

# Compliance Offsets Protocol Task Force Meeting #3

## MEETING SUMMARY

March 2<sup>nd</sup>, 2021

Virtual Meeting

### Welcome, Establishment of Quorum and Agenda Review

Gavin McCabe, Chair, opened the third meeting of the California Air Resources Board (CARB) Compliance Offsets Protocol Task Force (Task Force). He noted that this meeting is a year to the day from the original first meeting and that it has been a very eventful year. He thanked everyone for their participation and hard work. Mr. McCabe reviewed the agenda. The Task Force would go through each section of the Draft Final Recommendations Report that subgroups have worked to update since the Task Force last met in November. For each chapter, the subgroup would introduce the section, then Task Force members would discuss and propose changes, followed by public comment. After a final public comment period, the Task Force would consider any final changes and finalize the report for submittal to CARB. The report will be a non-binding set of recommendations for the Board to consider. Mr. McCabe thanked all those who submitted comments prior to the meeting.

### Attendance

Paul Cheng of CARB called the roll to establish quorum. All members were present. For a current list of Task Force members please refer to the [Task Force webpage](#).

### Public Comment

Kristen Taddonio, Institute of Governance and Sustainable Development (IGSD)

- IGSD specializes in alternatives to Ozone Depleting Substances (ODS). We applaud the group on recommendations to add chlorodifluoromethane (HCFC-22) and more potent hydrochlorofluorocarbons (HCFCs).

### Discuss Recommendations on Chapter 1: Overarching/Programmatic Considerations

Emily Warms, Chair of the Overarching/Programmatic subgroup, summarized changes the subgroup made to the chapter since November 2020. The subgroup:

- Added a table of hyperlinked recommendations.
- Modified language to make clear that the subgroup did not conduct a formal review of existing offsets. Recommendations are a product of subgroup discussions, subgroup member professional experience, public input and relevant reports.
- Incorporated some independent third party market analysis and recommendations from the 2017 CARB AB 32 Environmental Justice Advisory Committee. We reiterated that the Task Force is only an advisory body, not a decision-making or regulatory body, and that CARB will make any final decision on offsets through a process that will involve public comment.

- Based on Task Force direction, moved some recommendations from the Forestry chapter to this one.
- Added new recommendations to improve offset program implementation efficiency, recommendations to:
  - Add a project review status tracker so project developers can see where they are in the review process;
  - Holding opening and closing meetings for CARB reviews.
  - Implementing risk-based reviews
  - Ensuring that CARB guidance is publicly and regularly available to all program participants to improve the access and transparency of guidance.

Dr. Andrea Tuttle thanked Ms. Warms for her leadership of the subgroup. She highlighted that the subgroup tried to address its charter and the intent of the legislation. The subgroup added:

- A lengthy list of recommendations to specifically support disadvantaged, Native American, agricultural, and rural participation.
- Recommendations to prioritize protocols with Direct Environmental Benefits (DEBS) for California.
- Options for expanding the use of offsets beyond the cap-and-trade market for climate purposes such as meeting CEQA obligations and carbon neutral pledges.
- Recommendations for improving the transparency of the CARB review process for project developers.
- A recommendation that CARB consider its staff capacity in deciding how it moves forward to address needed improvements.

Subgroup member David Ford said he appreciates the leadership and work done by Ms. Warms to make the chapter better organized and clearer. There is significant improvement in the chapter from the November version. It offers a lot of good food for thought for CARB.

### ***Task Force Discussion on Overarching/Programmatic Considerations***

Robert Parkhurst proposed four minor changes to help with clarity:

- In Recommendation 1, second sentence (Page 13), “Limit offset invalidation to infractions that occur on the project site and have an environmental impact” seems to limit any invalidation just to environmental impact. Overcrediting by 5% and the double-selling of an offset would still be grounds for invalidation. That was your intent, wasn’t it?
  - Ms. Warms responded that the intent of the recommendation was to narrow the focus of particular infractions to have a very clear and direct environmental impact and specifically on the greenhouse gas reductions achieved by the project.
  - Mr. Parkhurst suggested a change to increase clarity: “Limit offset invalidation from local, regional, state, and national environmental and health and safety laws and regulations.”
  - Mr. Ford noted this change increased clarity. The Task Force accepted the change.

