



**ENVIRONMENTAL DEFENSE FUND**

finding the ways that work

April 17, 2008

Kevin Kennedy  
California Air Resources Board  
1001 "I" Street  
Sacramento, CA 95812

Re: Comment on Carbon offsets white paper and California AB32 scoping plan

Dear Mr. Kennedy,

Please accept this letter as comments on the treatment of offsets by the California Air Resources Board within the AB32 emissions reduction framework. The hard work and thoughtful consideration of agency staff are evident from the discussion provided in the White Paper. Environmental Defense Fund appreciates this opportunity to provide feedback to the questions your white paper poses, and we look forward to continued dialogue on this issue.

Environmental Defense Fund agrees with climate experts who conclude that quick action is needed to drastically reduce emissions of greenhouse gases (GHGs) in order to avoid the worst impacts of global climate change. We acknowledge the size of this challenge and believe that offsets must be an integral part of the solution both in California and the broader context.

**1. Should California have an offsets program for compliance purposes?**

Environmental Defense Fund is a vocal advocate for market based solutions in the challenge to quickly reduce GHG emissions from all sectors of the economy. Within the rubric of this advocacy is a broad recognition of and support for offsets as a mechanism that enables economy-wide emissions reductions at the lowest cost and in the fastest manner. This mechanism not only drives reductions outside of the cap in cap-and-trade programs, it rewards innovators who develop new solutions to reduce GHGs, can facilitate reductions of traditional pollutants in overburdened communities, and can be used to lay the groundwork for including non-capped sectors within a broader cap.

In California, the basis for making GHG reductions is AB32. This law requires CARB to develop regulations to achieve the "maximum technologically feasible and cost-effective" reductions. In addition, AB32 requires CARB to take into account several other factors when developing rules to reduce GHGs using offsets, including:

- Seek to minimize costs and maximize benefits to California,
- Encourage early action to reduce greenhouse gas emissions,
- Ensure that entities that have voluntarily reduced their GHG emissions early receive appropriate credit,

- Consider cost-effectiveness of these regulations,
- Minimize the administrative burden of the regulations,
- Minimize leakage,
- Consider the significance of the contribution of each source or category of sources to statewide emissions of greenhouse gases,
- For market based regulations, the reduction must be in addition to any GHG reduction otherwise required by law or regulation, and any other greenhouse gas emission reduction that otherwise would occur,
- Avoid worsening air quality or regressive economic impacts in disadvantaged communities, and maximize co-benefits (as detailed below in Section 2c.).

Environmental Defense Fund acknowledges that CARB's authority to implement market solutions (and allow offsets) is both guided and limited by the provisions included in AB32. While we believe the unrestricted use of offsets to comply with the state's GHG reduction requirements is most likely unlawful, we also believe achieving cost effective and maximum technologically feasible reductions requires CARB to allow offsets as some portion of the AB32 compliance framework. Further, we believe that in addition to meeting the requirements of the law, a well-designed offsets mechanism will generate vital GHG reductions quickly and will achieve the desired societal co-benefits.

Environmental Defense Fund supports a robust use of offsets because of these potential benefits, and we welcome the opportunity to discuss the legally appropriate framework that produces the maximum statewide benefits.

## 2. What should the approval and quantification process be for projects?

### 2a. Fundamental criteria must be met for projects to qualify

AB32 laid out fundamental criteria for recognizing emissions reductions in California (§38562 - real, permanent, quantifiable, verifiable, and enforceable). These criteria track closely with the nationally and international accepted standards aimed at ensuring the environmental integrity of projects, protecting investors in and purchasers of offset projects, and creating and maintaining confidence in an offset market. Environmental Defense Fund therefore believes that whatever approval process is used by CARB must meet these fundamental criteria (AB32 and internationally accepted criteria). CARB should require that every certified offset project used for AB32 compliance purposes be:

- Real (representing GHG reductions that have been already achieved),
- Additional (beyond the business as usual case such that the reductions would not have occurred otherwise),
- Permanent (projects where unexpected reversals are a risk should assess the risks, maintain monitoring mechanism to detect and estimate unexpected reversals, and maintain provisions to guarantee the emissions reductions generated will be recouped in the event of an unexpected reversal),

- Measureable (with accuracy),
- Verifiable and verified (using disinterested third parties),
- Serialized and tracked on a registry (to allow demonstration of ownership and to prevent double-counting),
- Enforceable (with authority by the government to require the emissions reductions are maintained),
- Assigned a vintage (to disclose the year that an offset was achieved).

