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COMITE CIVICO DEL VALLE, INC.



Little Manila RISING

Honorable Chair Liane Randolph
Honorable Board Members
California Air Resources Board
1001 "I" Street
Sacramento, CA 95814

May 20, 2021

Re: Item 21-4-2, Appointment of New Members to the Assembly Bill 32 Environmental Justice Advisory Committee

To Chair Randolph and the Air Resources Board,

As the public process for the 2022 Climate Change Scoping Plan update ("Scoping Plan") begins, it is imperative for the California Air Resources Board ("CARB") to commit to adhere to the Principles of Environmental Justice.¹ The California Environmental Justice Alliance ("CEJA") requests that CARB honor that commitment by providing greater weight to the recommendations of the Environmental Justice Advisory Committee ("EJAC"), as opposed to the complete disregard of that process in 2017.

In addition, this letter highlights the need to ensure meaningful community participation throughout the Scoping Plan process, and the following five key topics from the 2017 EJAC recommendations that are still overdue for implementation, and also required by law.

¹ Principles of Environmental Justice, available at <https://www.ejnet.org/ej/principles.html>.

1. Prioritize direct emission reductions, foremost, eliminating emissions through replacement with zero emission renewables, which is also necessary to meet climate and equity goals.
2. Evaluate the full social cost savings and benefits of greenhouse gas (“GHG”) reduction measures.
3. Include direct regulation of GHGs and co-pollutants from refining and oil and gas production facilities, foremost a phaseout of oil extraction as directed by the Governor, in addition to planning decommissioning of oil refining.
4. Eliminate offsets.

CEJA is a statewide alliance of grassroots community-based organizations across California working together to advance environmental justice in state policy. Our member and partner organizations are the Asian Pacific Environmental Network, Communities for a Better Environment, Center for Community Action and Environmental Justice, the Center on Race, Poverty & the Environment, Environmental Health Coalition, People Organizing to Demand Environmental and Economic Rights, Central Coast Alliance United for a Sustainable Economy, Leadership Counsel for Justice and Accountability, Physicians for Social Responsibility – Los Angeles, Strategic Concepts in Organizing and Policy Education. We work directly with low-income communities and communities of color in some of the most polluted and socioeconomically burdened areas of our state.

This comment is also supported by the Central Valley Air Quality Coalition, the Central California Asthma Collaborative, the California Environmental Justice Coalition, Comite Civico del Valle, and Little Manila Rising.

I. Scoping Plan Process and Community Participation.

You will receive recommendations from environmental justice communities and organizations that can and must inform the Scoping Plan. The approach to this Scoping Plan update must depart starkly from the previous Scoping Plan’s approach, which did not sufficiently—or at all—incorporate guidance received from environmental justice communities. There should be no doubt that the Scoping Plan will be co-designed and co-developed from the ground up with California’s environmental justice communities. The Scoping Plan must be grounded upon the forthcoming guidance from these communities, who are innately and uniquely knowledgeable of the deficiencies in California’s current climate policies, and can most accurately describe the realities of and needed improvements to California’s climate mitigation, emissions reduction, and adaptation efforts.

II. Development of the Scoping Plan Must Give Meaningful Weight to the EJAC Recommendations.

Previously, our organizations participated in the development of the 2017 Climate Change Scoping Plan, and like many advocates across the state, were disappointed by the disregard of equity and the lack of *meaningful* community engagement in the results of that

process. Since then, CARB has also adopted Resolution 20-33, its Commitment to Racial Equity and Social Justice.² The Resolution finds that:

Impacts from air pollutants and greenhouse gases disproportionately affect communities of color and CARB’s mission includes reducing the harmful effects of these emissions where socioeconomic and racial disparities are most pronounced.³

The Resolution emphasizes CARB’s “*mandate to analyze and reduce* air pollution and greenhouse gas emissions in disadvantaged communities and communities of color.”⁴ We request that the Board fulfill its commitment to racial and environmental justice by ensuring that staff provide greater weight to the recommendations of the EJAC in this Scoping Plan process.

