



March 16, 2018

Ms. Rajinder Sahota
Chief, Climate Change Program Evaluation Branch, Industrial Strategies Division
California Air Resources Board
1001 I Street, Sacramento, California 95814

As a company operating in California and participating in the program since its beginnings, we've seen firsthand how the offsets program has resulted in real behavioral change in some very unlikely places, causing companies who wouldn't otherwise take action on climate change to voluntarily do so because California has led the way and provided a path toward better environmental stewardship. Quite frankly, that's what gets us out of bed each morning, and we're grateful that California and the Air Resources Board have provided a vehicle for this well beyond its own state lines.

Thank you very much for the opportunity to comment on the Preliminary Discussion Draft of potential changes to the Cap-and-Trade Program. We greatly appreciate the Air Resources Board staff's drive to make continuous improvements to this landmark program. Our comments in this letter are limited to the topics of determining Direct Environmental Benefits to the State (DEBS), key protocol updates, modifications to the program's invalidation provisions and increasing program efficiency through addressing materiality. We look forward to discussing these and other items with CARB staff throughout the rulemaking process.

Direct Environmental Benefits to the State (DEBS)

Bluesource supports CARB's literal interpretation of the DEBS criteria as stated in AB398 and further supports the notion that an offset project should have the opportunity to demonstrate whether it provides DEBS. We have concerns, however, that a lengthy process could unfold during which staff will have to evaluate all existing projects with unretired offsets and those that will generate offsets beyond 2020 for DEBS qualification. Please note that the market will go through substantial uncertainty while these reviews are underway because participants will not know how many offsets are available in each "bucket" (DEBS and non-DEBS). If such a process is undertaken, we would ask CARB to consider a deadline by which these reviews would be complete. A better solution, however, would be to avoid this scenario altogether by specifying that all offset projects that are listed prior to the finalization of this rulemaking not be subject to the DEBS evaluation process and be categorized in a way that does not subject them to the new DEBS usage limitations imposed for offsets post 2020. Such an action would be consistent with California's prospective application of legislation as further described in VERA's comment letter.

In addition to the above, Bluesource believes the widely accepted science of climate change supports the view that a reduction of greenhouse gases anywhere provides a direct environmental benefit to



California, with a particular impact on the waters of the state. The American Carbon Registry and VERA have provided extensive references for this argument in their comment letters.

Lastly, broad determination of DEBS protects the program from potential legal challenges related to the dormant commerce clause. In recent years, legal threats to the program have resulted in substantial market uncertainty and have been a major cause of allowance auctions not fully clearing.

Key Protocol Updates

Bluesource looks forward to the formation of an Offset Protocol Task Force as directed by AB398; however, we believe some updates to existing protocols are crucial enough that they should be made prior to formation of this committee. Specifically, we believe the following protocols should be updated promptly for the reasons identified below:

- Urban Forestry: Urban forestry projects have the potential to provide material benefits to disadvantaged communities within the state, yet the projects remain economically very challenging. Bluesource has been investigating ways to successfully implement an urban forestry project for some time, and something that would help would be the updating of the protocol to include urban forest management practices as the Climate Action Reserve has done in its latest version of its urban forestry protocol. We recommend CARB update its own protocol to reflect this practice.

Forest Project Protocol for US Forests: A prior regulatory amendment package reduced the invalidation period for an event of regulatory nonconformance from the entire reporting period in which an event of nonconformance occurred to the period of actual nonconformance for all offset project types except forest carbon. This approach provides a valuable incentive for projects out of regulatory compliance to get back into compliance as soon as possible. Through conversations with staff, Bluesource recognizes that the reason this change was not applied to forest carbon projects is because the protocol does not specifically provide for calculating offset credits in short periods of time less than the length of a reporting period. We remain convinced that this is in fact possible and easily accomplished using principles of the existing protocol, and to restore parity across all offset project types we therefore recommend that 1) the US Forest Project Protocol be updated to allow for such calculations, and 2) the regulation be amended to accept the revised invalidation period approach for regulatory nonconformance that has been applied to other offset types. For the latter,

the phrase in §95973(b)(1) that reads, *"An offset project using a protocol from sections 95973(a)(2)(C)1., 2., or 5. ..."* should be changed to read, *"An offset project using a protocol from sections 95973(a)(2)(C)1., 2., 4. or 5. ..."*, and,



the phrase in §95973(b)(2) that reads, *“An offset project using a protocol from sections 95973(a)(2)(C)3., 4., or 6. ...”* should be changed to read, *“An offset project using a protocol from sections 95973(a)(2)(C)3. or 6. ...”*

- Ozone Depleting Substances: In order to provide for collection and destruction of more harmful substances within California and to update important baselines related to this protocol, Bluesource believes CARB should look to the American Carbon Registry’s ODS protocol to update eligible substances and provide new emission factors and quantification methods for foam projects, as well as for monitoring destruction events conducted at facilities that are a part of an enclosed equipment de-manufacturing system.

Invalidation

Bluesource believes it is time for invalidation to be revisited in a substantial way as the current methods of replacing invalidated credits drastically limit the cost containment benefits of the offsets program. This will be more and more important as the cap declines more aggressively beyond 2020.

Bluesource recommends the formation of an Environmental Integrity Account (EIA) comprised of 3% of all offsets issued, similar to what’s found in the Ontario program. This EIA should be used to replace invalidated credits for events of invalidation resulting from material overstatements and events of regulatory nonconformance. Sellers, specifically the OPO or APD, should be responsible for invalidations related to the double-selling of credits into CARB’s program and another crediting program, but in no other event should any market participant (the buyer or the seller) bear the burden of replacing invalidated credits, as that would defeat the purpose of the EIA.

With respect to the current system of statutory limitations on invalidation, Bluesource believes the process of double verifications to reduce these periods from 8 to 3 years places an unnecessary burden on CARB staff and offset developers alike. We believe these double verifications are of questionable value given the highly robust review completed by CARB staff following verifier and OPR reviews. This, in conjunction with the extremely low percentage of offsets invalidated or brought under formal invalidation investigation (roughly 0.1% of the offset credits issued to date), leads us to the conclusion that double verifications to reduce the invalidation period from 8 to 3 years are an unnecessary part of the program that does not contribute to program integrity. Instead, all offset credits issued should initially have a 3-year invalidation period.

Materiality

A lack of materiality threshold for reporting period reviews, as well as regulatory language such as, “any correctable error must be corrected,” prohibit excusing truly insignificant errors. If an error is not something that affects a project’s applicability or materially alters the volume of a reporting period, Bluesource believes CARB should consider such errors to be immaterial and therefore excused. The current stance toward immaterial errors results in extra staff time spent on reviews and adds to delays



in review cycles. It also tends to conflict with the standard to which verification bodies are held, which has a 5% materiality threshold for reasonable assurance. We believe the current regulatory amendment process should be used to address language that prevents CARB staff from applying common thresholds for materiality in its assessments. Specifically, we recommend implementing a materiality threshold that limits errors that must be corrected to those in excess of 5%, yet not to exceed 500 tCO₂e (or other predetermined level) in magnitude.

Thank you very much for the opportunity to comment on these very important issues. We are available and more than happy to assist CARB staff in understanding the details of our requests. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Townsend", with a long, sweeping horizontal line extending to the right.

Kevin Townsend
Chief Commercial Officer
Bluesource