In an effort to facilitate maximum short-term emissions reductions, CARB may also consider whether it is practical to authorize a class of emission reduction projects that meet all the above criteria but are explicitly designed as time-limited, impermanent projects. ‘Temporary’ offsets might include, for example, no-till agriculture projects that have significant potential to effectively store carbon in soils, but could be limited temporally based on a farmer’s willingness to enter into agreements that require permanent or long-term changes to tillage practices. Should CARB study the feasibility of ‘temporary’ offsets, a key consideration would be whether creating a financing mechanism for such projects allows California to enable a broader spectrum of immediate actions to reduce GHGs while buying time for the deployment of next generation low-carbon technologies.

We commend CARB for operating a transparent public process for all activities related to AB32. As new offset protocols and projects are recognized and approved, continued public involvement will be important to ensure each of the fundamental criteria listed above are met. In developing specific standards and protocols for identifying qualifying offsets, we encourage CARB to draw on existing methodologies and standards already developed for international, state, and voluntary markets. We also recommend establishing requirements for independent reproducibility of any methodologies or technology standards adopted for the certifying process.

Environmental Defense Fund looks forward to providing continued technical assistance and is dedicated to improving the state of the science for offset crediting and calculation. For example, we have already provided a copy of our manual on offset crediting for the agricultural sector, named the Duke Standard, to CARB staff for use in the forestry and manure management protocol development process.

## **2b. How to qualify offset project types**

Environmental Defense Fund acknowledges that both the top-down and bottom-up project recognition approaches have merits and may have a role in offset project review in California. A top-down approach, where projects that meet criteria of a recognized protocol are automatically approved, greatly simplifies the approval of offset projects and provides certainty to project developers. Using a bottom up approach, where projects are approved on a case-by-case basis, may allow new ideas for emissions reductions to mature much faster and span a more diverse set of sources. However, regardless of the approach chosen, Environmental Defense Fund urges CARB to apply the fundamental criteria listed in section 2a above to each and every project type recognized within AB32. Such rigorous treatment is necessary to achieve confidence in the

AB32 market and in reductions represented by the sales of offset credit for regulatory compliance purposes in California.

Although we suggest that both approaches have merit for use in California, Environmental Defense Fund recommends that CARB list the project types that it considers appropriate for AB32 compliance. This will help give potential project developers a sense of CARB's priorities so they won't waste time developing projects CARB is less likely to approve. Of course, this list will not be static over time, as categories of projects once considered appropriate may have to be removed, if, for example, reductions once undertaken voluntarily become subject to regulation. Further, as old protocols are revised, or new protocols are developed, CARB should seek to recognize new project categories that meet required elements and provide project developers and credit purchasers a broader slate of emissions reduction opportunities.

Despite our recommendation that CARB develop a list of appropriate project types, Environmental Defense Fund suggests that CARB not completely foreclose the opportunity to recognize new, innovative emissions reduction projects that a project developer may submit. By allowing project developers to submit ideas and be rewarded for new project types, CARB can better facilitate economy-wide reductions and encourage ongoing research into capturing potentially large domestic reduction opportunities, such as those in the agricultural sector. However, we recognize that CARB may need to temper the ability of project developers to submit project ideas, at least in the near term, due to resource constraints.

## **2c. Consideration of project co-benefits**

Since an offsets program implemented under AB32 would be used to meet the state's emissions reduction goals, Environmental Defense Fund believes that CARB has broad authority to implement measures that drive reductions of co-pollutants and increase economic investment in low-income communities and achieve other environmental and societal benefits. This authority is derived from AB32 provisions that require CARB to:

- Ensure that activities undertaken do not disproportionately impact low-income communities,
- Ensure that activities undertaken complement, and do not interfere with, efforts to achieve and maintain air quality standards and to reduce toxic air contaminant emissions,
- Consider overall societal benefits, including reductions in other air pollutants, diversification of energy sources, and other benefits to the economy, environment, and public health,
- Direct public and private investment toward the most disadvantaged communities in California,
- Provide an opportunity for small businesses, schools, affordable housing associations, and other community institutions to participate in and benefit from statewide efforts to reduce greenhouse gas emissions.

