



■ Photos: See individual captions in this section.

Climate Justice

California's landmark 2006 Global Warming Solutions Act (AB32) requires the state to reduce greenhouse gas emissions to 1990 levels by the year 2020. These are the most ambitious targets in the United States and environmental justice groups went to bat for the law in a referendum battle (Proposition 23) in the November 2010 election. While there is near-universal support from environmentalists on the intent of the law, a split has developed over the California Air Resources Board's (CARB) implementation of it. Despite recommendations from its own Environmental Justice Advisory Committee and Economic and Allocation Advisory Committee, CARB (directed by then-Governor Arnold Schwarzenegger) decided to use a so-called "cap-and-trade" model to provide incentives to businesses to reduce greenhouse gas emissions for 20 percent of the

targeted reductions. This decision was finalized on December 16, 2010.

On March 17, 2011 a San Francisco Superior Court blocked implementation of all of AB32 based on a lawsuit by Environmental Justice groups. In their April 22 filings, the EJ plaintiffs offered to restrict the block on implementation to the cap-and-trade part of the plan, but so far CARB has not taken them up on the offer. Many of the elements in the overall California plan—such as vehicle emission standards and the requirement that utilities purchase 33 percent of their power from renewable sources—have distinct legislative origins and will continue to move forward, but as of May 2011, AB32 remains on hold. For *Resources and Frequently Asked Questions*, please see page 87. ■—Ed.



Outsourcing Global Warming Solutions

By Jeff Conant

When the implementation of California's Global Warming Solutions Act, AB32, came to a grinding halt due to San Francisco Superior Court's March 17, 2011 ruling that it violated the California Environmental Quality Act (CEQA), it came as a shock to industry and environmentalists alike. It would not be surprising if leading-edge environmental legislation like AB32 were to draw fire from climate-change deniers and oil interests. Indeed, the most recent attempt to derail the law, last year's Proposition 23, was pushed by two out-of-state oil companies. Voters, mobilized in large part by grassroots climate justice groups, roundly defeated that attempt.

But the lawsuit against California Air Resources Board's (CARB) regulatory framework for AB32 was undertaken by the Center for Race, Poverty and the Environment (CRPE) and Communities for a Better Environment (CBE)—two groups that advocate on behalf of “frontline and fence-line environmental justice communities.” They represent low-income people and people of color who live, work and play in the shadow of refineries in Wilmington and Richmond, in the agribusiness fields of the Central Valley, near the waste dumps of Kettleman City, and in other California communities plagued by industrial pollution.

More surprising still, CARB's regulations are raising hackles among another unlikely constituency: indigenous peasant farmers in the remote jungle of southeastern Mexico.

Why should a law intended to reduce greenhouse gas emissions come under attack from precisely those groups most impacted by toxic pollution? And why is it of concern to subsistence farmers in remote Mexico? The answer is complicated, but it hinges on the fact that, from the perspective of those most vulnerable to the impacts of climate change and to the fossil fuel industry, cap-and-trade programs move the decision-making authority on environmental health beyond community control and into the so-called market.

Behind the Lawsuit

Rafael Aguilera is an environmental justice advocate, principal of his own consulting firm, the Verde Group,

and a strong critic of AB32's implementation plan. Aguilera was not always so critical, however. Before AB32 was passed by the legislature and signed into law in 2006, he worked with the nonprofit Environmental Defense Fund to help shape the bill. But sharp concerns about the recently approved cap-and-trade regulations approved by the CARB led him to jump back into the AB32 fray, this time to halt its implementation. In a recent talk at UC Berkeley's Goldman School for Public Policy, Aguilera and Alegria De La Cruz, legal director of the Center on Race, Poverty and the Environment, made it clear that while they support aggressive action on climate change, their concerns about AB32 are focused largely on who benefits from the law and who does not.

Aguilera began by showing a graph of the rising numbers of heat-related deaths among California's farm workers. “Current predictions for the Central Valley are three-month long heat waves—temperatures above 105 degrees in the summer months,” he said. Then he put up a slide of Maria Isabel Vasquez Jimenez, a pregnant 17-year-old farm worker who died of heat stroke near Stockton in the summer of 2008.

