



December 15, 2014

Clerk of the Board
Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: Proposed Amendments to Sections 95802, 95973, 95975, 95976, 95981, 95985, and 95990, title 17, California Code of Regulations (CCR).

Dear Mr. Corey:

On behalf of Food & Water Watch (FWW), a national advocacy organization headquartered in Washington, DC, and our approximately 100,000 members, supporters and activists in California, I write to express our opposition to the Proposed Amendments to Sections 95802, 95973, 95975, 95976, 95981, 95985, and 95990, title 17, California Code of Regulations (CCR) under consideration for the December 18, 2014 public hearing. This comment specifically addresses the issue of offsets — the proposed Rice Cultivation Compliance Offsets, as well as the proposed updates to the U.S. Forest Compliance Offset Protocol.

In theory, pollution trading programs, like the rice and forest offsets, generally exist for two reasons. First, to allow purchasers of credits who are subject to technological mandates on emission controls, in this case industrial greenhouse gas (GHG) emitters, to evade the cost of those controls; and second, to create financial incentives for other industrial polluters, in this case rice operations, to do what they should be doing anyways to reduce their own contribution to the problem.

This is a misguided plan for many reasons, but some of the biggest issues are that it destroys one of the most important aspects of our modern environmental and public protection framework — one that has mostly kept our waterways from being open sewers and our airways mostly breathable — and that is a technology-driving approach that challenges industries to invent and implement better systems to reduce pollution discharges to the bare minimum. This was one of the worst outcomes of the failed 1990's LA air trading programs (RECLAIM and Rule 1610) — it de-incentivized technological advances in the credit-purchasing industrial sector.

Another major shortcoming of trading, on the credit generating side, is that it allows our political leaders, who lack the courage and will to properly regulate highly-polluting industries like agriculture, to continue to avoid doing what needs to be done, and that is to place mandatory controls on all sources of pollution. Here, if rice farms can implement Best Management Practices like dry seeding and early drainage to reduce methane emissions, than why should they be able to profit from doing what, under any responsible regulatory regime, should be mandated by the state? If the state were really serious about reducing GHG emissions, then voluntary compliance would not be an option. Voluntary compliance has proven, time and again, to be a failed approach that only ensures ongoing problems and net increases of pollution.

Any kind of offset is a legitimate threat to achieving real, additional, or permanent emissions reductions. They allow polluters to avoid the urgent need to stop polluting and instead pay to continue polluting with impunity, while claiming that emissions have been reduced elsewhere.

A close look at the proposed rice cultivation offsets and the amendments to the forest offset protocol shows glaring problems. When considering the fact that methane emissions from rice cultivation only represent 0.1% of total GHG emissions in the United States, this confounds the purpose of offsets and initiatives to reduce GHGs — namely, to significantly reduce emissions. Targeting a process that results in minimal emissions and will only allow minimal reductions, exposes this proposed offset for what it really is — a way to add more offset credits to the market regardless of whether they will create legitimate or significant reductions. In fact, California has been increasingly determined to add as many offsets as possible no matter how plausible, even under the best scenario, reductions may be.

Moreover, the agenda behind offsets, as is clear here, too often places priority on cost containment, market efficiency and making it easier for polluters to comply, disregarding the true priority of reducing GHG emissions. California has its priorities all wrong.

The issue of permanence presents the most egregious problem from offsets, especially the proposed rice cultivation offsets and existing forest offset protocol. The dictionary defines permanence as “the state or quality of lasting or remaining unchanged indefinitely.” However, the Air Resources Board’s understanding of permanence is quite distorted in stating that “Permanent means, in the context of offset credits, 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.”

This sends the contradictory message that offset protocols require permanence, but then allows for situations where permanence can be violated so long as there are back up mechanisms in place. For example, the Forest Buffer Account exists for use when a forest used for offsets might burn down or be destroyed by another natural disaster, reversing the offsets generated. However, what’s left unsaid is that using a buffer account like this allows the total amount of emissions released to increase — the reversed offsets release emissions, requiring more offsets to replace those reversed, ultimately increasing the aggregate number of credits used and subsequently increasing the overall amount of emissions allowed. It’s not as simple as a one-for-one exchange.

Additionally, offsets conflict with the requirement for permanence when the life of the reductions is only for 100 years, instead of achieving true permanence. Crediting periods also contradict the concept of permanence when they only go for 25 or 30 years at a time. This is, again, not permanent. It is also unclear what happens after the crediting periods end, or after the 100 years of “permanence” end. The companies that issue the offset credits might not exist in 25, 30 or 100 years, and these impermanent crediting periods bring all of the offsets issued into question. The entire structure of these offsets presents a significant risk of large-scale reversal in



the future, undoing whatever emissions reductions might happen and creating no real progress on the very critical issue of GHG reductions.

The threats posed by climate change to our public health, environmental health, communities and livelihoods are permanent and real, and so must our efforts to stop these threats be permanent and real — offsets cannot accomplish this. The fact that they require loopholes, distortions and exceptions to even “work” shows that offsets are not a solution, but merely a scam.

Another problem arises in the methodology for measuring the amounts of carbon dioxide (CO₂) stored in forests and as well as the methods for calculating emissions reductions from the proposed rice cultivation offsets. Although both methodologies are problematic, they share a significant issue in that they use models and estimates to arrive at the amount of CO₂ stored in a forest or the amount of methane emissions prevented from different rice cultivation practices. From these estimates, offsets are then sold for exact amounts of avoided emissions. A modeled estimate does not equal an exact amount of emissions. It doesn't add up.

The proposed rice cultivation offsets also have a highly dubious aspect in that offsets will be generated from rice cultivated in the Sacramento Valley area of California — an area that is experiencing the highest level of drought and water shortages in California. It's beyond appalling that offsets could be generated from an agricultural practice that now relies on pumped ground water to continue production in the midst of one of the worst droughts in California in 1,200 years. Polluters will be able to continue emissions at the source and buy offsets from rice cultivation, which will support and further engrain this water intensive crop doing nothing to resolve the drought and allowing precarious emissions reductions.

If California is serious about making permanent and real emissions reductions, offsets cannot be allowed. While reliance on a market for pollution credits is an already deeply flawed strategy for fighting climate change, reliance on offsets only exacerbates the problem. California should adopt real reductions in GHG emissions. We at Food & Water Watch urge the California Air Resources Board to take stronger action on GHG emissions by not allowing pay-to-pollute mechanisms like offsets.

Sincerely,

A handwritten signature in black ink, appearing to read "Wenonah Hauter", is written over a horizontal line.

Wenonah Hauter
Executive Director
Food & Water Watch