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January 27, 2019

(Via e-mail [planningcommission@ci.oceanside.ca.us]; hard copy to follow)

City of Oceanside Planning Commission
300 N. Coast Highway
Oceanside, CA 92057

Re: Comments on Final Environmental Impact Report for North River Farms Project

Dear Honorable Planning Commissioners:

On behalf of Preserve Calavera, we submit the following comments on the Final Environmental Impact Report (FEIR) for the North River Farms project. Preserve Calavera is composed of many local residents who are deeply concerned about Oceanside's environment. While we congratulate the City on some of the additional energy conservation requirements for the Project (although the math does not always appear to be correct) that are set forth in the FEIR, we are disappointed that the City is ignoring and failing to mitigate serious climate change impacts of the Project's greenhouse gas emissions. The City also fails to adequately mitigate the impacts of diesel exhaust emissions that will result from Project construction.

As an initial comment, we note that the FEIR states at page I-5 that the City will consider comments made on the DEIR in making its decisions as to whether to certify the FEIR and to approve the Project, but does not say that it will consider comments made on the FEIR. CEQA requires that if an agency holds a public hearing on the approval of a project, the public may raise issues until the close of that public hearing, and may raise them in any subsequent litigation. We expect the City to fully consider the comments that Preserve Calavera and other members of the public make now and at the public hearing, and the City ignores such comments at its peril. (Public Res. Code § 21177(a); Guidelines § 15202(b); *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1201 ["If the decision making body elects to certify the EIR without considering comments made at this public hearing, it does so at its own risk. If a CEQA action is subsequently brought, the EIR may be found to be deficient on grounds that were raised at any point prior to close of the hearing on project approval"].) Preserve Calavera now offers the comments below.

1. The Air Quality Analysis Still Does Not Require All Feasible Mitigation.

CEQA dictates that public agencies not approve projects that may have significant environmental effects unless all feasible alternatives or mitigation measures have been adopted. (Pub. Res. Code § 21002, 21081(a).) In its discussion of emissions of the toxic air contaminant diesel particulate matter (“DPM”) emissions emitted from diesel-powered construction equipment, the FEIR, at page 4.3-10, recognizes that “approximately 70% of all airborne cancer risk in California is associated with [DPM] (CARB 2000).” It also continues to recognize that the cancer risk posed by the Project’s use of diesel-powered construction equipment is a 28 in one million risk of cancer to the maximum exposed person, almost three times the threshold of significance of a 10 in one million risk set out at FEIR page 4.3-34, and that this risk is chiefly or solely attributable to the use of diesel construction equipment. (FEIR, p. 4.3-31.)

We note, and appreciate, that Mitigation Measure MM-AQ-1 has been clarified to specify that Tier 4 diesel emission controlled equipment must be used unless it is unavailable, in which case Tier 3 equipment may be used, and that a definition of “unavailable” is now provided. (FEIR, p. 4.3-40.) However, the Mitigation Measure also provides that if both Tier 4 and 3 equipment is unavailable, the applicant may use the next-highest Tier available. Although the highest tier available is to be used, the Measure can reasonably be read to require no minimum Tier. (FEIR, p. 4.3-40 – 4.3-41.) The FEIR calculates the cancer risk with use of mitigation as reduced to 7.2 per million risk of cancer (FEIR, p. 4.3-41 – 4.3-42), but the modeling to determine that risk appears to assume the use of Tier 4 and 3 equipment (Air Quality Technical Report, pp. 2-3), without a showing that the modeling assumptions will actually correspond with equipment availability at the time of construction. Further, the FEIR deletes a mitigation measure that would allow the applicant to retrofit diesel equipment to meet the Tier requirements, without no explanation or evidence-based showing that the City considers such retrofitting to be infeasible.

Retrofits that significantly reduce particulate matter emissions are certified by the California Air Resources Board (CARB) and are available for use. That such devices are available makes such retrofitting a potentially feasible mitigation measure. In light of the 28 in one million cancer risk posed by Project construction without mitigation, and considering that availability of Tier 4 or even Tier 3 equipment is not guaranteed, such retrofits should be required where equipment with less than a Tier 3 rating is not available, and should be considered where equipment with less than a Tier 4 rating is not available. The City should either adopt this feasible mitigation measure, or provide a justification for not adopting it. As it stands, the FEIR does not meet CEQA’s

requirement that all feasible mitigation be adopted. The FEIR absolutely should not affirmatively delete the option to retrofit diesel equipment from the FEIR.