“Look at this face,” he told the audience. “Maria Isabel is the face of climate change.”

“Clean Air Act laws are supposed to protect public health,” Aguilera said. “In the context of new carbon regulations, such as the cap-and-trade provisions proposed in AB32, many of us assume those laws are being implemented. But they're not.”



■ Photo: Rafael Aguilera (left) and Alegria De La Cruz (right) at UC Berkeley. ©2011 Frank Lopez

Impact of CARB's Regulations

De La Cruz, one of two lead attorneys on the case, then told the story of how communities from across California had traveled to Sacramento to testify before the CARB, only to leave without having had the opportunity to speak. One of their chief concerns was that the cap-and-trade provision in AB32 would do nothing to reduce pollution in the most impacted communities.

“The impacts of these policies are happening to very specific populations because of their race and because of their class,” De La Cruz said. “For our communities, a pollution trading system violates not only the intent of AB32, because cap-and-trade has such serious implications for fence-line communities,

it also violates the letter of AB32.”

A young but seasoned advocate, De La Cruz is a Yale Graduate and a child of California farm workers. Under the implementation plan for AB32, which was approved by the CARB in December 2010 but held up in court three months later, up to 20 percent of the state's total mandated emissions reductions would be achieved through carbon trading, rather than through actual cuts in industrial pollution at the

AB32 Blocked by California Court; An interview with Alegria De La Cruz

By Frank Lopez and Joe Feria-Galicia

Frank Lopez: How are the plaintiffs going to ensure that the criteria chosen to evaluate the alternatives are going to be more equitable?

Alegria De La Cruz: Part of what is exciting to us about being able to open this [up], is that there's a lot more information available around the failures of trading processes in other areas, but also specifically in California. CEQA doesn't require specific criteria to be used when you're doing alternatives analysis, but because this is going to be such a highly-watched big-deal process, it is going to put the impetus on CARB to make sure that they are doing something that's defensible.

Because the judge was so focused on the real failures of CARB to do a good job in looking at an alternative to cap-and-trade, it provides a lot of leeway to address the things that he raised in the order and make sure that CARB is doing that.

Lopez: Is there an alternative that CRPE prefers to cap-and-trade?

De La Cruz: Anything.

Lopez: Anything but cap-and-trade?

De La Cruz: Any time you allow “flexibility” or the “market” to determine the best way forward, that's when we really see environmental justice communities suffering, no matter where they are located.

At our own advocacy organization, outside of this litigation, the communities that we represent are largely in the Central Valley. We see a lot of challenges to CARB's lack of regulation of the agricultural industry. [Our communities are located near] oil refineries near Bakersfield and in the South Kern [County] area, so we're looking at industrial regulation.

Lopez: Can you explain what you mean by direct regulation?

De La Cruz: Sure. In the agricultural industry, for example, mega-dairies are in real need of deeper regulation. Huge waste la-

goons evaporate into the [open] air. Fermenting silage is another of the huge emitters of greenhouse gas in the Central Valley. It's methane, which is more greenhouse gas creating than carbon dioxide is. So, enclosing silage piles and waste lagoons—having those be covered, vented, a bio-filter attached—would really lower some of their emissions.

Lopez: So, how would it differ with the cap-and-trade system?

De La Cruz: One of the funny things about the [CARB cap-and-trade] system is that agriculture would be a source of offsets. You could pay a dairy to install bio-filters as part of an offsets program, you could pay a dairy to enclose its silage or its lagoon, and then call it an offset.

Agriculture wasn't directly regulated because [CARB] said that the processes associated with agricultural emissions were so complicated that they couldn't measure the actual emissions.

source. This means that industries would be allowed to delay efforts to reduce carbon dioxide emissions—along with the associated toxic co-pollutants—by purchasing carbon permits.

Environmental justice advocates charge that such carbon trading schemes leave lower-income communities of color to continue bearing the brunt of industrial pollution. “The harm that our communities will suffer from a poorly made plan will be greater than the harm of not reducing emissions in a way that’s responsible, that’s legal, and that really reflects the intent and the spirit of AB32 in the first place,” De La Cruz said.

According to a March 2009 UC Berkeley study by David Roland Host, based on the draft regulations proposed by CARB, using out-of-state offsets would actually increase California’s air pollution in five out of six pollution categories.



