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

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Thank you very much for the opportunity to comment on the proposed amendments to the Cap-and-Trade Program. We greatly appreciate the Air Resources Board's drive to make continuous improvements to this landmark program. 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.

We are pleased that offsets will continue to play a role in the program as stipulated by AB 398; however, at the same time we must acknowledge that halving the prior offset utilization limits will result in increased costs to California businesses, consumers and ratepayers. Furthermore, California's climate leadership and influence in jurisdictions and industries that are more reluctant to act on climate will be hampered given the requirement that a portion of offsets used provide Direct Environmental Benefits to the State.

Direct Environmental Benefits to the State (DEBS)

Bluesource supports CARB's assertion that, in addition to in-state offset projects, many other CARB-approved offset projects located outside of the state boundaries can, and do, provide direct environmental benefits to California. In fact, science indicates that a reduction of greenhouse gases anywhere provides environmental benefits everywhere, but even more so in locations like California that are especially prone to harm from climate-dependent factors such as sea level rise and drinking water supplies heavily dependent on snowpack. Having a clear and straightforward process for project developers to demonstrate a DEBS will benefit the program's implementation and incent more projects with California benefits.

CARB rightly is proposing to base DEBS determinations on science rather than a strictly "in-state" vs "out-of-state" paradigm that is focused exclusively on political boundaries. Such a firm unscientific basis would open the regulation to legal challenges. It is far more important to incent real, quantifiable, verifiable, enforceable, additional and cost-effective GHG reductions than to inject unnecessary legal uncertainty into the program. Retaining stability, and minimizing legal risk, will certainly incent further offset reductions to occur, including in many California's urban and rural communities.

Bluesource also believes that once a project type and/or location has been deemed to have DEBS, CARB should implement a system where substantially similar projects are awarded DEBS determinations with maximal transparency and minimal additional time and expense.

The staff proposal rightly acknowledges that the reduction of GHGs provides a reduction in air pollutants, and thus has a benefit to the state. Bluesource supports this scientifically-backed position. GHG's are air pollutants by statutory definition, by CARB's previously existing regulatory definition, and by determination of the United States Supreme Court. Succinctly said, a reduction in GHGs is a reduction in an air pollutant, and therefore a benefit to the environment. DEBS determinations must take this into account.

As a developer of forest carbon offset projects, we see the benefits of such projects every day. International scientists also agree that forests are critical to limiting average global temperature rise as they provide one of the only readily available, cost-effective means of directly removing and storing GHG emissions at scale. Forests also provide a host of local benefits such as shading and cooling, water filtration and storage, and the provision of wildlife and pollinator habitat.

With respect to implementation of DEBS determinations, Bluesource has serious concerns about the proposal to retroactively evaluate millions of previously issued offsets and projects that will produce credits beyond 2020. These compliance instruments are already in the marketplace, have value, and represent early actions and investment by both the offset developer and the offsets' current owner. It is simply unfair to alter their value after an investment has been made or a market transaction has been completed.

In addition, substantial market uncertainty already exists and will continue to arise from participants' inability to determine supplies of both DEBS and non-DEBS offsets. For example, a covered facility may currently hold a number of offsets, but without knowing which are DEBS and which are not, it has no way of knowing if it's holding too many or too few offsets to be able to comply with AB398's usage limits. This uncertainty could meaningfully disrupt the cap and trade market and may very well prevent investments from being made in additional emission reduction technologies while it remains unresolved. Consequently, expedited clarification around DEBS designation of existing projects should be a high priority for CARB staff. The 45-day package presently only indicates a deadline for DEBS applications to be received but includes no parameters for when a decision for any application must be made by staff, and having to wait until the end of 2021 or later to learn if these assets have changed in value will allow the significant disruption previously described to continue for far too long.

