

November 12, 2015

Sean Donovan
Air Pollution Specialist
California Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: The Potential for Including International, Sector-based Offset Credits in the Cap-and-Trade Program

Dear Mr. Donovan:

On behalf of Food & Water Watch and our over 280,000 supporters in California, I write to express our organization's opposition to the California Air Resources Board's consideration of "The potential for including international, sector-based offset credits in the Cap-and-Trade Program" — an initiative that continues to promote offsets, and specifically sector-based offsets from jurisdictional reducing emissions from deforestation and forest degradation (REDD) programs.

Claims that sector-based offsets are needed because of possible offset shortages remain unfounded, especially in light of the current 34.5 million allowance oversupply in the California cap-and-trade market and the fact that a majority of polluters covered under the market are also currently awarded 75-100% of their allowances for free. Any interest in developing further offset projects is not because they are needed, but rather because they are a cheaper compliance mechanism, revealing the true motivation in pursuing sector-based offsets.

Markets like the European Union Emissions Trading System (EU ETS) and the Clean Development Mechanism (CDM) do not accept REDD offsets, and the United Nations REDD program (UN-REDD) has even admitted to potential failings of REDD offsets. These include the likelihood of depriving indigenous and forest communities of their lands, marginalizing these communities, undoing significant progress in sustainable forest management practices and, most importantly, that REDD programs could "lock-up forests by decoupling conservation from development."¹

Offsets do not lead to real, additional or permanent emission reductions. Even worse, offsets generated from REDD projects cannot meet even the basic technical requirements like additionality and permanence. Such offsets would also adversely affect indigenous and rural populations by fueling land rights disputes and dispossession, while promoting the historic abuse of developing countries as outsourcing centers for the excess of developed countries.

Additionality and Permanence

Issues of additionality arise when considering the REDD program under development in Acre, Brazil, which is currently held up as the most prepared project for formal inclusion in the California

¹ Gilbertson, Tamra and Oscar Reyes. Dag Hammarskjöld Foundation. "Carbon Trading: How it works and why it fails." *Critical Currents*, no. 7. November 2009 at 60.

market (slated for the third compliance period). If California still abides by its prescribed, regulatory definition of additionality² then it needs to account for the irreconcilable fact that the Acre program cannot possibly be “additional.” Brazil has had forest conservation laws on the books since 1965, Acre has had extractive reserves since the early 1990s and statewide deforestation reduction targets since the 2000s (before REDD was even conceived in 2005), and various other protections for preventing deforestation — and subsequent carbon dioxide emissions — have existed in Brazil prior to the existence of REDD. The Acre REDD program fails outright to meet the requirement for additionality.

The proposed REDD offset framework also fails to meet California’s prescribed, regulatory definition of permanence.³ First, the regulatory definition contradicts and invalidates itself by prohibiting and then allowing for offset reversals, remedying this by saying that so long as mechanisms to address reversals are in place, it’s OK. Reversals are a certainty with any kind of forestry mechanism since trees die, can be damaged by natural events, burned in wildfires, clear cut, or otherwise compromised in many other ways.

Second, the proposed “mechanisms” to be used in cases of offset invalidation introduce significant liability and risk, which is ironic given that these mechanisms are meant to mitigate risk. The proposed insurance buffer, if executed, would increase the overall level of emissions allowed into the atmosphere, representing more than just a reversal but a step backwards in emission reductions. Third, the proposal to subsume risk from offset reversal into the jurisdictional baseline is not a “solution” but rather a distorting and fraudulent manipulation of a very important measurement tool.

Moreover, the developing countries where REDD programs take place often do not have access to the necessary resources to implement, monitor and enforce such offsets.⁴ Establishing a baseline is a formidable challenge, and issues also arise due to the fact that each country has different legal frameworks, which leads to problems with verification.⁵ The measurement techniques are complex and cost prohibitive, documentation of emissions or avoided emissions can be inadequate and it is difficult to establish whether project developers have legal ownership of the land in use.⁶

² The Cap-and-Trade regulation states that, in the context of offset credits, ‘additional’ means 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.

³ ‘Permanent’ means, in the context of offset projects, either that GHG reductions and GHG removal enhancements are not reversible, or when GHG reductions and GHG removal enhancements may be reversible, that mechanisms are in place to replace any reversed GHG emission reductions and GHG removal enhancements to ensure that all credited reductions endure for at least 100 years.

⁴ Sheikh, Pervaze A. and Ross W. Gorte. Congressional Research Service. “International Forestry Issues in Climate Change Bills: Comparison of Provisions of S.1733 and H.R.2454.” (R40990). December 22, 2009 at 15.

⁵ Ibid. at 7 to 8; U.S. Government Accountability Office (GAO). “Climate Change Issues: Options for Addressing Challenges to Carbon Offset Quality.” (GAO-11-345). February 2011 at 15.