■ Photo: Chevron Refinery in Richmond, California © 2008 Scott Braley

California forest defenders also charge that the plan gives too good a deal to the state’s timber industry by giving carbon credits to wood products and condoning clear-cutting. (See story on page 83.) The San Francisco Superior Court’s March ruling against AB32 requires that, to comply with CEQA, the Air Resources Board must consider alternatives to cap-and-trade.

“AB32 requires that the plan include maximum

But at the same time, they are going to allow agriculture to be an offset, which means they are saying they *can* count the emissions that would be reduced if you were to *pay* a dairy to enclose its silage pile or barn.

Lopez: So, who would pay the dairy?

De La Cruz: So, Chevron for example, in Richmond, if they wanted to continue to pollute or increase their pollution, they could pay a dairy to do that.

Lopez: Can you say anything in terms of how you think this lawsuit will play out?

De La Cruz: We’re in the process of writing this writ right now and I think it’s so important.

CARB—even before a final decision was coming out—had its director, Mary Nickel, saying, “Oh yeah, this is a tempest in a teapot, this really isn’t a big deal!” [They were] downplaying the significance of the win when there was a tentative order out and the judge was saying, “I think I’m going to go with this. I don’t think you did a good job.”

To characterize environmental review as paperwork, or as a tempest in a teapot when it’s something as important as California’s

cap-and-trade system, or California’s climate change plan—there’s a real strategic misstep. I think it resulted in the judge saying, “Oh really? You’re going to characterize this like that?” I think hearing the lawyers from CARB trying to really downplay CARB’s responsibilities in creating the plan really made him step back and say, “No, you’re going to do this right and you’ll do it now and this way, because that’s what the law said.”

It’s really up to CARB at this point to make sure they do it right, and protect AB32 [and the non-cap-and-trade elements of the plan]. It’s important that they don’t drive the whole damn bus off the cliff in a misguided attempt to hang on to the shreds of a pollution trading program. That’s really the choice in front of them right now.

Lopez: The passage of AB32 was a huge victory for EJ communities and now it’s tied up in the courts—by EJ communities. For a mom in East LA or a person in Richmond or Wilmington, what can they do to ensure that AB32 is going to be equitably implemented?

De La Cruz: What they have been doing,

such as registering people to vote, fighting Prop 23, being part of the process, raising their voice. This is what our empowered EJ communities have been doing from the very get go, that has allowed this law to be passed in the first place and allowed for this law to be so transformative. The message doesn’t change at all. Get involved, lift your voice, and know there’s a place for you in these processes. I think the amazing outpouring of support in the “No on Prop 23” campaign really showed the power of communities in saying, “*¡Ya basta!*” (Enough!)

It’s incredible that we won in court, too. There’s a lot of pride and a lot of excitement moving forward and making sure that AB32 be done in the spirit and intent that it was written in. ■

Frank Lopez is the Social Equity Caucus Coordinator and Joe Feria Galicia is the Educational Technologist at Urban Habitat. For the full-length interview and a speech by De La Cruz, visit urbanhabitat.org/radio/rpe.



feasible and cost-effective measures,” De La Cruz said. “The scoping plan didn’t show the range of possibilities of what makes the most economic sense for California. When they chose to include pollution trading as a huge portion of the plan, CARB clearly failed to show that cap-and-trade met those standards.”

Response from CARB

Two weeks after Aguilera and De La Cruz spoke about the lawsuit at UC Berkeley, Virgil Welch, special assistant to the Chairperson of CARB, gave a talk at the same venue, defending cap-and-trade.

“You have to understand what we’re doing here in California, in the national context,” Welch said. “It’s really not just about emissions reductions. What we’re talking about is a permanent shift toward a less carbon-intensive economy, and more sustainable transportation and land-use policies. What we’re talking about is a long-term transition, and not just the immediate emissions reduction goals.”

“This is really one of those policies that provides a price signal that will help us move to the next level of investment in energy efficiency. It’s no mistake that states like Massachusetts and California that have very strong environmental policies also have the vast majority of investment flowing into them from the clean tech sector. While there’s an environmental imperative, there’s also an economic imperative,” Welch explained.

