



June 15, 2007

Winston Hickox, Chair
Lawrence H. Goulder, Vice Chair
Market Advisory Committee
California Environmental Protection Agency
1001 I Street, 15th Floor
Sacramento, CA 95818

**Re: Comments on the June 1, 2007 Draft Recommendations of the
Market Advisory Committee to the California Air Resources Board**

Dear Chairman Hickox, Vice Chairman Goulder, and Committee Members:

I write on behalf of the Carbon Offset Providers Coalition to provide comments to the Market Advisory Committee (the "Committee") on its draft report dated June 1, 2007, and entitled, "Recommendations for Designing a Greenhouse Gas Cap-and-Trade System for California; Recommendations of the Market Advisory Committee to the California Air Resources Board" (the "MAC Report"). We are grateful for this opportunity to submit comments prior to the finalization of the Committee's Report.

As you know from the Comments that we submitted on April 13, 2007, the Coalition comprises companies that are leaders in the carbon offset market, including those involved in financing, producing, generating, providing, aggregating and/or marketing greenhouse gas ("GHG") emission reductions for sale as offsets in existing and emerging voluntary and compliance GHG emission trading markets. We offer our comments based upon our experience operating within these compliance markets as well as the voluntary market.

Before turning to our specific comments, we want to commend the Committee for fulfilling so well its vital advisory functions with respect to the design of an environmentally sound, efficient, and fair greenhouse gas regulatory regime for California. In a very short period of time, the Committee generated a report that is insightful and comprehensive, yet also practical and useful. We believe it to be one of the most important policy documents of its kind, and that the final Committee Report likely will be very influential both within California and beyond.

With respect to offsets, we find the discussion in the MAC Report to be well-informed and sensitive to all perspectives. We also find the analysis supporting the Committee's recommendations to be sound. It is clear that on this topic, as with others, the Draft MAC Report represents a textured synthesis of the Committee members' diverse and sophisticated perspectives. Based on the experience of our members with generating and providing offsets within the context of several different carbon markets, we would like to share a few specific comments for the Committee's consideration as it prepares its final Report.



1. A Standards-Based Approach is Appropriate.

We agree with the Committee's conclusion that a "standards-based" approach to implementing an offsets program is far better than one that requires a case-by-case review of every offset project. As the MAC Report states, the latter would be "administratively burdensome" and would "create[] uncertainty for both offset project developers and environmental advocates. MAC Report at 59. Moreover, any such process would necessarily depend upon standards by which to perform the reviews of individual offset projects, and thus would not avoid the task of establishing uniform performance standard protocols. There are several other advantages to a standards-based approach:

- ***Efficiency*** -- While the task of establishing and administering standards for an offsets program may appear daunting at the outset, it would be far less burdensome than a comparable case-by-case approach. In addition, we question the Committee's speculation that "the number of staff needed to implement an effective offset monitoring program could conceivably be larger than the staff needed to run the cap-and-trade program itself." MAC Report at 70. With standards and a registry in place, and with the use of web-based technology, we are confident that a program can be implemented without undue administrative cost. The success that the California Climate Action Registry and others have had in this regard supports this.
- ***Integrity & Transparency*** -- Clear and uniform standards build confidence in the program. All will know what is needed to qualify, and what won't qualify, and perceptions of bias are more likely to be avoided. Determinations made under a case-by-case approach can be subject to charges of perceived bias, as it is difficult if not impossible to determine the basis for each decision.
- ***Facilitates Linkage*** -- Having clear and uniform standards will facilitate linkage with other carbon markets, as it will facilitate accurate comparison of each market's offset project qualifications. This also will serve to encourage other markets to link with California's, and thereby encourage greater participation in addressing the global challenge of climate change.

It is critical that the process by which standards are established be participatory and flexible. Specifically, reasonable processes should be established by which stakeholders can (a) participate in the process of establishing standards, (b) initiate the standards development process for new types of offset projects, and (c) revise standards as new information becomes available. Finally, these processes should be designed so that they do not impose undue costs or delays but rather promote innovation.



2. The Standards for California's Offsets Program Should not be Unduly Restrictive.

While we agree that a gradual approach is appropriate, it should not be so conservative as to eliminate meritorious projects. Some offset project technologies are relatively new and untested; that is inherent in any emerging market. However, as we endeavor to marshal all available resources to address the global challenge of climate change, it is critical to establish a regulatory regime that fosters innovation rather than stifles it. If new offset technologies are subjected to overly extensive testing and verification, investment will be discouraged and many meritorious projects will never reach the market. Moreover, we have seen that proven offset project technologies become candidates for command-and-control mandates, which threaten to remove them from the pool of qualified offsets (as they may no longer satisfy the requirement of regulatory additionality). Thus, it is all the more important for the regulatory regime to be sufficiently flexible to encourage the development of new offset technologies. One way to do this is with prompt provisional approval of project standards; there are others. The point is to develop a system that encourages investment to flow to this sector that can deliver significant GHG emission reductions in the near term.