In the area of conventional air pollutants, the FEIR continues to avoid coming to grips with the failure of the San Diego APCD's Regional Air Quality Strategy ("RAQS") to show attainment of the federal air quality standards by applicable deadlines, or with state air quality standards (which have no express deadline) at all. The FEIR's response to prior comments on this issue is, in essence, that advising the public that the San Diego Air Basin is nonattainment for the health-based federal and state ozone standards, and describing the RAQS, is all that is required to set out the baseline air quality conditions in the Oceanside area. (App. TO, p. 120.) The Sierra Club's comment letter on the Draft EIR pointed out that the RAQS is considerably behind its own schedule for air quality improvement, and the FEIR concedes that the Project could "minimally contribute to regional O₃ concentrations." (FEIR, p. 4.3-37 – 4.3-38.) However, the FEIR continues its reliance on "the existing good air quality in coastal San Diego areas" to find health impacts insignificant. (*Ibid.*) This is not enough. Ozone is a regional phenomenon, and a good-faith assessment of the Project's potential to contribute to ozone concentrations, and their health impacts, is required. (*See, e.g., Sierra Club v. County of Fresno*, 2018 WL 6729853, slip op. at 7-8 [correlation of project impacts with human health effects required].) At the least, the EIR can and should discuss the RAQS' actual state of progress towards attainment of the federal and state ozone standards in the San Diego Air Basin, since the EIR relies on the RAQS' ultimate success for its finding of no significant impacts by the Project's huge increases in vehicle miles traveled, and the attendant emissions, on air quality.

2. The Project Fails to Adequately Mitigate Greenhouse Gas Emissions and the EIR Fails to Demonstrate that the Emissions Offsets Will Comply with CEQA's Requirements for Effective and Feasible Mitigation.

Preserve Calavera is deeply concerned about the continued heavy reliance by the City on the purchasing of carbon emissions offsets, most likely to be bought in foreign countries and of highly questionable enforceability, to mitigate the climate change impacts of the Project. The applicant has now committed to zero net increase in greenhouse gas emissions. (FEIR, Appdx. TO, vol. II, pp. 23, 129.) It is vital to note that the FEIR's conclusion of a less than significant impact on climate change from the Project is based almost completely on the use of such purchased carbon emissions offsets. While Preserve Calavera notes and applauds the additional on-site measures included in the FEIR to reduce energy consumption and GHG emissions, such as requiring solar panels on residences, an electric car charging station in every private residential garage and most commercial parking lots, and low-albedo street paving materials (FEIR, Appdx.

TO, vol. II, p. 127-128), it is the commitment to net zero increase in GHG emissions upon which the FEIR's no-significance conclusion is principally based.

However, these on-site measures will not achieve the zero net increase to which the Project is now committed. The City states that it will allow the Project to offset its remaining GHG emissions by buying and retiring carbon credits, and that the Project may use carbon emission credits purchased from carbon offset registries that either are used by CARB in the Cap-and-Trade program, or that utilize the "accounting procedures" that CARB-utilized registries use. (FEIR, p. TO-129 to 130.) It appears that the City has abdicated its own responsibility under CEQA (e.g., Pub. Res. Code § 21002) to ensure that all feasible mitigation measures for GHG emissions from the Project are applied, and has effectively delegated that responsibility to carbon offset registries in the voluntary carbon offset market. As discussed below, this approach does not meet CEQA's requirements for mitigation.

A. The FEIR Fails to Ensure that Carbon Offsets Will Achieve Real, Permanent, Quantifiable, Verifiable, and Enforceable Reductions.

The California Health and Safety Code, section 38562, subsections (d)(1) and (2), mandates that GHG offsets for purposes of the Cap and Trade program, must be shown to be "real, permanent, quantifiable, verifiable, and enforceable by the state board," and also "in addition to any greenhouse gas emission reduction otherwise required by law or regulation, and any other greenhouse gas emission reduction that otherwise would occur." CEQA requires no less for mitigation of greenhouse gas emissions. (See, e.g., Guidelines §§ 15126.4(a)(2) and (c)(3).) While the FEIR also claims that "the purchased carbon offsets used to reduce operational GHG emissions shall achieve real, permanent, quantifiable, verifiable, and enforceable reductions" (FEIR, p. 4.8-46), the EIR does not contain any of the standards and protocols to ensure that these requirements are satisfied.