- Increase the clarity of Recommendation 4 by including the word “goal” after “carbon neutrality” and replacing “curbing aviation emissions” with more specific language regarding participation in CORSIA. There were no objections to making this change.
- On Page 29, third paragraph, second line, under the heading C. Criteria for Prioritization of New Protocols, change “Certain subgroups” to “Several of the Offset Task Force subgroups” and make the sentence past tense by removing “have attempted to” and changing “categorize and prioritize” to past tense. The Task Force agreed to this change.
- On Page 31, second paragraph, rework the first two sentences for clarity. The original: “small – less than 1,000 acres. The average size of most farms in California is 500 acres.” The change: “small. The ownership of most forestland is less than 1,000 acres and the average size of most farms in California is 500 acres.” This would not change the intent of the paragraph. The Task Force agreed to this change.

### **Public Comments**

Jon Costantino, Verified Emission Reduction Association (VERA)

- VERA, a group of 10 offset developers, submitted a letter of support, and its members are happy to see recommendations to improve the program and make it more robust. There are not any issues with Mr. Parkhurt’s edits for clarity. VERA supports A1, A2, A4, and B 5, 6, 8, 15, 16 and 17. The organization understands that the scoping plan will take this document, as well as others, into consideration. Not every part of this document will be adopted and VERA looks forward to participating as this moves forward.

Madonna Soctomah

- Q: Were there any changes in regards to tribal entities in this process? I am curious if any changes can be mailed to me in hard copy.
- A: Ms. Warms noted a number of the recommendations regarding tribes were consolidated to this chapter since they are critical to all offset types. Introductory paragraphs were changed slightly to apply more broadly to all the different types of protocols that the Task Force is considering. Edits were fairly minor.
- A: Timothy Hayden added that there was some redundancy between the subgroup chapters and, by consolidating the discussion of Native Americans in the programmatic chapter, the Task Force was able to remove that redundancy.
- A: CARB staff member will connect with Madonna Soctomah offline regarding her request for a hard copy of the report.

Mel Jones

- Q: What is meant by “other indigenous communities” and what is the physical location of those organizations?
- A: This was an attempt to be as inclusive as possible. This might include tribes in California that do not have federal recognition but also indigenous populations outside the United States, such as tribes in South America and Canada. We did not have a specific region in mind.

Madonna Soctomah

- Q: The Passamaquoddy Tribe in Maine has a different kind of settlement than other federally recognized tribes in the U.S. Would this language include that tribe?
- A: We did not consider tribes individually. However the language that we used tries to capture other communities including those that do not have federally recognized status.

There were no more Task Force comments on this chapter.

### **Discuss Recommendations on Chapter 2: Blue Carbon and Wetlands**

Timothy Hayden, Chair of the Blue Carbon/Wetlands subgroup, introduced the chapter. Mr. Hayden noted the recommendations did not change between the first draft and this draft. The subgroup believes the American Carbon Registry's Restoration of California Deltaic and Coastal Wetlands Methodology is the most applicable to California and DEBS and has the greatest potential to reduce greenhouse gas emissions. To reduce redundancy within the report, the Task Force took the section on disadvantaged communities from this chapter and moved it to Chapter 1. That was the only substantial change. Most other changes were to fix typos and grammar.