A. In 2017, CARB Did Not Adopt Any of the EJAC’s Recommendations.

The 2017 Scoping Plan EJAC was formed in December 2015. As illustrated in the following timeline, the EJAC invested significant time and effort in carrying out its responsibilities and developing recommendations to CARB in 2017. The recommendations, however, were largely disregarded—not one recommendation was incorporated into the 2017 Scoping Plan. It is critical for the Board to ensure a different outcome in this upcoming process in order to meet its Commitment to Racial Equity and Social Justice.

In July 2016, following committee meetings across the state, the EJAC initiated a robust community engagement process. The EJAC conducted nine community meetings and collected over 700 individual comments. In August 2016, the EJAC prepared initial recommendations, revised in December 2016 and then again in March 2017 following an additional six community meetings. The 2017 EJAC recommendations included:

- 32 Overarching Recommendations (detailing the need to center equity and coordination of strategies with environmental justice. In particular, one recommendation, which was *not* followed, requested that environmental justice considerations be included throughout the 2017 Scoping Plan and not only its Appendix).
- 20 Recommendations focused on Industry.
- 55 Recommendations focused on Energy, Green Buildings and Water.
- 36 Recommendations focused on Transportation.
- 33 Recommendations focused on Natural and Working Land, Agriculture and Waste.
- 22 Recommendations focused on California Climate Investments.

² CARB Resolution 20-33, October 22, 2020, *available at* <https://ww3.arb.ca.gov/board/res/2020/res20-33.pdf>.

³ *Id.* (This finding is a step forward from the prior 2017 Scoping Plan that stated “the exact relationship between GHGs and air pollutants is not clearly understood at this time.” 2017 Scoping Plan at 38. The 2017 EJAC Recommendations requested removal of this phrase. 2017 EJAC Recommendations at 1, *available at* https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/2030sp_appa_ejac_final.pdf)

⁴ *Id.*

In sum, the 2017 EJAC provided 198 recommendations.

In April 2017, the EJAC provided CARB with a list of priority recommendations. CARB staff provided responses to these priority recommendations.⁵ Although staff noted “general agreement on a majority of the recommendations,” such agreement was either in principle alone, with no corresponding action, or worse, simply cosmetic and superficial. For instance, one recommendation requested that the 2017 Scoping Plan “include a moratorium on new or expanded fossil fuel infrastructure [and] limiting oil and gas exports.”⁶ CARB’s response purported to agree with this recommendation, but then, in stark contrast to agreement, focused on limiting petroleum-based transportation fuels with the low carbon fuel standard,⁷ dodging the essence of the recommendation that focused on oil production and the oil and gas exports loophole that fuel standards alone cannot control.

In November 2017, the EJAC produced its final recommendations, stating that the document “does not include the full list of recommendations, clarifying that “it is not the EJAC’s intent to disregard those recommendations,” and emphasizing a request to CARB staff to “review *every* recommendation we have made.”⁸ CARB staff never provided written responses to the full list of EJAC recommendations.

Subsequently, the 2017 Scoping Plan surprisingly lauded its environmental justice focus: “developing this Scoping Plan, there has been extensive outreach with environmental justice organizations and disadvantaged communities.”⁹ However, outreach absent action is inadequate. It is essential for the Board to course-correct at this critical climate and equity juncture and not repeat the same injustices by ensuring *meaningful* community engagement. Community engagement must not be a simple checkbox. Rather, one key Principle of Environmental Justice demands the right to participate as equal and meaningful partners in shared decision-making.¹⁰

Consequently, we respectfully request that CARB appoint the new EJAC members, but prior to the newly formed EJAC embarking on similar and significant efforts, CARB also formally acknowledge that the EJAC recommendations will receive greater weight in this and future iterations of the Scoping Plan.

B. CARB Must Implement Overdue Recommendations from the 2017 EJAC.

We request that CARB implement the following four overdue recommendations presented by the EJAC in 2017. These recommendations are more urgently needed now than when they were made in 2017 and furthermore, are required by law.

⁵ Priority EJAC Recommendations and CARB Responses, *available at* https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/2030sp_appa_ejac_final.pdf

⁶ *Id.* at 4.