In fact, the available evidence indicates that the purchase of off-site GHG emissions offsets in the voluntary market frequently does not achieve real, verifiable, and enforceable reductions. The European Union has considerably more experience with off-site offsets than the United States has, and the European Commission evaluated such offsets in a report entitled "How additional is the Clean Development Mechanism?" (March 2016, accessible at https://ec.europa.eu/clima/sites/clima/files/ets/docs/clean_dev_mechanism_en.pdf). That report presents the European Commission's conclusions that fully 85% of offset projects they studied, and 73% of upcoming projects, have a low probability of being both additional and not overestimated in their benefits. (See, e.g., p. 54 of the report). Only 2% of projects they studied and 7% of upcoming projects had a high probability of being both. (*Ibid.*) One reason given for this dismal assessment is that, where countries have signed the Paris Framework accords, and have committed to numeric targets for GHG

reductions within their own nations, they have a strong motive to not sell offsets to other countries, because they need those carbon reductions to satisfy their own obligations to reduce GHGs. (*Ibid.*)

B. The City's Offset Program Bears Little Resemblance to CARB's Highly Regulated CAP-and-Trade Program.

As stated above, the FEIR states that it will require the Project to use only off-site offsets purchased from "reputable" carbon registries, such as registries that either are used by CARB to identify offsets for the state's Cap-and-Trade program (referred to in the FEIR as "CARB-approved" registries), or that use the "accounting procedures" used by such CARB-utilized registries. (FEIR, p. TO-129 to 130.) However, it is vital to note that CARB has approved individual registries solely for the use of their offsets in the state's Cap-and-Trade program (the Cap-and-Trade compliance market), and has not approved any registry or its offsets for use in the voluntary (non-Cap-and-Trade) GHG offset market. CARB has not "approved" any carbon registry for use in the voluntary market. CARB has also adopted a full and complex set of regulations to ensure the efficacy of off-site GHG offsets. The City has not.

CARB issued the following statement regarding carbon registries in response to a reporter's questions:

The California Air Resources Board has approved offset project registries to aid in the implementation of the compliance offset program component of the state's Cap-and-Trade Program. The registries perform mainly administrative functions in ensuring that eligible offset projects have submitted required documentation and obtained third-party verification pursuant to the Cap-and-Trade Regulation and applicable CARB-approved Compliance Offset Protocols. CARB then reviews and approves all offset projects before issuing what are known as "compliance-grade offset credits" that are the equivalent to allowances and can be used by regulated entities in the Cap-and-Trade Program to meet a very limited portion (up to 8 percent) of their annual compliance obligations.

The offset project registries, as well as other organizations, also operate voluntary offset markets, where they issue voluntary offset credits that are NOT eligible to transition to compliance-grade offset credits. **The voluntary market is completely separate from the compliance market and CARB does not oversee it in any way, nor does CARB regulate how voluntary credits are used.** More information on CARB's Compliance Offset Program is available here: <https://www.arb.ca.gov/cc/capandtrade/offsets/offsets.htm>.

...

CARB's Compliance Offset Program for the Cap-and-Trade Regulation is specifically limited to offset projects within the United States, although offset credits issued in Quebec or Ontario are also eligible for use since we have linked the California Cap-and-Trade Program with the cap-and-trade programs in those two jurisdictions. CARB does not issue compliance offset credits to international projects. Internationally generated credits are available through the voluntary market, which, as we mentioned above, is completely separate from offset credits that can be used in our Cap-and-Trade Program. CARB does not track voluntary credit prices nor who can use them.

(CARB statement issued January 28, 2018, by Stanley Young, CARB Office of Communications Director. The full e-mail exchange is attached to these comments as **Exhibit A.**)

CARB has not endorsed, does not regulate or “approve,” and does not oversee or warrant in any way any carbon registries in the voluntary market. Further, CARB does not use, regulate, or approve any internationally obtained GHG offsets except those from the two Canadian jurisdictions that have formally joined the Cap-and-Trade program. The City cannot cite CARB’s use of any individual registry in the Cap-and-Trade program as evidence that the registry or any offset it identifies will meet either the Health and Safety Code’s requirements for GHG offsets, or CEQA’s requirements for GHG mitigation, particularly as to internally obtained offsets. CARB does not regulate or oversee their actions in the voluntary market, nor does any other agency regulate the private voluntary carbon offsets market.