The question, from the perspective of the low-income communities who live with the greatest impacts of environmental contamination is, an economic imperative for whom? Indeed, while AB32 attempts to reduce emissions without restricting the state’s economic interests, what does it do to meet the environmental imperatives of those for whom clean air is a matter of life or death?

Outsourcing Global Warming Solutions

While the pollution-trading piece of California’s Global Warming Solutions Act has roused the ire of environmental justice advocates in the state, the question of carbon offsets has also raised concerns south of the border, where another set of “low-income communities” are already being impacted by the legislation.

One of former Governor Schwarzenegger’s last acts in office, just a week before the United Nations Conference on Climate Change in Cancún, Mexico, was to sign agreements with the states of Chiapas, Mexico and Acre, Brazil for a state-to-state cap-and-trade agreement to be part of AB32.

As Welch explained, “Offsets are a mechanism used in a cap-and-trade program to try to achieve reductions in the sectors outside of the capped entities—that is, outside the polluting industries. CARB has adopted several offset protocols, one being forestry. From our perspective, it’s a protocol that incentivizes practices that will increase the capacity of forests to store carbon.”

The agreements with the two foreign states, as set out in Memoranda of Understanding signed in Davis on November 16, 2010, are based on a policy mechanism known as “Reducing Emissions from Deforestation and Forest Degradation,” or REDD. In theory, it works like this: Because trees capture and store CO₂, when they are burned or felled, the CO₂ they contain is released, and their potential for capturing CO₂ from industrial emissions is lost. Thus, maintaining intact forests is essential to mitigating the impacts of the climate change.

But until now, there has been little economic incentive for protecting forests. With the creation of

a vast market for trading pollution permits, such an incentive now exists. Those who protect forests can earn carbon credits—financial rewards based on an assessment of the amount of CO₂ a forest can store and a market-derived price per ton of carbon. They can then trade these credits to industrial polluters for cash, thus generating revenue that, in theory, gives governments and forest-dwelling communities around the world an incentive not to cut down trees.

Policy-makers at the global level see REDD as an exciting new strategy to address the climate crisis without jeopardizing economic growth. Efforts to develop implementation protocols for REDD have been central to U.N. climate negotiations since it was first announced in Bali, Indonesia in 2007. It enjoys broad support from the World Bank and large environmental organizations like the Environmental Defense Fund and Conservation International. But, since it was first unleashed, the policy has met with protest from indigenous groups whose lands are being targeted by the scheme, but who have had no part in designing it.

By forging an agreement to implement the “trade” part of AB32’s “cap-and-trade” protocol through REDD, former Governor Schwarzenegger set in motion a process that climate justice advocates charge will not only fail to reduce industrial contamination in California, but could lead to land grabs and forced displacement of poor communities in Chiapas and Acre.

In Chiapas: Payment for Environmental Services

Chiapas, on the border with Guatemala, is Mexico’s poorest and most indigenous state, with a long history of conflicts over land. In the Lacandon jungle, an area of the state where indigenous peoples have for centuries faced forced removal from their territories, REDD is already touching on old conflicts.

The Lacandon is best known around the world as home to the Zapatista Army of National Liberation (EZLN), the rebel group that emerged in Chiapas in the 1990s in response to NAFTA. Less well known is that one of the factors that led to the emergence of the EZLN was a historic land grab that came under the pretext of forest protection. In the 1970s, a series



of presidential decrees gave vast portions of the Lacandon jungle to the 66 families of the Lacandon tribe, as well as an arbitrary grouping of members of the Tzeltal and Ch’ol ethnic groups. The bureaucratic entity that was given ownership of much of the jungle became known as the Lacandon Community.

Now, as REDD program implementation begins, the government of Chiapas is paying landholders in the Lacandon Community 2000 pesos (around USD 200) a month to protect the forest. These payments are part of a renewed government effort to delimit “natural protected areas” in order to generate carbon credits.

On March 20, 2011, the Mexican newspaper *La Jornada* reported that “The State government authorized a monthly payment; however, this is merely to allow the completion of the forest inventory so that [members of the Lacandon Community] can access federal and international funds, as well as complement these funds with projects, such as agricultural conversion... with species, such as oil palm and rubber.”