To further the potential for AB32 to achieve co-benefits and to work towards achieving statutory mandates listed above, Environmental Defense Fund recommends CARB develop a process to aggregate real reductions (and settle ownership issues) in low-income communities. In some instances, project aggregation may provide incentives to large companies that generate reductions through projects in low-income communities. In other instances, aggregation may be used to directly reward communities that take local action to reduce GHGs and energy use. These reductions, once verified, can be used to meet regulatory obligations under AB32.

While considering the potential of community-scale projects to generate compliance credits, CARB should also create other opportunities to direct investment in GHG reductions to low-income communities, as required by AB32. These reductions produce co-benefits such as less toxic air pollution, cuts in energy use, and lower utility bills.

**3. Should there be quantitative limits on the use of offsets for compliance purposes? If so, how should the limits be determined?**

Environmental Defense Fund supports the widespread availability of offsets within market based programs to reduce emissions, including the broader AB32 GHG reduction framework. A broader recognition of offset projects increases the likelihood that low-cost projects will be identified and implemented and broadens the scale of associated cost savings. As a result, quantitative limits are likely to raise the cost of meeting GHG reductions goals. We believe that the more affordable we can make reductions, the more ambitious we can be in establishing a truly protective climate goal. For these reasons, Environmental Defense Fund believes that the offset program should rely on rigorous qualitative limits -- i.e., the criteria set out in our response to question #2(a) above -- rather than arbitrary quantitative limits.

We understand that CARB may nonetheless decide to set a quantitative limit on offsets. In making such a decision, we suggest that CARB focus on developing standards to drive investment in projects that provide co-benefits to disadvantaged communities or that provide ecosystem values beyond climate, rather than setting a quantitative limit. We would also suggest that CARB establish a process by which any quantitative limits could be loosened or removed over time, as the market for offsets matures.

**4. Should CA establish geographic limits or preferences on the location of projects that could be used to generate credits within the offsets system? If so, what should be the nature of those limits or preferences?**

Environmental Defense Fund supports the widespread availability of offsets within the AB32 emissions reduction framework to moderate the cost of compliance and to spur innovation. If CARB determines that CA projects should receive priority, we again suggest that the priorities should be projects that provide co-benefits to disadvantaged communities and projects that enhance ecosystem services as well as real greenhouse gas reductions.

**5. Should California discount credits from offset projects?**

Discounting project credits has been viewed as a method to alleviate several types of issues associated with offsets, from accounting for uncertainty to driving investment in desired project types. Environmental Defense Fund does not support the arbitrary use of unsubstantiated discounting formulas to meet such goals. Rather we support accurate accounting of project reductions and use of mechanisms that directly generate the results desired and utilize the most robust and accurate project accounting possible.

The following are three examples represent how Environmental Defense Fund envisions alternatives to discounting. Such approaches are important to keep accounting of emissions reductions transparent and achieve the desired result.

- Instead of using a discount factor on emissions reductions from a particular project to account for uncertainty in project permanence, we suggest that CARB establish clear rules for liability for emissions reductions and for monitoring, detecting and quantifying potential unexpected reversals of emission reductions.
- Rather than using arbitrary discounting factors for emission reductions that occur outside of the state, we recommend CARB develop tools like community aggregation to inspire reductions in targeted geographic areas such as low income communities.
- Rather than applying discounts factor for leakage at the outset of the offset program, we recommend CARB develop tools to measure project leakage (either indirect or direct) and to specifically account for it in a project's emissions calculations. To this end, we encourage the development of monitoring and measurement capacities in coordination with relevant state and federal agencies to enable comparisons of expected emissions reductions from the offsets program to the actual emissions reductions achieved on aggregate in the corresponding uncapped sectors. Such monitoring would enable evaluation of the performance of the offsets program and facilitate any ongoing adjustments to the offsets program and its protocols.

Thank you for your time and your careful consideration on this important issue. We look forward to working with staff as the offsets program is developed further.

Sincerely,

Derek Walker,  
Acting Director, California Climate Initiative  
Environmental Defense Fund