Equally important, CARB has adopted a full and complex set of regulations by which it governs and evaluates GHG offsets in the Cap-and-Trade program. (See Cal. Code of Regs., title 17, §§ 95972(a) [Protocols for offset use], 95972(c) [limiting Cap-and-Trade offsets to locations within the US and the two Canadian jurisdictions formally associated with the Cap-and-Trade program], and 95854 and 95856(h)(1)(A) [limiting any individual source’s use of off-site offsets to no more than 8% of its allowable GHG emissions].) CARB itself evaluates the offsets identified by carbon registries under these regulations, using all the expertise in designing and enforcing air pollutant limitations that it has developed in its nearly 50-year storied history of air pollution control in California. (See, e.g., <https://ww2.arb.ca.gov/about/history>.) There is no evidence in the FEIR, nor could there be, that the Development Director has similar or comparable experience or expertise. Nor has the City has adopted regulations comparable to those adopted and used by CARB to evaluate off-site offsets. Preserve Calaveria notes that CARB itself does not place blind trust in the registries it uses; while a registry may

present a potential offset, CARB alone has the authority to issue the emission credit, using its own formidable air pollution control and engineering expertise.

It is especially important to note that CARB places a limit of 8% on the amount of its GHG emissions that a source in the Cap-and-Trade program may offset. The City here has imposed no limits on the amount of GHG emissions that the Project may mitigate with purchased offsets. The contrast is made more stark by the fact that the Cap-and-Trade program regulates industrial sources such as petroleum refineries and power plants (Cal. Code of Regs., title 17, § 95811), which are closely monitored and may have additional mechanical controls installed if they persistently exceed their emissions limitations. In contrast, the City cannot require the residential Project here to be differently designed, or the homes to be differently built, to reduce GHG emissions if offsets purchased at the time building permits are issued should fail in the future. The City has made no showing in the record that it has the legal ability to require subsequent property owners within the approved Project to replace any failed offsets, or to require that Project suspend its residential operation until failed offsets are replaced. This is especially important when many, if not all, offsets for the Project will be purchased in foreign countries, where the City will have no ability to monitor them and no authority to enforce them. The City has placed virtually unlimited faith in unregulated voluntary carbon registries, without substantial evidence to support the registries' long-term ability to carry out the functions they promise.

C. There Is Insufficient Oversight, and Insufficient Public Opportunity For Review of the Carbon Offsets the City Proposes To Accept.

The City's revised Mitigation Measure MM-GHG-2 provides for only a one-time review of the proposed GHG offsets for each Site Plan, providing in pertinent part:

MM-GHG-2 Purchase of Carbon Offsets. As to operational greenhouse gas (GHG) emissions, prior to the City of Oceanside's (City's) issuance of building permits for each implementing Site Plan ("D" Designator), the applicant or its designee shall purchase and retire carbon offsets in a quantity sufficient to offset approximately 100% of the proposed project-generated greenhouse gas (GHG) emissions in order to achieve carbon neutrality (i.e., a net zero emissions level), for a 30-year period, consistent with the performance standards and requirements set forth below.

(FEIR, p. 4.8-45, *emphasis added, strikeout text omitted.*)

The mitigation measure appears to require a review of the offsets only once, at the time when building permits are issued for each Site Plan (FEIR, p. 141-142). No follow-up is provided to ensure that offsets are taking, or have taken, place as originally accepted

(e.g., that dedicated tree plantings are still growing at the expected rate, or that farms applying methane capture to bovine waste are still operating and the equipment still functioning as expected). The City will make only a one-time determination, leaving all issues of follow-up and continued monitoring to the carbon registry involved, despite the fact that such registries in the voluntary market are not regulated or overseen by any government agency.

In addition, the City's determination as to the amount and validity under California law of GHG offsets will take place only after the CEQA process is completed, outside the sunlight of a public review and comment opportunity. CEQA puts the public in a "privileged position ... based on a belief that citizens can make important contributions to environmental protection and on notions of democratic decision-making." (*Concerned Citizens of Costa Mesa, Inc. v. 32nd Agriculture Assn.* (1987) 42 Cal.3d 929, 936.) Here, the City has opted to cut the public out of the review of the actual offsets being proposed for each Site Plan, depriving the public of the role CEQA assigns to it.