We therefore urge the Committee to recommend that California start more assertively than by limiting itself to those recognized by the RGGI program. We find encouraging that "[m]ost Committee members also believe that Clean Development Mechanism (CDM) credits under the Kyoto Protocol should also qualify as offsets under a California cap-and-trade program." MAC Report at 59-60. While there have been some negative experiences with some CDM projects, the vast majority have performed as intended. The same applies to joint implementation (JI) credits that "several Committee members support allowing" as well. *Id.*

It is not the place of the MAC Report or of these comments to debate the relative merits of CDM or JI or to endorse any particular standard. Rather, the key principle is that California should recognize *all* meritorious offset project types. In developing criteria for doing so, there are many resources to draw upon in addition to RGGI, CDM and JI. While still an emerging sector, there already is a great deal of experience and sophistication, much of which has been refined into standards. We respectfully suggest that the Committee expressly recommend that California consider the many sound protocols have been developed, or are in the process of being developed, for a wide variety of offset project types. These include the Voluntary Carbon Standard ("VCS"), which is scheduled to be released later this summer; the California Climate Action Registry's protocols (it has developed a forest management protocol and is working on others); EPA's Climate Leaders program, which is developing a number of protocols; and those embodied in H.R. 2635, the "Government Carbon-Neutral Act of 2007," which recently passed the House Committee on Oversight and Government Reform. California should consider all existing protocols so that it can develop its own standards for a wide variety of project types that generate offsets that are real, additional, verifiable, permanent, enforceable, and transparent.



3. The Standards for California's Offsets Program Should Recognize Existing Offset Projects that Qualify and not just those Developed After the Program is Established.

The MAC Report does not address the issue of a start date for qualifying offset projects. There is no logical reason to exclude those offset projects that otherwise meet all of the program's standards that were initiated prior to the implementation of the program. It is critical to provide incentives to those now investing in this sector; they need to know that the market will accept their qualifying offsets. Failing to do so will create a disincentive to investment in offset projects, thereby undercutting this valuable tool in the global effort to mitigate climate change. We therefore wish to reiterate our April 13 comments on this issue:

"The project start date for offsets should be set as early in time as practicable and well in advance of the trigger date for GHG emission reductions commitments. Offset projects resulting from early actions can provide a cost-effective means for entities to meet emission reduction targets. Offsets generated by these early projects and the transactions involving them should not be disqualified from participation in the market, provided that they otherwise meet the qualification requirements."

In order to create certainty and thereby encourage investment in offsets, we respectfully suggest that the Committee recommend that California establish a start date for the qualification of offset projects. And that start date should be as early as practicable.

4. The Rejection of Geographic and Quantitative Limits is Sound.

For all the reasons set forth in our original April 13 comments, the Coalition strongly supports the MAC Report's recommendation that California should reject geographic or quantitative limitations on offset credits. We strongly agree that this will serve to maximize the opportunity to reduce GHG emissions at the lowest cost. It also will serve to encourage other jurisdictions to adopt similar programs and link with California. It is of course critical to the success of the global effort to mitigate climate change that others are encouraged to work with California. Limiting offsets to those generated in-state would only create barriers that would have to be removed later when linking with other jurisdictions.

Indeed, if California adopts a protectionist approach to the co-benefits of a cap-and-trade regulatory regime, other jurisdiction will have little incentive to link with California. This would foreclose valuable markets to those in California that are generating offsets and/or are developing offset project technologies. In this regard, it bears mention that several members of the Coalition have offset projects operating in California today.



Finally, fundamental economic principles indicate that imposing either geographic limits on the production of offsets or quantitative limits on an emitter's ability to purchase them would increase the cost of offsets. Such obstacles to market efficiency would result in less investment in this promising tool for reducing GHG emissions.

We hope that the Committee finds these additional comments by the Coalition to be helpful. We would be happy to provide further information to the Committee or its staff. To learn more about carbon offsets and the Coalition, we invite you to visit our website at www.carbonoffsetproviders.org, or contact the Coalition through our representative, Nicholas W. van Aelstyn, Beveridge & Diamond, P.C., 456 Montgomery St., Suite 1800, San Francisco, CA 94104 (tel. (415) 262-4008; email NvanAelstyn@bdlaw.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Roger Williams".

Roger Williams
Chairman

Carbon Offset Providers Coalition