Subgroup member Dr. Tuttle thanked Mr. Hayden for his leadership of this subgroup. There are not many protocols for wetlands because they are very difficult. Tracking is data intensive, requiring a lot of monitoring, and it is difficult to separate the signal from the noise. There is so much natural variation in coastal and estuarian areas that it's really hard to prove additionality. Permanence is also one of the biggest challenges with wetland projects because it's such a highly variable habitat and a wonderful new wetland can suddenly be decimated by storm surge. But researchers in the Delta call the area a "chimney of emissions." This recommendation is not to create new wetlands but rather a land use recommendation, to replace a detrimental style of agriculture with this new style. The Delta is clearly a statewide environmental concern. To achieve California's greenhouse gas reduction goals, it is a high priority for CARB to at least look at this issue through a stakeholder group process, if inclusion of this offset can help address it.

Subgroup member Mr. McCabe thanked Mr. Hayden for stepping in to become the chair of this subgroup at short notice. He said this is a good area for CARB to explore more deeply and hopes that this section gives the agency some very good food for thought.

### ***Task Force Discussion on Blue Carbon and Wetlands***

Mr. Parkhurst said he echoed the subgroup's comments on a really challenging issue. He suggested a minor edit on Page 48, first bullet: fix a typo by changing "2012" to "2020". Task Force members accepted the change.

## ***Public Comment***

Max DuBuisson, Indigo Ag

- He asked that on Page 48, first bullet, the name “Sami Osborn” be corrected to “Sami Osman”.

Sydney Chamberlin, The Nature Conservancy

- She suggested adding to the DEBS section, Page 44, that healthy wetlands protect communities and habitat from sea level rise and flooding. The idea is that healthy wetlands can help protect communities and habitat from both floods and sea level rise, and that's true for coastal wetlands, but also for Deltaic and inland wetlands as well, maybe less so, but certainly flooding.

## ***Further Task Force Discussion on Blue Carbon and Wetlands***

The Task Force agreed to both public requests for changes, noting it is in line with the subgroup’s intent.

## **Discuss Recommendations on Chapter 3: Forestry**

David Ford, chair of the Forestry subgroup, introduced the chapter. Mr. Ford reported that the subgroup focused on the existing Compliance Offset Protocol U.S. Forest Projects (FOP) and organized the recommendations into three groups: recommendations for 2021 rulemaking; recommendations that need administrative action, but do not require rulemaking; and items that need more research by an expert stakeholder working group. The subgroup:

- Reduced the total number of recommendations from 20 to 17.
- Moved four items, regarding invalidation guidance, verification guidance, CARB guidance, and aggregation, to Chapter 1, as the Task Force directed in November.
- Removed Recommendation 17B based on public comment, as it seemed to be controversial.
- Clarified Recommendation 9 (now 13) to reflect new legislative language from 2018 to reduce the amount of risk for project developers to consider implementing new inventory and monitoring technologies.
- Added two new recommendations. Recommendation 11 calls for the removal of a requirement related to inventory sampling design standards that the subgroup felt was unnecessary as protections are already built into the FOP. Recommendation 14 says that carbon projects should be added to CALFIRE’s mapped “assets at risk” as they add a lot of value to the state and should be protected if possible.
- Reviewed the 14 public comments and in response, clarified the introduction so that the text does not give the impression that the subgroup has made a formal review of the offsets program but rather followed the guidance of the legislation on how offsets could be modified to increase participation and allow for more projects that could have a direct environmental benefit to California.