D. The Requirement to Pursue Local Offset Projects Is Limited "to the Extent Such Offset Projects and Programs Are Financially Competitive," Where Financial Competitiveness Is Undefined.

MM-GHG-2 now provides:

The project applicant or its designee shall first pursue offset projects and programs locally within unincorporated areas of the City to the extent such offset projects and programs are financially competitive in the global offset market. The project applicant or its designee shall submit proof to the City that offsets are unavailable in a higher priority category before seeking offsets from the next lower priority category.

(FEIR, Appdx., TO, vol. II, p. 142.)

The FEIR then goes on to say:

Practically speaking, the City anticipates that the evidentiary showing will be made through the applicant's submittal of reports authored by carbon brokers that provide a timely survey of and assess the marketplace for voluntary carbon offset transactions at the time of need for offsets. The City anticipates that one or more such reports may be submitted for approval as development is phased over time via the processing of individual Site Plans.

(Ibid.)

While voluntary market offsets raise serious concerns regarding verifiability and enforceability, the most highly questionable are internationally obtained offsets. The language of MM-GHG-2 makes clear not only that internationally obtainable offsets will be accepted, but that the price of such internationally obtainable offsets will, “practically speaking,” drive the City’s determination of what offsets are available/feasible within the geographic hierarchy of offset locations set out in the measure. Local offsets, with their substantial potential for local co-benefits, including decreased local emissions of conventional pollutants and increased job opportunities, will be put into economic competition with international offsets that, due to cheaper labor costs in developing countries, will almost always tend to be cheaper. The result may well be that local offsets, with their local co-benefits, will be found unavailable and infeasible when they are, in fact, technologically feasible, but merely have a higher purchase price than international offsets. The purchase price may not reflect the full cost of obtaining offshored offsets. Local reductions of conventional pollutants as a result of increased energy consumption may result in decreased hospital admissions and healthcare costs, but those cost reductions apparently will not be weighed against cheaper initial purchase prices for international offsets.

The environmental consequences of the policy choice by the City making purchase prices quotes quoted by carbon offset brokers the main factor, “practically speaking,” in determining choice of GHG offsets have not been adequately explored or disclosed; instead, they have barely been mentioned in the EIR. CEQA requires that, when mitigation measures have environmental consequences of their own, those consequences must be disclosed and, if significant, must be mitigated. (Guidelines § 15126.4(a)(1)(D).) The City has not done either, making the EIR inadequate both as an informational tool and as a method of mitigation.

E. The 30-Year Lifespan Presumed for the Project Lacks Substantial Evidentiary Support.

The City has posited that the Project has a 30-year lifespan, and that only its projected GHG emissions need be calculated or mitigated assuming this 30-year life. (EIR, Appdx. H, pp. 51, 52.) The Sierra Club’s comment letter on the draft EIR contested this premise, and Preserve Calavera challenges it again here since the California Department of Housing and Community Development reports that the majority of housing in this state is over 35 years old. (California's Housing Future: Challenges and Opportunities. Final Statewide Housing Assessment 2025, February 2018, available at http://www.hcd.ca.gov/policy-research/plans-reports/docs/SHA_Final_Combined.pdf.) The premise is crucial, since the City is only requiring GHG offsets for a 30-year period. (FEIR, Appdx TO, vol. II, p. 23.)

The justifications presented by the City for the 30-year Project lifespan are not grounded in regulations or factual assessment of the useful life of a house in California, but in cherry-picked anecdotes and unadopted “guidance” regarding industrial sources in another jurisdiction. The FEIR relies chiefly on anecdotal evidence regarding individual projects for which CARB has accepted a 30-year lifespan in calculating GHG emissions, including projects subject to special circumstances or projects that possess specific AB 900 Leadership Project qualifications. (FEIR, Appdx. TO, vol. II, pp. 130-131.) The FEIR admits that the North River Farms Project has not applied for AB 900 Leadership status. Preserve Calavera submits that it thus does not qualify for the GHG treatment CARB has accorded such projects. The FEIR also cites the 30-year lifespan accepted by CARB for the Newhall Ranch project, in a reanalysis of that specific project in response to the decision of the California Supreme Court in *Center for Biological Diversity v. California Dept. of Fish and Wildlife* (2015) 64 Cal.4th 204. (FEIR, TO, vol. II, p. 131.) The treatment of an individual case, in response to a judicial reversal, is not a regulation, official guidance, or a binding precedent for other projects. It is not adequate justification for a 30-year life span here.