What this means in practice is a mandate for those receiving the money to cease planting their traditional crops (which are seen as harmful to the jungle), and to increase patrolling of their territory against outsiders, designated as “invaders.” Those invaders, generally speaking, are indigenous communities who have never had formal title to the land, but who have been settled in the region for hundreds, if not thousands of years.

The village of Amador Hernández lies precisely on the border of the Lacandon Community. In a note that the villagers composed on March 25, 2011 they

Photo:
Chiapas villagers im-
pacted by REDD pay-
ments.

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Orin Langelles



wrote, “This past month, the governor of Chiapas traveled to the neighboring Lacandóna Community to make the first payments of the state-run REDD program. As he doled out the money, he told the beneficiaries that it should not be considered as a gift, but as a payment to guard the border against their neighbors—that is, us.”

Villagers from Amador Hernández charge that the state government has withdrawn all medical services to the village (leading to several deaths) as a way to force them to negotiate or move.

Santiago Martínez, a health worker in Amador Hernández, voiced a popular sentiment among his community: “They’ve always tried to find ways to prove that we, as indigenous peoples, are the cause of the problem. But global warming is the fault of the factories, of cars, of industrial production. We get around by walking, we move our products on horseback, on mules, and we produce what we need to eat ourselves. In contrast, they use gasoline, their industries burn petroleum everyday. This is the main source of pollution and of climate change.”

Martínez’s complaint echoes that of communities in California. CARB’s decision to outsource global warming “solutions” is forcing his community, one of the poorest and most marginalized in the entire hemisphere, to bear the burden for problems they had no part in causing.

Communities Demand Real Solutions

Signs of conflict in Chiapas may dim the prospects of success for the California-Chiapas REDD program. But, with California’s regulators set on outsourcing pollution rather than attacking emissions at the source, it appears that those promoting cap-and-trade will try to override the protests of frontline communities like Amador Hernández, or for that matter, Richmond, California.

“They think because they’re rich and they have a lot of resources, they can do whatever they feel like,” said Santiago Martínez. “They are promoting the idea of giving carbon credits to these industries, so they can continue contaminating.”

Bill Gallegos, executive director of CBE, had a similar message in a statement he released when filing the latest round of papers before the court: “We want to strengthen AB32 and ensure that it is effective; a hard and honest look at cap-and-trade is critical to getting there. Our communities demand real solutions for reducing pollution emissions, not another scheme that makes market traders rich at the expense of our health.” Not surprisingly, this sentiment seems to ring true for impacted communities on both sides of the border. ■

Photos:

(Above)
Chiapas villagers impacted by REDD payments.

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Orin Langelle

(Below) Bill Gallegos at a Local Clean Energy Alliance conference, March 2011.

Courtesy of
OaklandLocal.com



Jeff Conant is the communications director at the Global Justice Ecology Project. His most recent book is A Poetics of Resistance: The Revolutionary Public Relations of the Zapatista Insurgency.

Timber Companies Stand to Benefit from CARB Regulations

By Mark Schapiro and Sarah Terry-Cobo

A lawsuit brought by environmental justice groups has put AB 32 on hold. The plaintiffs are from communities located near agricultural and industrial operations and say that “trading” carbon credits will generate more pollution near their homes. The court’s March 17 decision will require California Air Resources Board (CARB) to go back and look at alternatives to the cap-and-trade plan, analyzing options, such as directly regulating polluters. While there has been quite a bit of coverage on the impacts of the “trade” portion of the program on communities located near greenhouse gas emitters, few seem to have been aware that the program also has implications for communities that live near the “offset” locations that aim to reduce these emissions. ■—STC

California timber firms could emerge as big winners in the state’s fight against global warming, earning millions of dollars through the sale of carbon credits under the set of rules approved by the Air Resources Board on December 16, 2010.

The plan has stoked controversy among environmentalists who assert it gives the timber industry too good a deal, enabling them to clear-cut trees at the expense of the overall vitality of the forests, while the timber industry claims the plan will help them promote the storage of carbon dioxide, a greenhouse gas, in the trees on their land.