⁶ U.S. GAO. 2011 at 15.

Linking and Volatility

Further technical problems emerge from the requirement that these REDD programs would have to link with the California cap-and-trade market — the same way that California has linked with Quebec’s market — in order to incorporate the resulting offset credits.⁷ While proponents of linking markets claim benefits like market liquidity, increased efficiency and cost-effectiveness, these are empty claims. Linking can often introduce more risk since some markets are more volatile and unstable (REDD programs have consistently been controversial and fraught with abuse, fraud and corruption — sure signs of instability), not to mention that linking itself creates indirect offsets and subsequent emission hot spots.

In addition, the price of credits can be different in each market, and until those prices equalize polluters will seek out the cheapest offset credits. As a result, a polluter in California will first purchase cheaper offsets from a jurisdictional REDD program before they purchase more expensive offset credits from, say, Arkansas. This means that pollution continues at the source in California and reductions will allegedly happen in another country where a jurisdiction is participating in a REDD offset program.

Linking markets and using offsets from REDD programs in developing countries also perpetuates the outsourcing of developed country excess and continued extraction of resources from developing countries. REDD offset programs may seek to conserve forests, but in reality they support the extraction of GHG emission reductions for cheap consumption by developed countries. REDD offsets allow polluters to pay lower prices for the reductions they do not want to make in country. It is a continuance of neocolonialism, globalization and entitlement. REDD offsets cannot provide social benefits when they fundamentally support and entrench decades-old inequality.

Impacts on Indigenous and Rural Populations

Still worse, the proposed “social safeguards” for REDD offsets suggest “tying emission reductions to land rights” to ensure that “those who have legal or customary title to the land where emission reductions take place receive the benefits of the sector-based REDD offset credits.” However, historically, indigenous and rural communities, especially those in Brazil, have been denied land rights despite having occupied the forest lands in question for generations upon generations — corrupt governments have instead favored the interests of wealthy land owners, industrial agriculture and those that can afford to buy up expansive tracts of land for cattle grazing, timber extraction, mining or monocultures of soy and sugar cane.

Members of these communities have been threatened, assaulted and murdered for fighting to maintain their land tenure. Unless REDD offset programs will simultaneously resolve the incredibly divisive and longstanding crisis of land tenure rights, equitably assign these rights and ensure that these communities maintain their access to forest lands, then REDD offsets will only further

⁷ Under California Government Code section 12894, this type of approval would constitute a “linking” of California’s Cap-and-Trade Program with the jurisdictional REDD program. Linking means an action taken by ARB by which emission reductions from another jurisdiction will be accepted as compliance instruments in California’s Cap-and-Trade Program. Linking two subnational jurisdictions’ climate policies would follow the precedent of California linking with Quebec’s program, which took place in 2013.

privatize, dispossess and marginalize these communities, not benefit them. The REDD “safeguards” also neglect the fact that the structure of these mechanisms perpetuate further exclusion of indigenous and rural communities from their lands, preventing them from reaping any of the previously mentioned “benefits” — that is not a social safeguard, it is a human rights violation.

Examples of the abuses resulting from REDD continue to surface. In October 2013, *The Atlantic* featured an extensive exposé on REDD and carbon markets. It told the deplorable tale of an offset developer who defrauded indigenous communities in the Amazon after conning them into signing over their forest rights for REDD offsets. The contracts for the forest rights ran for 200 years and the developer planned to harvest the timber and plant palm oil after the 25-year carbon plan in the contract ran out. In 2014, the Oakland Institute released the report “The darker side of green: Plantation forestry and carbon violence in Uganda,” which documents similar abuses from REDD and CDM projects both in Uganda and also in several other countries around the world.⁸

Indigenous groups continue to speak out against California’s plans to include offsets from REDD programs. In October 2012, several indigenous groups traveled to California to testify against REDD offsets and urged Governor Brown not to allow their use. These same indigenous groups have also sent several letters to the California Air Resources Board urging them not to allow REDD forest offsets. Even *The Sacramento Bee* featured an article by Jeff Conant of Friends of the Earth condemning California for considering REDD offsets as part of their cap-and-trade market.

The environment, the public and especially indigenous and rural communities lose when it comes to REDD offsets. Polluters cannot be allowed to buy their way out of trashing our planet and simultaneously violating the rights of others all for the sake of their bottom line. REDD offsets put profits over people, and we at Food & Water Watch along with our over 280,000 supporters in California, demand that the California Air Resources Board does not allow REDD offsets in any capacity. Our forests, water and air are owned by no one and shared by everyone.

Sincerely,



Elizabeth Nussbaumer
Researcher

⁸ Lyons, Kristen, Dr. Carol Richards and Dr. Peter Westoby. The Oakland Institute. “The darker side of green: Plantation forestry and carbon violence in Uganda.” November 2014.