The FEIR also cites guidance from 2008 by the South Coast Air Quality Management District (SCAQMD) for industrial projects for which SCAQMD is the permitting agency, observing that such projects are allowed by SCAQMD to use a 30-year life for GHG emissions modeling purposes. (FEIR, Appdx. TO, vol. II, p. 132.) The FEIR also admits that:

SCAQMD’s Board was not asked to take final action on the significance evaluation framework developed by staff for residential and commercial projects, due to the need for further work efforts related to CARB’s then-pending interim GHG proposal.

(*Ibid.*) Thus, in 2008, the SCAQMD did not adopt a 30-year lifespan for residential projects, nor has it adopted once since. It is disingenuous, if not outright misleading, for the City to cite as authority a proposal that the SCAQMD Board did not then – or ever – act on, particularly since the FEIR admits that the Board did not take action on residential project guidance because it needed more work. The modeling guidance for industrial sources is not binding or relevant here.

The FEIR also cites the industry practice of amortizing GHG emissions from construction over 30 years for CEQA analysis purposes, and the City’s own acceptance of that practice. (FEIR, Appdx. TO, vol. II, p. 133.) Neither demonstrates that the 30-year lifespan should be used, only that it currently is used. This is a description of a current practice, not a regulatory standard or scientific justification for the use of a lifespan for housing that is exceeded in California by a majority of the housing units, as set out earlier in these comments.

Finally, the FEIR pleads technical inability to predict or model the GHG emissions of residential projects past a 30-year lifespan. It also cites to Executive Order EO S-03-05, which set the GHG emissions reductions goals for California out to 2050, saying that “[t]he 30-year project life generally aligns with the 2050 horizon year established in EO S-3-05.” (FEIR, Appdx. TO, vol. II, p. 134.) CEQA is clear that “[d]rafting an EIR . . . necessarily involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all it reasonably can.” (Guidelines § 15144.) Whatever the limits of current GHG modeling, the City must find out and disclose all it reasonably can. Here, the City has shown that, even assuming for purposes of argument that it cannot forecast GHG emissions past a 30-year life for North River Farms, it apparently has enough information to require mitigation that will last beyond 2050. (FEIR, Appdx. TO, vol. II, p. 134.) The City should continue to do so. As part of its continuing obligation to monitor the mitigation for the Project, the City could revisit the GHG modeling and mitigation periodically and update it to reflect real-world progress in modeling and GHG controls. What it should not do is throw up its hands and claim it is powerless to predict or control GHG emissions beyond 30 years. Doing so violates Public Resources Code sections 21002 and 20181, subdivision (a).

Conclusion

The FEIR makes some changes in the Project that will reduce both conventional pollution and GHG emissions, mostly through increased energy conservation. However, the EIR remains profoundly inadequate, both as to conventional air pollution and as to climate change/GHG emissions offsetting. The City can and must do more. It has a legal obligation to its residents to revise and recirculate the EIR to address the problems and deficiencies discussed herein.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Josh Chatten-Brown". The signature is stylized and written in a cursive-like font.

Josh Chatten-Brown

cc: Robert Dmohowski

EXHIBIT A

From: "Young, Stanley@ARB" <stanley.young@arb.ca.gov>
Date: February 1, 2018 at 11:17:52 AM PST
To: Ry Rivard <Ry.Rivard@voiceofsandiego.org>, "Diaz, Pamela@ARB" <Pamela.Diaz@arb.ca.gov>
Subject: RE: Carbon offset questions

Ry,

As we mentioned before, CARB only certifies the three registries, and we do not regulate or certify the voluntary offset market.

As for the CAPCOA GHG RX. You're right, it has not been active, as you note, but it is still available as a platform for parties to purchase or provide offsets.