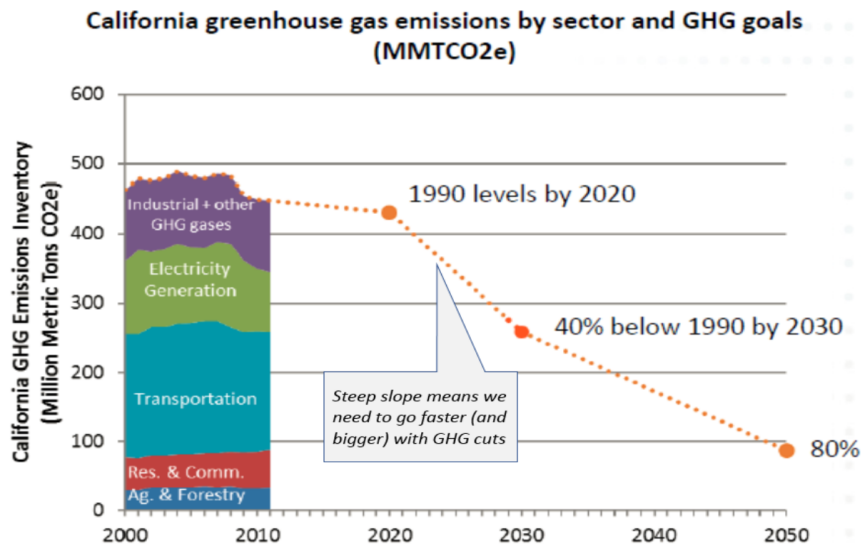
⁷ *Id.*

⁸ *Id.* (emphasis added)

⁹ 2017 Scoping Plan at 105.

¹⁰ See Principles of Environmental Justice, available at <https://www.ejnet.org/ej/principles.html>.

The chart below illustrates why CARB must aggressively pursue these measures, to cut sufficient GHGs to meet state requirements (and as the only means to meet equity goals by eliminating co-pollutants in environmental justice communities). California will need much steeper cuts by 2030 to meet the 40% cuts required, compared to the much easier 2020 target. This will necessitate elimination of many fossil fuel sources, which are also particularly concentrated in our communities. Consequently, in conjunction with other state agencies and in partnership with community members, CARB should detail in the Scoping Plan what transitions are needed across industries and sectors producing considerable amounts of California’s GHGs, utilizing strategies that go beyond control technologies and derive emission reductions directly from improved or changed industrial practices.



Thus, the State’s success in meeting overall GHG goals is inherently dependent on meeting equity goals. We highlight the following four overdue recommendations to meet those goals.

1. Prioritize Direct Emission Reductions.

2017 EJAC Recommendation: In the Scoping Plan, demonstrate how direct emissions reductions from the largest sources are prioritized as directed by AB 197 . . . Ensure that there is coordination of AB 197, AB 398 and AB 617 implementation and enforcement, especially for EJ communities.¹¹

This was the first in the list of “top recommendations” from the 2017 EJAC.¹² This recommendation is also mandated by law. The Scoping Plan “shall identify and make recommendations on direct emissions reduction measures.”¹³ Further, Assembly Bill (“AB”) 197 requires CARB to

¹¹ See 2017 EJAC Recommendations, available at https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/2030sp_appa_ejac_final.pdf

¹² *Id.*

¹³ Cal. Health and Safety Code § 38561.

prioritize . . . [e]mission reduction rules and regulations that result in direct emission reductions at large stationary sources of greenhouse gas emissions sources and direct emission reductions from mobile sources.¹⁴

CARB must first determine the direct emission reductions associated with a particular GHG reduction strategy, and then prioritize strategies based on those direct emission reductions.¹⁵ CARB failed to comply with this law in its 2017 Scoping Plan. Instead, the 2017 Scoping Plan flipped the order: it first determined which GHG strategies to employ, and then estimated direct emission reductions from each measure.¹⁶ *CARB has not prioritized action based on direct emission reductions at large stationary sources.* Surprisingly, the 2017 Scoping Plan even included cap-and-trade as a direct emission reduction measure based on co-pollutant reductions the Plan had also rejected.¹⁷ Nevertheless, the cap-and-trade program does not directly reduce emissions, and if anything, through its accompanying offsets programs, actually attempts to achieve *indirect* reductions. We further note that CARB cannot rely on its AB 617 Community Air Protection Program for compliance with AB 197. Efforts under AB 617 and AB 197 must complement and not replace one another. Moreover, any health benefits that may eventually occur through AB 617 are similarly not achieved through the prioritization of GHG reduction measures based on direct emission reductions, as required by AB 197.

