

October 23, 2009

Mary Nichols  
Chair, California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

**Re: Offsets in California's Cap and Trade Program**

Dear Chairman Nichols:

The undersigned businesses, experts, and organizations write to thank you for the tremendous effort you and your staff have put into implementing AB 32. We are concerned, however, that the full promise of this landmark program may not be met, and the environmental integrity of the program could be put in jeopardy, if an over-reliance on compliance offsets is allowed.

We are interested in ensuring that the vast majority of the emission reductions required by AB 32 occur in the state's most heavily polluting sectors. This will help spur clean technology innovation and drive further venture capital investment in California's clean tech sector, create desperately-needed jobs in the state, and help clean up some of the worst air pollution in the country. For these reasons, we, along with more than 50 other businesses and organizations, endorsed AB 1404 by Assembly Members De Leon and M. Perez. AB 1404 sets a limit on the use of compliance offsets of no more than 10% of emission reductions, ensuring that at least 90% of the AB 32 reductions occur through cleaning up and transforming our electricity, natural gas, transportation, and heavy industrial sectors. AB 1404 also directs CARB to prioritize offsets that provide environmental and public health co-benefits to California.

We feel strongly that the California Air Resource Board's proposed offset limit of 49% of reductions is too permissive. We are worried that CARB is growing closer and closer to finalizing the details of the cap and trade program, and yet to date has not held a workshop or sought public comment on determining an appropriate offset limit within the 0-49% range, has not done economic modeling to determine an appropriate offset limit, and seems set on using 49% as a de facto limit, despite more than 90 environmental, health, social justice, religious, labor, and business groups, the California legislature, and many CARB Board members expressing concern with that limit.

During the November 21, 2008 CARB Board meeting at which the Scoping Plan was presented and discussed, CARB Board members had a lengthy discussion about the offset limit, in which five board members raised concerns with CARB's proposed quantitative and geographic limits (see highlighted sections of the attached transcript for details).

We encourage you to lower the offset limit and prioritize offsets that provide environmental and health benefits to California, and in particular, those communities that are already suffering disproportionately from unhealthy air pollution. We encourage you to create opportunities for input from the Public Health Working Group, the Economic and Allowance Advisory Committee, the Environmental Justice Advisory Committee, and environmental, public health, and social equity communities on the best ways to limit and prioritize offsets.

Sincerely,

African American Environmentalist Association  
Norris McDonald

American Lung Association of California  
Bonnie Holmes-Gen

Bayview Hunters Point Community Advocates  
Karen Pierce

Breathe California  
Andy Katz

Community Action to Fight Asthma  
Anne Kelsey-Lamb

California Apollo Alliance  
Mac Lynch

California Interfaith Power and Light  
Rev. Canon Sally G. Bingham

California League of Conservation Voters  
Warner Chabot

California Wind Energy Association  
Nancy Rader

Catholic Charities, Diocese of Stockton  
Betsy Reifsnider

Center for Biological Diversity  
Brian Nowicki

Center for Energy Efficiency and Renewable Technologies  
Danielle Osborn Mills

Central Valley Air Quality Coalition, Legislative Committee  
Rafael Aguilera

Clean Air Now  
James Provenzano

Coalition for Clean Air  
Nidia Bautista

Ella Baker Center for Human Rights  
Evelyn Rangel-Medina

Engineers and Scientists of California, Local 20 IFPTE  
Josh Sperry

Environment California  
Bernadette De Chiaro

Environmental Working Group  
Bill Allayaud

Fresno Metro Ministry  
Sarah Sharp

Friends of the Earth  
Danielle Fugere

International Rivers  
Patrick McCully

Luminalt  
Jeanine Cotter

Lutheran Office of Public Policy – California  
Mark Carlson

National Parks Conservation Association  
Tim Gibbs

Natural Resources Defense Council  
Peter Miller

Orange County Interfaith Coalition for the Environment  
Margaret Henke

Our Children's Earth Foundation  
Tiffany Schauer

Planning and Conservation League  
Tina Anolina

Regional Asthma Management and Prevention  
Anne Kelsey-Lamb

SF-Bay Area Chapter, Physicians for Social Responsibility  
Robert M. Gould, MD

Sharp Electronics Corporation  
Julia Curtis

Sierra Club  
Bill Magavern

Solaria  
David Hochschild

SolFocus  
Kelly Desy

Sustainable Energy Partners LLC  
John Humphrey

Union of Concerned Scientists  
Erin Rogers

Vote Solar  
Adam Browning

cc:

James Goldstene  
Kevin Kennedy  
CARB Board members  
EAAC  
David Crane  
John Moffatt  
Eileen Tutt

## TRANSCRIPT

BOARD MEETING  
STATE OF CALIFORNIA  
AIR RESOURCES BOARD  
JOE SERNA, JR. BUILDING  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
BYRON SHER AUDITORIUM, SECOND FLOOR  
1001 I STREET  
SACRAMENTO, CALIFORNIA  
FRIDAY, NOVEMBER 21, 2008  
8:30 A.M.  
<http://www.arb.ca.gov/board/mt/2008/mt112108.pdf>

**BOARD MEMBER SPERLING: Item two, the offset issue. And I confess I haven't looked at it really carefully. But the way it's being presented that others are presenting it, if their view of it is accurate, I think that has raised some concern.**

And the question I guess is the offsets are important. But the question is, how large are they? Because I guess the real question in my mind is, are these offset, the 49 percent number, does that apply to just the cap and trade reduction requirement, or is it more broadly, as USC was implying?