Cheers
Stanley

From: Ry Rivard [<mailto:Ry.Rivard@voiceofsandiego.org>]
Sent: Tuesday, January 30, 2018 12:24 PM
To: Diaz, Pamela@ARB <Pamela.Diaz@arb.ca.gov>
Cc: Young, Stanley@ARB <stanley.young@arb.ca.gov>
Subject: Re: Carbon offset questions

Pamela,

Thanks for the email. Also, I think you may have accidentally called me earlier.

These answers are really helpful, but I may need some more help understanding something. The county and some of the developers down here are making a big deal about how they would only buy credits through CARB-approved registries. But some of them are planning to buy international credits, which, as I understand it from your email, are not regulated by CARB. So, as far as I can tell, they're using CARB's name as a seal of approval on a product that CARB does not oversee in any way?

For instance, here's what a spokeswoman for San Diego County said in an email responding (in red) to a question I asked (in blue):

Can you help me understand what sort of verification process a developer going abroad for credits would have to comply with? **The County requires CARB-approved registries so that we can ensure that the offsets will be quality based on CARB-approved performance standards.**

And here's what a developer said, first in quoting from an EIR they submitted to the county, and second in narrating what it means:

“carbon offset” shall mean an instrument issued by any of the following: (i) the Climate Action Reserve, the American Carbon Registry, and the Verified Carbon Standard, (ii) any registry approved by CARB to act as a registry under the State’s cap-and-trade program, or (iii) if no registry is in existence as identified in options (i) and (ii), above, then any other reputable registry or entity that issues carbon offsets.

So, per above, CAR, ACR, and VCS are the most well-known registries that have been approved by CARB, but there are others as well. These registries must meet specific regulatory criteria to be approved by CARB. They help facilitate the listing, reporting, and verification of offset projects (worldwide, not just in CA), and they also issue registry offset credits.

So, they use terms like “CARB-approved” to apply to registries, when CARB’s approval only covers certain credits used in the registries, almost none of which will be used by these developers. This seems, in light of your email, extremely disingenuous on their part, but I want to make sure I understand what ARB is saying.

Second, my understanding is that the CAPCOA GHG RX you mention isn’t really up and running, hasn’t sold any credits and is likely to be either shutdown or managed in some other way than its current form. I’m not sure if that’s also CARB’s understanding, but it’s not really a functioning system at this point, as far as I can tell. Do you all have a different understanding of its status?

-Ry

From: "Diaz, Pamela@ARB" <Pamela.Diaz@arb.ca.gov>
Date: Tuesday, January 30, 2018 at 11:54 AM
To: Ry Rivard <Ry.Rivard@voiceofsandiego.org>
Cc: "Young, Stanley@ARB" <stanley.young@arb.ca.gov>
Subject: RE: Carbon offset questions

Good morning Ry,
CARB has issued the following response to your inquiry.
Please attribute the response to: Stanley Young, CARB Office of
Communications Director

- 1. Explain the difference between credits in the registries approved for cap and trade and those approved for other offsets, like developers trying to comply with San Diego County’s proposed climate action plan.**

The California Air Resources Board has approved offset project registries to aid in the implementation of the compliance offset program component of the state's Cap-and-Trade Program. The registries perform mainly administrative functions in ensuring that eligible offset projects have submitted required documentation and obtained third-party verification pursuant to the Cap-and-Trade Regulation and applicable CARB-approved Compliance Offset Protocols. CARB then reviews and approves all offset projects before issuing what are known as "compliance-grade offset credits" that are the equivalent to allowances and can be used by regulated entities in the Cap-and-Trade Program to meet a very limited portion (up to 8 percent) of their annual compliance obligations.

The offset project registries, as well as other organizations, also operate voluntary offset markets, where they issue voluntary offset credits that are **NOT** eligible to transition to compliance-grade offset credits. The voluntary market is completely separate from the compliance market and CARB does not oversee it in any way, nor does CARB regulate how voluntary credits are used. More information on CARB's Compliance Offset Program is available here: <https://www.arb.ca.gov/cc/capandtrade/offsets/offsets.htm>

2. **Are international credits cheaper? Who can use them?**

CARB's Compliance Offset Program for the Cap-and-Trade Regulation is specifically limited to offset projects within the United States, although offset credits issued in Quebec or Ontario are also eligible for use since we have linked the California Cap-and-Trade Program with the cap-and-trade programs in those two jurisdictions. CARB does not issue compliance offset credits to international projects. Internationally generated credits are available through the voluntary market, which, as we mentioned above, is completely separate from offset credits that can be used in our Cap-and-Trade Program. CARB does not track voluntary credit prices nor who can use them. Third-party sources, such as Forest Trend's "State of the Voluntary Carbon Market 2017"

(<http://forest-trends.org/releases/p/sovcm2017>) may provide some useful information on the voluntary market.