Increased reliance on direct emission reductions will decrease our reliance on the current cap-and-trade program and other strategies that undermine the Principles of Environmental Justice and hinder our progress to achieving our equity and climate goals.

The Board must ensure that this upcoming Scoping Plan complies with AB 197.

2. The Scoping Plan Must Include an Analysis of the Social Costs and Benefits of GHG Emission Reduction Methods.

2017 EJAC Recommendations: [use] the social cost of carbon for all scenarios, which would include broadening the definition of economy to include costs to the public and health care costs of pollution.¹⁸

Use the social cost of carbon to evaluate California's current carbon pricing and impacts.¹⁹

Include health care costs in social cost of carbon.²⁰

¹⁴ Cal. Health and Safety Code § 38562.5.

¹⁵ *Id.*

¹⁶ *See eg.* 2017 Scoping Plan at 37.

¹⁷ *See id.* at 34 (Table 4), 38 (Table 5).

¹⁸ 2017 EJAC Recommendations at 4.

¹⁹ *Id.* at 2.

²⁰ *Id.* at 5.

In examining cost-effectiveness, CARB must determine the full range of social costs and benefits of GHG reduction measures in the Scoping Plan. This assessment must go beyond the analysis of only avoided GHG emissions as analyzed in the 2017 Scoping Plan,²¹ but also incorporate factors such as air and water quality and public health.

Each scoping plan . . . shall identify for each emissions reduction measure . . . [t]he range of projected air pollution reductions that result from the measure . . . [and t]he cost-effectiveness, including avoided social costs, of the measure.²²

The state board shall evaluate the total potential costs and total potential economic and noneconomic benefits of the plan for reducing greenhouse gases to California's economy, environment, and public health.²³

[CARB shall] consider overall societal benefits, including reductions in other air pollutants, diversification of energy sources, and other benefits to the economy, environment, and public health.²⁴

The state board shall evaluate the total potential costs and total potential economic and noneconomic benefits of the plan for reducing greenhouse gases to California's economy, environment, and public health.²⁵

In establishing the price ceiling, the state board shall consider . . . the full social cost associated with emitting a metric ton of greenhouse gases.²⁶

When adopting [climate change] rules and regulations . . . the state board shall . . . consider the social costs of the emissions of greenhouse gases, and prioritize [direct emission reductions].²⁷

In addition, the requirement to assess social costs of GHG reduction strategies must incorporate a full lifecycle assessment.²⁸ For example, analysis of GHG reduction measures through the production of dairy biomethane must include associated transportation-related emissions and air, water quality and other public health impacts of associated dairy expansions.

Finally, during the implementation of Senate Bill ("SB") 100, CARB has already committed to further develop this analysis of social costs. The SB 100 Joint Agency Report was

²¹ Cal. Health and Safety Code § 38562.7.

²² Cal. Health and Safety Code § 38562.5.

²³ Cal. Health and Safety Code § 38561(d).

²⁴ Cal. Health and Safety Code § 38562 (b)(6).

²⁵ Cal. Health and Safety Code § 38561(d).

²⁶ Cal. Health and Safety Code § 38562 (c)(2)(A)(III).

²⁷ Cal. Health and Safety Code § 38562.5.

²⁸ EO B-30-15: Order #6: "State agencies shall take climate change into account in their planning and investment decisions, and employ full life-cycle cost accounting to evaluate and compare infrastructure investments and alternatives."

a preliminary step to develop the upcoming Scoping Plan, and includes the following commitment to assess social costs:

The joint agencies [including CARB] will continue evaluating available modeling tools and metrics to capture non-energy benefits and social costs in future SB 100 analyses, including those for land-use impacts, public health and air quality, water supply and quality, economic impacts, resilience.²⁹

To the extent that the Scoping Plan relies upon SB 100 to meet the State’s climate targets, the Scoping Plan must include this analysis of social costs and benefits.