Bluesource recommends CARB staff consider the following concepts to address this problem:

1. CARB should consider retroactive determination of DEBS for existing projects.
2. If retroactive DEBS designations are not granted, CARB should:

a. Materially increase its staff size to allow for expeditious reviews of DEBS evaluations while also shortening the standard offset issuance review cycle times. It is not inconceivable that this would require a doubling of the existing offset-focused staff.
b. Stipulate that DEBS applications will be responded to within 30 days of receipt.
c. Be transparent about its DEBS rulings so as to create efficiency for future DEBS applicants and CARB staff.

3. In acknowledgement that DEBS designation may impact an investment decision, CARB should not require an offset project to apply for DEBS only at the submission of an initial OPDR, but rather should allow for application even before an offset project is undertaken.

Regarding retroactive DEBS assessments, we would like to reiterate that retroactively looking at all issued offsets would cause all stakeholders, including CARB, to incur significant administrative and implementation costs. It may also grind to a halt the issuance of new and future offset credits, further disrupting the market. These costs are in addition to the added program costs associated with the reduction in offset usage limits.

Regulatory Conformance

Bluesource supports the inclusion of Appendix E's clarification on the scope of regulatory compliance. This amendment allows for offset projects to not be subject to invalidation for non-GHG related "occupational health and safety" issues that may have inadvertently occurred at some point during the crediting period but have no impact on the integrity of the offsets.

Bluesource strongly supports the inclusion of forest carbon projects in the calculation of emission reductions associated with events of regulatory nonconformance. With regard to calculating the emission reductions associated with such events, however, we would recommend the following changes to the proposed text:

> For projects using a protocol in section 95973(a)(2)(C)4., the entire number of calendar days during which any portion of the project was not in regulatory compliance must be removed by dividing the total calculated emissions reductions for the 12 month period from the end of the previous Reporting Period~~,~~ by the total number of days in the previous 12 months, either 365 days or 366 days, to calculate a daily emissions reductions. The daily emissions reductions will be multiplied by the number of days the project was not in regulatory compliance to calculate the total emissions reductions out of compliance.~~ and~~ ~~t~~The total emissions reductions out of compliance ~~his number~~ will be subtracted from the total calculated emissions reductions for the Reporting Period to get the total emissions reduction in regulatory compliance for the Reporting Period. ~~added to the project baseline for the end of the Reporting Period and the emissions reductions for the Reporting Period, excluding the days the project was out of regulatory compliance, will be calculated.~~

Materiality

Bluesource supports the introduction of a materiality threshold and believes this will increase efficiency for ARB staff and developers alike without sacrificing integrity.

Program Efficiency

The regulatory package attempts to update some of the more onerous administrative aspects of offset approval and issuance. Bluesource is appreciative of this effort, but believes more can be done. Bluesource believes there are a number of steps CARB can take to make the offset program less costly, less time-intensive for staff, more efficient and more transparent. To that end, we offer the following program suggestions for your consideration:

- Reduce review cycle time by adopting a risk-based review to increase efficiency without sacrificing quality.
- Rely on accredited third-party verifiers and approved offset project registries as the primary and secondary lines of review.
- Increase review process transparency and communicate guidance to all program participants to reduce repetitive inquiries.

These administrative efficiencies would benefit both CARB, offset developers and the market waiting for approvals of contracted projects. Bluesource recognizes that some improvements have been made on a case-by-case basis, but these recommended improvements should benefit the program systemically.

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. Having a clear and simple mechanism to mitigate risks associated with invalidation should make it easier for stakeholders to participate in the offset market, thus stimulating the development of new offset projects inside and outside of California and removing an obstacle to access the cost containment benefits provided by emissions reduction projects. Bluesource understands this change is not anticipated in this rulemaking but encourages CARB to address at its earliest possible time.

Specifically, Bluesource recommends the formation of an Environmental Integrity Account (EIA) comprised of 3% of all offsets issued. 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.

We appreciate the opportunity to make these public comments and are willing and able to assist ARB staff in any way we can.

Sincerely,

Kevin Townsend
Chief Commercial Officer
Bluesource