3. How does the air board's preference for local mitigation might conflict with a county CAP that allows for international credits?

CARB implements many clean air programs designed to address local air pollution, regional air pollution, and global pollutants (like greenhouse gases). For climate change, reductions of greenhouse gases anywhere in the world address the climate change problem, but reductions in our communities, regions and state can also provide jobs, economic, and environmental benefits.

The Scoping Plan (adopted in Dec 2017) encourages local jurisdictions to develop climate plans. For project level approvals, we note (on page 102) that to the degree that a project relies on GHG mitigation measures, we recommend that the lead agencies prioritize on-site design features that reduce emissions, especially those that contribute to air quality, health and economic co-benefits locally. To the extent that additional mitigation is needed, regionally, reductions can be achieved through a variety of projects within the region in question, like building retrofits, installation of EV chargers and investing in local urban forests. Where further project design or regional investments are infeasible, it may be appropriate to mitigate project emissions through purchasing and retiring carbon credits. The Scoping Plan also notes that the California Air Pollution Control Officers Association has developed a GHG Reduction Exchange for California Environmental Quality Act mitigation, which could provide credits to achieve additional reductions. It may also be appropriate to utilize credits issued by a recognized and reputable voluntary carbon registry.

If you have further questions, don't hesitate to contact us. Could you please tell us when are you going to publish your report.

Best regards,

Pamela Diaz
Office of Communications
Information Officer
[916-322-2638](tel:916-322-2638)

From: Ry Rivard [<mailto:Ry.Rivard@voiceofsandiego.org>]
Sent: Monday, January 29, 2018 4:10 PM
To: Diaz, Pamela@ARB <Pamela.Diaz@arb.ca.gov>
Subject: Re: Carbon offset questions

Pamela,

Thank you. Is by noon tomorrow at all possible? I apologize for that suddenness, but having been out sick for a day and then playing a bit of phone tag with Stanley, things snuck up on me.

-Ry

From: "Diaz, Pamela@ARB" <Pamela.Diaz@arb.ca.gov>
Date: Monday, January 29, 2018 at 3:25 PM
To: Ry Rivard <Ry.Rivard@voiceofsandiego.org>
Cc: "Young, Stanley@ARB" <stanley.young@arb.ca.gov>
Subject: RE: Carbon offset questions

Hello Ry,

Thanks for breaking down your questions. We are working on getting those answered. Please, can you confirm your deadline?
Talk to you soon,

Pamela Diaz
Office of Communications
Information Officer
[916-322-2638](tel:916-322-2638)

From: Ry Rivard [<mailto:Ry.Rivard@voiceofsandiego.org>]
Sent: Monday, January 29, 2018 2:32 PM
To: Diaz, Pamela@ARB <Pamela.Diaz@arb.ca.gov>; Young, Stanley@ARB <stanley.young@arb.ca.gov>
Subject: Re: Carbon offset questions

Resending because I had the wrong email for Stanley.

-Ry

From: Ry Rivard <Ry.Rivard@voiceofsandiego.org>
Date: Monday, January 29, 2018 at 2:24 PM
To: "Diaz, Pamela@ARB" <Pamela.Diaz@arb.ca.gov>, "stanley.young@air.ca.gov" <stanley.young@air.ca.gov>
Subject: Carbon offset questions

Stanley and Pamela,

Sorry I missed your call Thursday, Stanley, and your call today, Pamela.

I am trying to get some quick answers to a few questions about the CARB-approved registries.

First, I am trying to understand the difference between credits in the registries approved for cap and trade and those approved for other offsets, like developers trying to comply with San Diego County's proposed climate action plan.

Second, I'm trying to understand if international credits are cheaper and who can use them.

Third, I'm trying to understand how the air board's preference for local mitigation might conflict with a county CAP that allows for international credits.

-Ry

Ry Rivard

Reporter

[Voice of San Diego](#)

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