The state board has responsibility for implementing AB 32, California’s landmark effort to limit greenhouse gas emissions. On December 16, 2010, the board approved a new cap-and-trade system aimed at bringing emissions to 1990 levels by 2020. It will allow companies to cancel out their emissions by purchasing carbon emission reductions somewhere else. A significant portion of those credits, or offsets, is expected to come from the carbon-storing capacity of forests.

One of the most controversial provisions would enable timber companies to obtain credits by replanting trees in clear-cut areas of the forest. The protocol also makes California the first place in the world to assign carbon credits to wood products created from the trees themselves.

For those credits, the state relies on a U.S. Depart-

ment of Energy registry that estimates the carbon in everything from wooden chairs and bed frames to two-by-fours made from fir, pine, cedar, and hemlock trees harvested in California.

Timber companies would then be free to sell their pool of credits to utility companies, refineries, and major industrial enterprises, which need them to meet emission limits.

The state has proposed a minimum price of \$10 a ton and estimates that 20 million tons will be needed over the first decade. The total offset market will likely reach \$200 million by 2020, according to Point Carbon, a news service offered by Thompson Reuters.

David Bischel, president of the California Forestry Association representing timber harvesters and processors, says that the new rules, known as the Forest Protocol, “help to monetize an important environmental benefit by encouraging more standing timber in the forests, and more wood products used by society.”

Early drafts of the protocol did not permit clear-cutting, according to Jeff Shellito, an environmental consultant and former aide to state Sen. Byron Sher, now retired. But in 2007, the timber industry began lobbying to alter the protocol in their favor. A non-profit organization, the Climate Action Reserve, which was created to establish standards for the verification of greenhouse gas emissions and reductions,



is the primary author of the new rules.

In 2002, Sher had authored legislation that established forest preservation standards for California's then-voluntary carbon market. "We went to great pains (in 2002) to ensure you couldn't get carbon credits from clear cutting," Shellito said.

The biggest timber company and landowner in California, Sierra Pacific Industries—with some 1.9 million acres across the state—was the most aggressive individual timber company lobbying on the regulations. Over the course of 2007 and 2008, Sierra Pacific paid \$37,500 to California Strategies, a major Sacramento lobbying firm, to present its case.

The company also nurtured a relationship with Gov. Arnold Schwarzenegger. Sierra Pacific donated \$29,600 to the governor's campaign committees, and its billionaire owner, Archie Aldis "Red" Emmerson, hosted a \$250-a-plate fundraising lunch for the governor's reelection campaign at his estate outside of Redding. Emmerson is listed by Forbes as one of the world's 500 wealthiest people.

Altogether, according to campaign contribution records filed with the secretary of state, the company has donated about \$890,000 to political candidates and ballot measures in California in the past five years.

The California Forestry Association, a frequent donor to political causes and candidates, also reported spending \$245,000 on lobbying state agencies on a variety of issues in 2007 and 2008, including climate legislation and the Air Resources Board policy on greenhouse gas emissions.

Among the company's requests was a plan to qualify what it calls "even-age management" of its forests for carbon credits. Even-age refers to trees that are planted at the same time for future cutting. In September 2007, Sierra Pacific sent a six-page letter to the Air Resources Board outlining the changes it would like to see in the protocols—most of which the board accepted.

"In our view," wrote the company, "there is no valid reason for requiring multiple ages of mixed species on every acre. Indeed, natural forests before the intervention of humans often consisted of large

tracts of even-age stands which were generated from fires. Today's management often mimics this type of forest through the practice of even-age forestry."

Under this definition, a significant portion of Sierra Pacific's land could be credited over the next century. The company would have to verify its claims of how much new carbon is being stored in its replanted trees—which it would be entitled to cut again in 50- to 80-year cycles. Sierra Pacific nurseries are already breeding new varieties of native trees to heighten the quantity of carbon in their trunks, leaves, and roots. Sierra Pacific officials declined to comment for this article, referring reporters instead to the California Forestry Association.

Critics, like former legislator Sher, say that the new protocol violates some of the basic principles of forest conservation. What the timber industry calls "even-age management" Sher calls "tree plantations."

"The forest companies are interested in being able to harvest their trees, and replant, and then produce a new asset that they can sell," Sher said. "It undermines the biodiversity of the forest. You end up with tree plantations that are much more vulnerable to fire and disease."