Constance Best said it was an honor to serve on the Task Force as the representative of the conservation community. She asked that those considering the Task Force's recommendations keep in mind the bigger picture context of the importance of forests to California's climate solutions. The state has been a leader globally in acknowledging that forest conservation and stewardship are critical to stable climate and a livable planet. Emissions can stop today and we will still have damaging levels of GHG in the atmosphere for hundreds of years. The IPCC says that management of forests and other lands can and must provide 37% of reductions. Yet, forests are themselves a huge emissions sector. Under business as usual, U.S. forests are being lost more than any other land type and their carbon stocks are a small fraction of their historic capacity. Without forest owners firmly committed to maintaining and restoring carbon stocks and to managing them for climate resiliency, we can't begin to heal our climate. There are three ways to get the greatest contributions from the forest sector in the critical window of the next 10-20 years: stop forest loss; protect the few remaining carbon rich forests; and allow existing forests to grow older. The only means to fight the economic forces driving forest loss and degradation is to provide new revenue sources for climate action. Offsets are one way to do that. The revenue gained by landowners from the sale of offsets is essential to their participation in generating lasting, long term climate benefits. Her organization, Pacific Forest Trust (PFT), views the Forest Compliance Protocol as an essential tool, while it is not sufficient alone to assure the forest sector contributes what is needed to bend the emissions curve. The fact that forest emission reductions are used as offsets and serve as an alternative compliance mechanism to that of direct emissions reductions makes it more important to maintain the conservative accounting and 100-year commitment of the Compliance Protocol while improvements to advance participation and equity are made. The report's recommended actions will do this. Beyond offsets, many approaches are needed to achieve healthy clean air for everyone, especially frontline and fenceline communities disproportionately impacted by dirty air and climate change. PFT supports California's approach to offsets because it ensures that they represent a very small slice of a polluter's mandated emissions reductions and believe offsets should only be used to reduce emissions that can't be reduced readily other ways, serving as a bridge strategy.

### ***Task Force Discussion on Forestry***

There was no discussion.

### ***Public Comments***

Madonna Soctomah

- Q: In Recommendation 3, how did you come up with the definition of the Forest Owner?
- A: Currently "Forest Owner" is defined as any person who has an interest in a piece of forest. This can add liability which has a chilling effect on offsets. For example, someone with a trail easement is now considered an "owner" even though they have no control over the property or the project. The recommendation would clearly define a forest owner as those who actually own or have timber rights in the land.

Misti Schmidt, California Council of Land Trusts

- To be explicit on this item, on Page 61, Section B, the second paragraph, we suggest adding “ownership or management” prior to the first use of the word “interest” and adding a third paragraph stating “The holders of easements that do not have management or ownership control over the timber or the land will not be deemed to be Forest Owners.”

### ***Task Force Discussion on Forestry Public Comments***

The Task Force accepted these proposed changes.

### **Discuss Recommendations on Chapter 4: Livestock, Agriculture and Rangeland**

Robert Parkhurst and Jean-Pierre "J.P." Cativiela, co-chairs of the Agriculture subgroup, introduced the chapter. Mr. Parkhurst noted recommendations did not change from the November draft. The subgroup reviewed 80 public comments submitted by 15 organizations and looked at how they could be applied to the document. The subgroup looked at how practices work in California and how they could work in the rest of the country and what science supported practices, with the help of subgroup member Dr. Frank Mitloehner and his team at UC Davis, who also did economic calculations on the compost application to grazed lands issue.

J.P. Cativiela recognized that some of the practices mentioned by commenters were good practices but were missing something. Is there enough science to quantify reductions from these practices and support the analysis for a protocol? If we went to the trouble of adding a protocol, would it be adopted? Would it incentivize practices? We were trying to focus limited resources where there is an opportunity to make a difference.

Subgroup member Tim Hayden thanked the co-chairs for the time and effort they put in.

### ***Task Force Discussion on Agriculture***

There was no discussion.

### ***Public Comments***

Patrick Wood, Ag Methane Advisors

- We support the recommendations of both the Livestock, Agriculture and Rangeland and Programmatic/Overarching subgroups.
- Q: Did you consider the global warming potential – star (GWP\*) metric or 20-year time horizons?
- A: We are certainly aware of the GWP\* conversations. We felt that was outside the bounds of what we were asked to look at. It would have to be considered in the way allowances and offsets are calculated, which are outside what this Task Force is tasked with.
- A: Dr. Frank Mitloehner said that GWP<sub>100</sub> treats methane the same as carbon dioxide and nitrous oxide, even though it does not behave the same – methane is not just produced but is also destroyed. GWP\* takes that into account. If

changes in methane are stable, it does not impact warming. When methane is destroyed, it contributes to negative warming. This topic is hotly debated at the IPCC and the UN Food and Agriculture Organization, and will have public policy relevance, but it is too early for this Task Force's report.