EXECUTIVE OFFICER GOLDSTENE: Kevin Kennedy from the Office of Climate Change will answer that. PROGRAM EVALUATION BRANCH CHIEF KENNEDY: The way that the 49 percent -- which is viewed as an upper limit we might actually set a lower limit -- would be applied against the total reductions that are achieved starting from whatever the level in the cap and trade program from the level set for the 2012 cap and then as the reductions go on. So as you get in the later years, that number does start looking like a very large limit on offsets. It's something that we will be working through. The fundamental policy direction that we see in the plan is that we want to have an offset limit that is designed to make sure that there are significant reductions from within the cap and trade program. So as we work through the details of the rules and how we set the limits, we will take a close look at the information USC and others will put forward. If it looks like that is too big of a limit in the out years, we'll re-visit the 49 percent. We're not set at we're going to do 49 percent.

BOARD MEMBER SPERLING: Perhaps a technical question is when you say offset, is that within the WCI area or the California area?

PROGRAM EVALUATION BRANCH CHIEF KENNEDY: In terms of where the offsets could be coming from?

BOARD MEMBER SPERLING: Yeah. When does it count as an offset?

PROGRAM EVALUATION BRANCH CHIEF KENNEDY: In terms of where offset projects could be located, the language in the plan says we would be looking to something that would not have geographic limits. The sort of limits that we are looking for. One is the quantity limit we're talking about. But also making sure there are very stringent rules so we feel

very confident that the reductions that we are looking at are real, additional, verifiable, permanent, et cetera. So we're looking at more the question of ensuring the quality of the offset than trying to set a geographic area where the project will be located.

BOARD MEMBER SPERLING: So if you buy a credit from one of the WCI states or Canadian provinces from that electric utility, is that an offset or is that credit trade?

PROGRAM EVALUATION BRANCH CHIEF KENNEDY: If what you are purchasing is an allowance that was issued by one of the other partners that we had established the trading relationship with, that would be an allowance. And that would not count as an offset.

ACTING CHAIRPERSON ROBERTS: I think we're leaving out several questions that are going to have to be answered as part of the December, the 49 percent, the geographic area, all these things I think --

BOARD MEMBER BALMES: If you want a sense of some of the Board, I think 49 percent is way too high. I would have trouble with that. And I think then no geographic restrictions means planting trees in Brazil would be an offset if it could be verifiable. And I'm not saying that's a bad thing to do. I'll all for planting trees in Brazil. But I'm not sure that's the way I want to see the offset program for California.

ACTING CHAIRPERSON ROBERTS: I think part of what we're going to be wrestling with -- I'll just put this on the table. Convince us that there's a health benefit that's associated in the sort of region in which these things take place. It seems like that health benefit if it's going to happen needs to happen in California to the extent that we're doing these things. In addition to the greenhouse gas itself is a whole series of other things that we're rolling out that will happen. To the extent we're going outside the geographic area to some other place on the planet, while that net effect of the greenhouse gas is going to be the same, we are losing some of the benefit there that we'd like to see here. So I think that's going to cause us all to have some sleepless nights between now and December.

BOARD MEMBER D'ADAMO: And if I could just add, I think of that cap on offsets and the geographic limitation in a similar fashion that I look at the goal of 100 percent auction. I think we want to maybe consider establishing goals. Start slow. Make sure we are doing this program right. Maybe have geographic restrictions. I think it goes to whether or not we can -- we have a comfort level of verifiable offsets. It's a lot easier to do it in your own backyard. To verify that once the program gets going if it makes sense to go beyond, let's re-visit that issue.

ACTING CHAIRPERSON ROBERTS: Well, I think I can safely speak for everyone we have to have an iron clad guarantee that the offsets are going to be there.

BOARD MEMBER HILL: And verifiable. And I would agree with DeeDee's comments and Dr. Balmes that 49 percent, it seems excessive. It doesn't get us I don't think where we need to be, especially here. So maybe if you bring back a lower number at the next meeting.

EXECUTIVE OFFICER GOLDSTENE: It is an upper limit as Kevin just pointed out. And it was a product of extensive negotiations with the Western Climate Initiative trying to come to a number. There were several members in that process that wanted the ability to do much a greater number. So we felt at the staff level that we had significant success getting it down to 49 percent as an upper limit. Each member would ultimately decide what they are comfortable with.

BOARD MEMBER D'ADAMO: Question. Did negotiations include reference to the regional boundary on offsets?

EXECUTIVE OFFICER GOLDSTENE: Yes. And there's no geographic limit. As long as the offsets are verified very high quality offsets -- because we're dealing with the pollutant that's a worldwide pollutant theoretically it's solid and verifiable. We can go into more detail if you need.

ACTING CHAIRPERSON ROBERTS: Well, I want to get through this. Board Member Sperling has one other item.

BOARD MEMBER BERG: I just want to -- if we discuss geographic boundaries I would like to know what the economic impact. Because my understanding is that there would be some strong economic impact if we bring the boundaries in because it limits the offsets. So I just think that we need to have both sides of the information.

EXECUTIVE OFFICER GOLDSTENE: Just to clarify the point. Ms. Berg, offsets can have the effect of lowering the cost of compliance, particularly at the beginning of the program.

ACTING CHAIRPERSON ROBERTS: I think that's what she's saying.

BOARD MEMBER BERG: That is my point. And --

ACTING CHAIRPERSON ROBERTS: If it's worldwide, you're going to get lower costs associated, which is the whole idea.

BOARD MEMBER BERG: Which goes to the cost effectiveness piece of the legislation.