3. The Scoping Plan Should Include the Phase Out of Oil and Gas Production and Refining.

2017 EJAC Recommendations: Commit to reducing oil. This includes a moratorium on new or expanded fossil fuel infrastructure, limiting oil and gas exports now to close that loophole, and placing quality controls on feedstocks so as to not import extreme oil.³⁰

Reduce fossil fuel use (extraction, operations, supply, feedstock source).³¹

Set goal of 50% emissions reduction in Oil and Gas sectors by 2030.³²

Set a moratorium on new oil and gas operations (refineries, power plants, fracking wells, etc.).³³

The Governor recently directed the Department of Conservation’s Geologic Energy Management Division to initiate regulatory action to end the issuance of new permits for hydraulic fracturing by January 2024. At the same time, the Governor requested that CARB analyze pathways to phase out oil extraction across the state by no later than 2045.³⁴ The Scoping Plan should include a pathway to accomplish this directive that starts immediately. CARB is not limited in its authority to do so.

Importantly, nothing prohibits CARB from “adjusting any of its regulations to achieve greater emission reductions from the oil and gas industry if necessary to achieve the 2030 target.”³⁵ Furthermore, CARB has the duty to reduce public health impacts due to emissions of

²⁹ 2021 Joint Agency Report, *available at* <https://efiling.energy.ca.gov/EFiling/GetFile.aspx?tn=237167&DocumentContentId=70349>

³⁰ 2017 EJAC Recommendations at 4.

³¹ *Id.* at 5.

³² *Id.*

³³ *Id.* at 8.

³⁴ Governor Newsom Takes Action to Phase Out Oil Extraction in California (April 23, 2021), *available at* <https://www.gov.ca.gov/2021/04/23/governor-newsom-takes-action-to-phase-out-oil-extraction-in-california/>

³⁵ Assembly Floor Analysis of AB 398 (July 17, 2017), *available at* https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180AB398.

toxics and ensure that activities undertaken pursuant to the state's climate policy complement, and do not interfere with, efforts to reduce toxic air contaminant emissions.³⁶ The largely uncontrolled emissions of toxic pollutants from oil extraction is well documented. It is incumbent on CARB to aggressively meet the Governor's directive on oil extraction and determine how that phase out begins *now*.

The Scoping Plan must similarly achieve emission reductions in the refinery sector and include a plan for phase out and ultimate decommissioning. When CARB approved the 2017 Scoping Plan, the accompanying resolution clarified:

the Board hereby directs the Executive Officer to continue to evaluate and explore opportunities to achieve significant cuts in greenhouse gas emissions from *all* sources, including supply-side opportunities to reduce production of energy sources, that contribute to climate change, air pollution, and other environmental and health hazards.³⁷

Certainly, "refineries and hydrogen production represent the largest individual source [of GHGs] in the industrial sector, contributing 34 percent of the sector's total emissions."³⁸ In addition, as other segments of the industrial sector have reduced emissions since 2017, "refining and hydrogen production sector [GHG] emissions have *remained relatively constant in the past few years*."³⁹ At the same time, we see refineries proposing to switch feedstocks to process higher climate-intensive and polluting biofuels.

Furthermore, new conditions since the 2017 Scoping Plan elevate the need for phaseout planning. A silver lining in the tragic pandemic meant that oil refinery production was reduced, and even the oil industry has acknowledged accelerated transitions to renewable energy. But such changes have been spotty and temporary, requiring statewide planning to lock in any benefits. According to oil industry literature, Alan Gelder, VP, Wood Mackenzie described industry reaction to the pandemic: "some refineries will close, albeit temporarily. . . . Since 1980, global refining has increased by 25%, but that *growth has varied markedly by region*. Investment has slowed where oil demand growth or imports of refined products have been strong; elsewhere, capacity has been either rationalized or closed."⁴⁰

One California refinery did close but others expanded, exacerbating uncertainty and risks particularly in certain EJ communities. Replacement proposals include unjust options for switching to petrochemical production. Thus, a statewide phaseout plan is necessary to reflect

³⁶ Cal. Health and Safety Code § 38562(b)(4); *see also* "For air toxic control measures that apply to stationary sources, the districts typically adopt the State control measure into their own rules" <https://ww3.arb.ca.gov/regact/2010/capandtrade10/capv6appp.pdf> at P-18.

