



To: California Air Resource Board
From: Peter Weisberg, Program Manager
The Climate Trust
Date: October 17th, 2014
Subject: Comments on the ODS Investigation Preliminary Determination

Background

The Climate Trust was founded in 1997 as a nonprofit organization to assist new fossil-fueled power plants in complying with the Oregon Carbon Dioxide Standard—the nation’s first legislation to curb emissions of carbon dioxide. Since that time, The Climate Trust has invested \$19.1 million into greenhouse gas offset projects, and advocated for the environmental integrity of carbon markets through the creation of the Offset Quality Initiative and through offset protocol development. As both an investor in projects and a mission-driven organization focused on environmental integrity, The Climate Trust is concerned about the implications for the offset market of the preliminary decision of the Air Resource Board to invalidate Ozone Depleting Substances offset credits from destruction events at Clean Harbors. While The Climate Trust does not actively work with Ozone Depleting Substances projects, we are deeply concerned about the implications for the livestock, forestry and other agricultural projects in which we work. An invalidation, even limited in volume, will create an uncertain investment environment for the projects we are working to catalyze.

Comments

The Climate Trust supports the work of the Air Resource Board to ensure that offset projects meet requirements of local, regional, and national environmental and health and safety laws. While this requirement often does not affect the integrity of an offset’s representation of a real greenhouse gas reduction, The Climate Trust believes it is important for offset projects to “do no net harm” and not cause adverse effects on human health or the environment. This was initially articulated by our work with the Offset Quality Initiative.¹

The Climate Trust believes that ARB has put the proper safeguards in place to ensure offset projects do no net harm. Each protocol has clear language establishing how projects report that they are in “regulatory compliance.” This reporting is reviewed in great detail throughout the process for listing, verification and offset issuance by an accredited third-party verification body, an approved third-party Offset Project Registry and the Air Resource Board itself. This rigorous verification and registration process should be the method through which the environmental integrity of an offset is assured.

The risk of offset invalidation significantly increases project costs and hurts investor confidence, reducing The Climate Trust’s ability to catalyze new capital from carbon markets to build livestock, forestry and agricultural projects. If the Air Resources Board moves forward with the ODS invalidation, it

¹ See Integrating High Quality Greenhouse Gas Offsets Into North American Cap-and-Trade Policy. Offset Quality Initiative. July 2008. Online at http://www.offsetqualityinitiative.org/pdfs/OQI_Ensuring_Offset_Quality_7_08.pdf.



raises uncertainty about how environmental or health and safety violations that are the subject of investigation reports at facilities that are related to an offset project - but not at the actual offset project - will affect the validity of that project's credits. To use livestock as an example, dairy and hog farms throughout the United States face significant environmental and health and safety regulation. Flooding, equipment failure and a variety of other activities that often have nothing to do with a digester and are entirely unforeseeable by an offset project operator can cause a livestock facility that hosts a digester to potentially be considered by a regulator as out of compliance. Anaerobic digestion is one method of attempting to improve manure management systems so livestock facilities can more readily maintain compliance. That said, facilities with digesters may have difficulty in meeting a regulatory compliance threshold that includes informal enforcement actions such as inspection reports.

A decision to invalidate credits from Clean Harbors due to downstream environmental violations will raise questions from investors and buyers about the viability of offsets. Where possible, ARB should strive to narrowly define the offset project that is subject to invalidation if a project falls out of compliance. For a livestock digester, for example, only those activities directly related to the digester should be subject to this requirement, and Environmental, Health and Safety violations at the larger livestock facility should not serve as a cause for invalidation if they are not directly related to the emissions reduction project.

This offset invalidation review is an important moment for the nascent offset market. The Air Resource Board should proceed cautiously and, where possible, exercise its discretion to maintain investor, project developer and buyer confidence in the viability of offsets.