Max DuBuisson, Indigo Ag

- He urged the Task Force to take a broad and flexible approach to protocols for cropland management, instead of offsets focused on individual practices, with guardrails for project performance. There is enough science. The old way of thinking is a narrow crop focus, rather than an outcome-focused approach allowing the offset to expand over time as new data becomes available. Two leading registries developed protocols for these new methods. As far as whether these would incentivize practices, they are occurring in 21 states and on hundreds of farms and are already applicable to California.

Katrina Von Burg, graduate student, Middlebury Institute of International Studies at Monterey

- Two out of the three highlighted management practices relate to dairy.
- Q: What do you think about the additionality aspects regarding dairy, as they are already required to reduce emissions, related to the offsets program's goal of incentivizing new projects?
- A: Anything being done in this space is additional as there are currently no regulations around it in or outside California. Because dairies emit methane directly, they naturally float to the top. The group did not consider type of farming. The subgroup identified approaches that would significantly reduce emissions in California and were very likely to be taken up, where the additional revenue could make a difference.

### ***Task Force Discussion on Livestock, Agriculture and Rangeland Public Comments***

Mr. Parkhurst said that, regarding manure management, most California Department of Food and Agriculture programs are in the pilot stage and could be scaled up with the right incentives. There are a large number of digesters. In enteric fermentation, there is nothing on the market now and an incentive is needed because of the additional cost to add it to the feed. He is excited by the potential.

Mr. McCabe added that CARB uses a conservative business as usual standard for additionality.

Mr. Cativiela added that the subgroup would not have recommended a new protocol if they did not think it would provide some additionality.



## **Discuss Recommendations on Chapter 5: Urban Forestry, High GWP (ODS), and Mine Methane Capture**

Mr. McCabe, chair of this subgroup, introduced the chapter. The subgroup tackled three areas, each of which could have been a single topic for a subgroup. There were not a large number of public comments on this section. The subgroup had some discussion on halon, as that was the major topic of public comments. The group made one major change, adding a notation regarding the debate on halon, as comments differed, commending the topic to CARB. However the subgroup itself did not make a recommendation around halon as it lacked the scientific background to do so.

### ***Task Force Discussion on Urban Forestry, High GWP (ODS), and Mine Methane Capture***

Mr. McCabe suggested a minor edit on Page 180, second paragraph, first sentence: the addition of the word “the” prior to the word “Subgroup”.

Ms. Best urged CARB to update the Urban Forestry protocol as the subgroup recommended, as the current protocol is ineffective and the Task Force’s suggestion could fix that in the near term. It is hugely important to people and the atmosphere to expand tree cover in urban areas.

### ***Public Comments***

There were no public comments.

## **Task Force Consideration and Finalization of Recommendations Report**

### ***Public Comments***

Anthony Brunello, California Forest Carbon Coalition

- We hope all of the recommendations can be matched with the broader conversation around how to help frontline communities and looking at how that conversation can be advanced. One of the primary ways to do that is to simply have an open airing of all these topics at CARB and to open up the forest protocol. He hopes that eventually happens, having a more expansive conversation building on what the Task Force has done.
- Q: Are there are any plans to talk to legislators regarding the report?
- A: Mr. McCabe noted the Task Force will sunset after that day, so would not have an opportunity to meet with legislators as a formal Task Force. He hopes that CARB and the Board will use the report.

Kevin Hagen

- CARB has an opportunity to add halon to the offsets program. There needs to be an environmentally responsible end of life plan. By including it in the ODS program within the offsets program, that can happen. With current stocks, halon has a high risk of being released into the atmosphere. COVID has disrupted industry understanding of market demand and there might already be an

oversupply. Thank you for supporting the industry in responsibly disposing of this gas.