³⁷ CARB 2017 Climate Change Scoping Plan Update, Resolution 17-46 (December 14, 2017), *available at* (<https://ww3.arb.ca.gov/board/res/2017/res17-46.pdf>) (emphasis added).

³⁸ California Greenhouse Gas Emissions for 2000 to 2018, Trends of Emissions and Other Indicators, *available at* https://ww3.arb.ca.gov/cc/inventory/pubs/reports/2000_2018/ghg_inventory_trends_00-18.pdf at 14

³⁹ *Id.* (emphasis added)

⁴⁰ Hydrocarbon Processing, 4/8/2020, Covid-19 crisis lays bare refining sector's challenges, *available at* <https://www.hydrocarbonprocessing.com/news/2020/04/covid-19-crisis-lays-bare-refining-sector-s-challenges> (emphasis added).

the reality of the shifting industry. The Scoping Plan must reflect, support, and further these efforts by including an orderly and predictable ramp down in refinery production and emissions, accelerating the deployment of zero-emission transportation options, electrification of the freight transportation system and goods movement sector, and to overall, further an equitable, just transition from fossil fuels. This kind of planning is normal for electricity, but sadly deficient for the oil industry.

With the likelihood of increasing GHG emissions and accompanying significant co-pollution, CARB should regulate the refinery and associated hydrogen production sectors in order to meet its climate goals. Also, to meet its equity goals and the commitments in Resolution 20-33, CARB must include direct regulation of these sectors in the upcoming Scoping Plan as continued inaction continues to harm refinery fence-line communities with associated co-pollutant public health impacts.

4. The Scoping Plan Must Eliminate Offsets, Retire Excess Allowances, and Reassess Inflated Credit Values.

Eliminate Offsets

*2017 EJAC Recommendation: eliminate offsets.*⁴¹

CARB's climate regulations must be feasible and cost-effective.⁴² CARB has broad authority to meet these mandates,⁴³ and must ensure that activities taken to comply with these regulations do not disproportionately impact low-income communities.⁴⁴

Currently, CARB's offset regulations allow a polluter to increase GHG emissions in exchange for removing carbon dioxide from the atmosphere in a different location. For instance, an oil refinery can purchase an offset credit that has been issued to a forest owner who agrees to reduce or delay a timber harvest.⁴⁵ The oil refinery can then increase GHG emissions by the equivalent amount that the forest is calculated to remove from the atmosphere.

The resulting impact of increased pollution in environmental justice communities internationally and those that live, work, or play in close proximity to domestic large stationary sources of GHGs is well documented. In addition to those significant and disproportionate impacts, the following two recent developments highlight the infeasibility and significant costs of the offsets program, warranting its elimination. CARB must eliminate offsets as they are neither a feasible nor cost-effective means of reducing GHGs.

⁴¹ 2017 EJAC Recommendations at 4, 5, 6, 8.

⁴² Cal. Health and Safety Code § 38560.5 (c).

⁴³ Cal. Health and Safety Code § 39600 and 39601: CARB has the power to adopt standards, rules and regulations "as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law."

⁴⁴ Cal. Health and Safety Code § 38652(b).

⁴⁵ See Systematic Over-Crediting of Forest Offsets (April 29, 2021), available at <https://carbonplan.org/research/forest-offsets-explainer>

Furthermore, the cap-and-trade program’s reliance on offsets along with other unjust trading mechanisms perpetuates disproportionate impacts in low-income communities of color.⁴⁶ This reinforces the need for the Scoping Plan to develop strategies that reduce reliance on cap-and-trade and ultimately lead to phasing out the program as currently conceived.

(i) Compliance Offset Protocol Task Force Members’ Resignation Highlights the Need to Eliminate This Program.

