



August 22, 2008

Via E-Mail & Facsimile

The Honorable Don Perata
California Senator
State Capitol, Room 205
Sacramento, CA 95814

Re: SB 1762 and AB 1851: Voluntary Greenhouse Gas Offsets -- Oppose

Dear Senator Perata:

The Carbon Offset Providers Coalition (the "COPC")¹ is made up of leading companies in the carbon offset market, including those involved in financing, producing, generating, providing, aggregating, and/or marketing greenhouse gas ("GHG") emission reductions for sale as offsets in existing and emerging voluntary and regulatory GHG emission trading markets.

The COPC has great concerns about SB 1762 (and what is now its identical companion bill, AB 1851). We support the stated intent of the bill to increase transparency in the voluntary offsets market. We have worked with your staff in an effort to address our concerns so that the bill might achieve this purpose without doing great and needless damage to the existing offsets market. We submitted proposed amendments that would promote transparency without damaging this emerging market; they also would have corrected aspects of the bill that are simply not workable. Unfortunately, our concerns were disregarded, and we therefore must oppose SB 1762. In its current form, the bill actually would regulate the offsets market in a few short and overly restrictive provisions. It would have the effect of greatly damaging the voluntary offsets market, which would be bad for both economy and the environment.

The COPC supports what we understand to be the goals of SB 1762. Purchasers of voluntary offsets, whether they be consumers or businesses, should have confidence that the GHG emission reductions they buy are indeed real, additional, verifiable, unique, and permanent. Many stakeholders in this sector, including many governmental entities and leading environmental NGOs, are making great efforts to ensure the quality of the offsets that are delivered to the market. These include the development of comprehensive standards and protocols for offsets, as well as registries. Without endorsing any particular organization or standard, we here note some of the leading examples:

¹ The members of the Coalition include the following companies: Blue Source, LLC; Camco International Group, Inc.; The CarbonNeutral Company; CO₂ Solutions; Commonwealth Resource Management Corp.; Environmental Credit Corp.; Greenhouse Gas Services (a GE AES venture); Kolibri Group; MGM International; and N.Serve Environmental Services. More information is available at www.carbonoffsetproviders.org.



- The United Nations' Clean Development Mechanism: <http://cdm.unfccc.int/methodologies/index.html>;
- U.S. EPA's Climate Leaders Program: <http://www.epa.gov/climateleaders/>;
- The Voluntary Carbon Standard: <http://www.v-c-s.org/>;
- Gold Standard for Voluntary Offsets: <http://www.cdmgoldstandard.org/>;
- Climate, Community & Biodiversity Standards: <http://www.climate-standards.org/>;
- Chicago Climate Exchange: <http://www.chicagoclimatex.com/>; and
- Plan Vivo: <http://www.planvivo.org>

We support calls for full disclosure of the standard or protocol to which a given offset project adheres. This would enable purchasers to make informed decisions and evaluate for themselves whether a particular offset meets their own criteria.

SB 1762, however, does far more than require disclosure to enable informed decision-making. It would make it unlawful to promote offsets unless they adhere to one of three sets of protocols: those established by the California Air Resources Board ("ARB"), of which as yet there are none; those established by the California Climate Action Registry ("CCAR"), of which at present there are only four; or a third category. We support the inclusion of the first two categories; however, they are in their earliest stages and have developed few protocols. The problem is the third category, which, because there are so few approved protocols in the first two categories, is the one that most voluntary offsets today would have to meet.

This third category ignores all of the good work done around the world by organizations such as those listed above, and instead sets forth a list of criteria that is both too restrictive *and* ambiguous. For example, it requires that an offset be "verifiable and enforceable" by a California agency, which effectively negates *all* out-of-state offsets. It's also unclear how a *voluntary* offset would be "enforceable" by a state agency. Similarly, with no established criteria, it would be virtually impossible for many quality offset projects to establish in advance that they do "not result in adverse environmental impacts" (which under the bill also includes impacts on "biodiversity" and "access to food"). The bill also requires that written records be maintained to prove that the project meets all of these sweeping yet vague criteria.

Such ambiguity is an invitation to litigation -- and that invitation has been embossed with the addition of citizens suit enforcement provisions that include attorneys fees. What documents would "prove the negative" that a project does not have any adverse environmental impacts? One could show adherence to a respected and robust protocol, but there is nothing to prevent a litigant -- or one ill-informed judge -- from declaring that insufficient and imposing liability. SB 1792 also casts a very wide net of potential liability: it applies not only to those that develop and promote offsets, but also those that "use" them. Thus, those businesses that seek to improve their carbon footprint through the use of offsets would be subject to litigation as well. Rather than face the prospect of such litigation, most will cease to develop or use voluntary offsets.



This would be bad for the economy and bad for the environment. The offsets sector is generating economic opportunities in traditionally disadvantaged areas such as rural communities. It is improving the environment by reducing or sequestering GHG emissions *today*, not in a future “post-carbon” economy. Many offset projects also deliver additional environmental co-benefits, such as natural resources restoration, improved water quality management and reduction of other air pollutants. Voluntary offsets enable those in non-regulated sectors -- including consumers -- to participate in the fight against global warming. For all these reasons, the voluntary market for quality GHG offsets should be encouraged.

Finally, we note that SB 1762 is at odds with California’s participation in the Western Climate Initiative (“WCI”). Section 9.9.2 of the WCI’s July 23, 2008 Draft Design of the Regional Cap-and-Trade Program states that, “***WCI Partners do not intend to regulate or restrict the existing voluntary market in offsets***, to restrict the sale of offsets from projects located within the WCI states and provinces, or to place restrictions on ownership of offsets projects located within WCI partner states and provinces.” As explained above, SB 1762 definitely would regulate the existing voluntary market -- and would have the effect of severely restricting this emerging market.

SB 1762 goes far beyond its stated intention of ensuring transparency in the emerging carbon markets. It would seriously damage if not destroy the emerging voluntary offsets market, and as such would do harm to the environment. As there is not enough time during the current legislative session to amend the bill to address these major problems, COPC respectfully requests that you withdraw the bill.

If SB 1762 (or its companion bill AB 1851) should be approved by the California legislature, then the COPC strongly recommends that Governor Schwarzenegger veto the bill.

Sincerely,

A handwritten signature in black ink that reads "Roger Williams" followed by a stylized flourish.

Roger Williams
Chairman
Carbon Offset Providers Coalition

cc: Governor Arnold Schwarzenegger
Assemblyman Pedro Nava