### ***Task Force Discussion***

Ms. Warms said Mr. Brunello's suggestion is an interesting idea that might be worth further discussion. She encouraged CARB staff to formally present the recommendations to the CARB Board. Potentially there could be a briefing of members of the Administration and Legislature who might be interested by Task Force members of CARB staff.

Mr. McCabe agreed, adding that if individual Task Force members are called upon to elaborate, it would be up to that individual to respond to CARB staff or others, as subgroups or individuals. Mr. McCabe said he views this as the beginning of a conversation.

Dr. Tuttle asked for clarification from CARB staff on the next steps for this report. Paul Cheng said the report will be finalized by the end of this week and posted to the [Task Force webpage](#), and staff will alert the Board to its posting. The report is very lengthy with a lot of recommendations, and it will take CARB staff time to digest them and then launch the normal rulemaking process, which would include technical meetings and public workshops. Shelby Livingston, manager of CARB's Offsets Program, said there would be no formal CARB staff presentation to the Board; staff will look at the report.

There were no further changes suggested for the report.

### ***Finalization of the Report***

Task Force members agreed to accept the changes made during the meeting and deem the report final and ready to be submitted to CARB and the CARB Board.

Mr. Ford said he had believed he heard, in the Task Force's first meeting, that it would be Mr. McCabe's responsibility as Task Force Chair to go before the CARB Board to present the report. That would be helpful to highlight the group's work.

Jason Gray, head of CARB's Cap-and-Trade Program, noted that the report will be publicized on the Task Force webpage to establish that online record, thereby transmitting it to the Board. If there is any additional follow-on, Bagley-Keene would need to be considered.

Mr. Parkhurst asked what the timing would be for CARB to act based on the recommendations. Ms. Livingston said she couldn't now determine the timeframe, but it would not be years.

Ms. Warms said she takes staff comments in good faith that they will give a lot of thought on how to proceed. It may be useful to reach out to legislators.

Dr. Tuttle suggested drafting a letter of transmittal from the Task Force to the Speaker of the Assembly and copy committees. Legislators set out the charge and this would formally communicate that the Task Force completed its mission. Dr. Tuttle volunteered to help write the letter if needed.

Mr. McCabe agreed with Dr. Tuttle, raising the question of whether that would be done by CARB staff or the Task Force. No Task Force decision was taken on this suggestion.

### ***Public Comments***

Gary Hughes, Biofuelwatch

- Biofuelwatch, a member of the Global Forest Coalition, would not be opposed to this document being presented to the CARB Board as long as there would be an opportunity for robust public comment, and before the Legislature and its committees to ensure the Board and Legislature can hear about all of the issues relating to the offsets protocol program.

### ***Summary Comments and Thoughts***

Ms. Livingston said there has been an incredible amount of effort, and expressed appreciation for facilitators and CARB staff, as well as the Task Force members who have volunteered their time and shared their expertise and thoughts, pouring all of that effort into this document that will not be put on a shelf, but used and heard. She said the pandemic has not been the ideal time to do this work, but the Task Force has come up with a report that will help inform CARB.

Dr. Tuttle noted that this was a serious time commitment and said she takes pride in what the Task Force has put together, and felt it was an honor to work with everyone. She enthusiastically endorsed the report and hopes that it is implemented. She did feel that not only the pandemic but also Bagley-Keene open meeting rules were an obstacle to the Task Force's work, creating artificial siloing that impeded communication among Task Force members. Offsets are a useful tool in California's climate toolbox, playing a small part in bringing sectors in to climate actions.

Mr. Parkhurst agreed regarding the challenges of building this report during a pandemic while following open meeting rules. He thanked the agricultural community for nominating him to this position, and the Board and staff. While he does not agree with every single part of the report, overall it stands very well as a testament to what experts in the field are thinking.

Mr. McCabe suggested to CARB that if there was an opportunity to exempt some groups from Bagley-Keene, that would be helpful. Like others, he only had an opportunity to work closely with a few people, and trusts those relationships will continue.

## **Wrap Up and Next Steps**

Mr. McCabe closed the meeting.