Prior to the December vote, 47 environmental and conservation groups, including the Sierra Club California and the Center for Biological Diversity, protested to the Air Resources Board.

"The protocol subsidizes the current business as usual: aggressive timber management," said Brian Nowicki, a policy analyst with the Center for Biological Diversity, a group that has sued the state over Sierra Pacific's logging practices. Nowicki questioned whether the rules encourage companies to do anything more than they are doing already.

Other environmental groups, like The Nature Conservancy and Environmental Defense Fund, support the idea of creating financial incentives to keep trees with more carbon standing and rewarding landowners for agreeing not to convert forests into commercial developments for at least one hundred

Forest Advocates Fight Uphill Battle on Cap-and-Trade

By Sarah Terry-Cobo

As part of the now stalled program, the new regulations from California Air Resources Board (CARB) would allow forest offsets that utilize an industry practice known as “even-age management.” Timber industry experts say this practice of cutting a large tract of trees all at once mimics nature. Some environmental advocates call it “clear-cutting,” noting that this kind of management can actually increase carbon dioxide emitted at the logging site.

Ignoring the carbon emissions that come from these kinds of projects “makes it much more likely to paint a clear-cutting project as carbon-[reducing] positive than a carbon negative,” said Brian Nowicki, California policy director for the Center for Biological Diversity. His organization is one of many that object to these rules.

So far, at least 37 individual projects, which could employ these techniques, have been registered for carbon offset credits. These projects span the country in 11 states—from Washington state to New Hampshire. California has the most, with nine projects, followed by South Carolina with eight, and Maine with six.* However, only one project using “improved forest management” has actually received carbon credits, totaling 9,248 tons offset from 2007 to 2009. The Lompico Forest Carbon Project is located in Santa Cruz County, California, developed by the Sempervirens Fund.

Dozens of people showed up to state their position at the CARB meeting on December 16, 2010. Michael Endicott, a representative from the California Sierra Club, reminded the board that his organization has been submitting comments since January. “We ask that you go ahead with reforestation projects, preventing the conversion of native forests to tree farms,” adding “clear-cutting is not ready for prime time.”

Tim Feller, a registered professional

forester said that he has used both even aged and uneven aged management, and both can absorb carbon dioxide from the atmosphere and maintain sustainable forestry.

At least a dozen people who live near where a major timber company, Sierra Pacific Industries operates, told stories of lumber trucks clogging the roads and the impact on wildlife. One woman brought a pine sapling to show what kind of trees the timber company would replant.

One young boy called clear-cutting “a sin.” When he spoke, a hush fell over the audience of about 250 people. “When they clear cut, bugs, animals, and even dirt are harmed, and that is no solution. Let the forests stand. It is part of you. Trees breathe for you and for me.”

The boy’s 13-year-old sister spoke about the impact in her community. “Last year Sierra Pacific sprayed nearly 70,000 pounds of their pollution in my county for clear-cuts. You should know, I used to live in a town that had mills. Loggers used to have jobs and work. Clear-cutting takes one man, one machine... what are you leaving for your children?”

However, Gary Gero, President of the Climate Action Reserve—the largest voluntary carbon offset market on the West Coast—spoke on behalf of the measure. He insisted the rules do not provide “incentives” for clear-cutting, noting that any tree cut down must be replaced in order to receive a carbon credit.

After an entire day’s worth of testimony from hundreds of people on both sides of the cap-and-trade program, board members discussed whether to remove the most controversial forest portion, which could include clear-cut tracts of land of up to 40 acres.

Dorene D’Adamo, a lawyer and member of the board, drafted an amendment to modify the protocol, preventing any new forest offset projects using “even-age management.” D’Adamo’s amendment failed when her motion received the support of only three other members. In the end, the



Recently clear-cut area in Plumas National Forest, Plumas County, Calif. — Photo: USGS

board voted 9-1 to pass the cap-and-trade system with Dr. John Telles, a cardiologist, as the lone vote against this approach to regulation.

Now that the implementation of the plan has been blocked, environmental justice groups are trying to convince CARB to consider the alternatives. The forestry groups continue to work to amend this portion of the offset plan, despite the fact that the agency has stated that it will not begin to revise the forest rules until next year. The Center for Biological Diversity’s Nowicki noted the judge’s ruling has not affected their strategy.

