearing)

First Name: Ron
Last Name: Espinoza
Email Address: Non-web submitted comment
Affiliation:

Subject: United Steelworkers
Comment:

```
Please see attached.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/128-ron_espinoza.pdf

Original File Name: Ron Espinoza.pdf

Date and Time Comment Was Submitted: 2011-10-25 11:38:25

No Duplicates.

Comment 15 for California Cap-and-Trade Program (capandtrade11). (At Hearing)

First Name: Kate
Last Name: Beardsley
Email Address: kebd@pge.com
Affiliation:

Subject: Pacific Gas and Electric Company
Comment:

```
Please see attached.
```

Attachment: www.arb.ca.gov/lists/capandtrade11/129-pg___e.pdf

Original File Name: PG & E.pdf

Date and Time Comment Was Submitted: 2011-10-25 11:38:25

No Duplicates.