Recently, both the environment and environmental justice representatives of the Compliance Offset Protocol Task Force resigned. These representatives’ reasons for resignation were clear and detailed that the recommendations from the taskforce “contradict the interests of the environmental and environmental justice communities.”⁴⁷

The members’ resignation also detailed that other members of the taskforce had “a vested interest in expanding the use of offsets or have ties to industries and organizations that stand to benefit financially from offsets.”⁴⁸ As such, CARB should consider the taskforce’s recommendations with great skepticism and examine the negative impacts of the offset program independently and objectively.

(ii) Over-Crediting of Forest Management Offset Projects is Evidence for Eliminating the Offset Program.

The resigning members’ observations are consistent with the findings of the recent report, Systematic Over-Crediting in California’s Forest Carbon Offsets Program (“Over-Crediting Report”).⁴⁹ That report examines California’s forest carbon offsets program, in particular the standardized approach that CARB takes to quantify the amount of carbon removed from the atmosphere through “improved forest management” offset projects, or said another way, the amount of carbon stored by forests through forest management practices, similar to the oil refinery example detailed above.

The Over-Crediting Report finds that the bulk of offset credits issued for these projects are from “upfront” credits. Those credits are calculated by the difference between initial on-site carbon stocks (measured by field surveys) and the 100-year average carbon stock in projects’ baseline scenarios (as modeled by project developers).⁵⁰ CARB has set a floor for these baseline calculations. This floor varies depending on the geographic location of the forests where projects are located. Different geographic locations often include different types of forests, some

⁴⁶ Cal. Health and Safety Code § 38652(b).

⁴⁷ Resignation letter of Brian Nowicki, February 2021, available at https://ww2.arb.ca.gov/sites/default/files/2021-02/nowicki_brian_offsets_task_force_letter_020821.pdf. (See also Resignation letter of Neil Tangri, February 2021, available at https://ww2.arb.ca.gov/sites/default/files/2021-02/tangri_neil_offsets_task_force_letter_020821.pdf (“a majority of task force members (or the organizations they represent) stand to benefit financially from the adoption of new offset protocols.”))

⁴⁸ *Id.*

⁴⁹ *Supra* fn. 45.

⁵⁰ *Id.* at 4.

more capable of storing carbon than others. CARB however, averages the amount of carbon each type of forest can store within each designated geographic location.

There is an incentive for project developers to have this baseline as low as possible, or as close to the floor as possible, in order to obtain the most upfront credits. There is also an incentive for project developers to select geographic sites where they can get the most “bang for their buck,” namely those geographic sites that include forests that absorb more carbon than the average calculated for that site. This results in “systematic over-crediting.”⁵¹

Across the [offset] program as a whole, we find evidence of systematic over-crediting. Of the 102.1 million tCO₂e worth of upfront credits for which we have sufficient data to analyze, we estimate net over-crediting of 30.0 million tCO₂e total . . . or 29.4% of the credits we analyzed. At recent market prices of \$13.67 per offset credit, these excess credits are worth \$410 million.⁵²

Evidently, offsets are not cost-effective, especially in light of these findings. CARB must eliminate the program and include a schedule for doing so in the Scoping Plan.

Market Mechanism Design Shortfalls Undermine Climate and Equity Policies

CARB must assess the role of allowances in achieving GHG reductions, and the role of allowances in reducing the benefit and impact of GHG emission reduction strategies. We are particularly concerned about excess allowances artificially deflating the cost of emissions along with other components of the current cap-and-trade program.

Additionally, CARB must reassess the calculation of carbon intensity values associated with the Low Carbon Fuel Standard, in particular, the carbon intensity values (and thus credit value) associated with energy derived from dairy digesters for biomethane production. Lack of regulatory approaches to dairy methane inflate the value attributed to credits, as does failure to consider the availability of alternative methane management, and failure to consider the lifecycle emissions of dairy gas production.

⁵¹ *Id.* at 8.

⁵² *Id.*

III. Conclusion

We look forward to collaborating with the EJAC to develop additional recommendations for the Scoping Plan. We request that CARB appoint the new members to the EJAC, provide greater weight to their future recommendations, ensure meaningful community participation throughout the Scoping Plan process, and implement prior EJAC recommendations from 2017 that are overdue and mandated by the State's climate and equity policies.

Respectfully submitted,

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