“We are going through the administration, the Secretary of Resources, every avenue we have... from legislation to administrative changes, to conversations with people who know what is happening at CARB, to get them to take up these issues.” ■

* New Hampshire and Virginia both have three; Arkansas and Tennessee have two, Georgia, Washington, Oregon and North Carolina have one.



years, which is another provision of the protocol.

“Landowners will have to go above and beyond their current practices,” comments Michelle Passero, a senior climate policy adviser to The Nature Conservancy California. “And that should lead to more protection and better management of our forests.”

To Susan Robinson, however, that sounds like clear cutting as normal. Robinson, a former safety manager for Chevron, lives in the area around Ebbetts Pass, a community in Calaveras County that has been one of Sierra Pacific’s most heavily clear-cut areas. She’s now a leader of the Ebbetts Pass Forest Watch, an environmental group representing residents of the small towns in and around the southern Sierras.

During harvest season, which continues until the snowfall, she sees the timber trucks heading down from the mountain for the company’s mills in Redding and elsewhere. She says that the new protocol will enable timber companies “to transform natural forests into tree farms.”

“We’re not against logging,” she said. “But we want to see it done sustainably, and the forest protocol does not do that.”

Gary Gero, president of the Climate Action Registry, said he was given a narrow goal: to fight climate change by increasing the quantity of carbon dioxide in trees and wood. “The primary purpose of the protocol,” he said, “is to ensure that the total amount of sequestered carbon increases over the next hundred years.”

The registry, he said, refused one of Sierra Pacific’s additional requests—that it grant carbon credits for wood discarded in landfills.

The tension between preserving forests and preserving trees for their carbon lies at the heart of the controversy. The state’s climate legislation calls for the air board to “design emissions reduction measures... in a manner that minimizes costs and maximizes benefits for California’s economy.” Carbon in trees is the

cheapest of various options that would create an abundant supply of offsets, making all credits relatively inexpensive.

Mary Nichols, administrator of the Air Resources Board, said that California “already has the strictest timber standards in the nation, and we will leverage those standards onto other states, which hope to participate in the California forest protocol.”

Those standards limit clear cuts to 20 acres and require replanting areas of cut trees. She said that states like Washington and Oregon, which permit clear cuts of as much as ten times that, would have to abide by this state’s limitations if its landowners are to gain credits to sell to California industries. The same applies to forests in Brazil and Chiapas, Mexico, which are likely to be the first foreign participants in the California program.

“The advocacy groups in the forest area,” she said, “tend to value forests primarily for their ecosystem value, whereas the industry is looking at carbon as elements of value on the land.”

She says that the state board is considering additional provisions to “make it absolutely clear that we are not going to provide any incentives for even-aged management.”

The measures, she said, would be aimed at ensuring that “no projects [would be] registered as offsets that had been done using any amount of clear cutting at all.” Adopting those rules, Nichols said, could take as long as two years.

The California Forestry Association would not comment on the prospect of further tightening of the rules. “We generally find it difficult to comment on potential future events,” the group’s communications director, Bob Mion, said in an e-mail. ■

Climate Justice Resources



Ellen Choy at climate justice protest at Bank of America A, Nov. 30, 2009 ©2009 Jess Clarke

California Air Resources Board

1001 "I" Street
Sacramento, CA 95812
(916) 322-2990
www.arb.ca.gov

Center for Race Poverty and the Environment

47 Kearny Street, Suite 804
San Francisco, CA 94108
(415) 346-4179
www.crpe-ej.org

Communities for a Better Environment

1904 Franklin Street, Suite 600
Oakland, CA 94612
(510) 302-0430
www.cbecal.org

Global Justice Ecology Project

P.O. Box 412
Hinesburg, VT 05461
(802) 482-2689
www.globaljusticeecology.org

Movement Generation

436 14th Street, 5th Floor
Oakland, CA 94612
(510) 649-1475
www.movementgeneration.org

RP&E Climate Justice Portal

436 14th St., Suite 1205
Oakland, CA 94612
(510) 839-9510
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Climate Change Jargon: Frequently Asked Questions

What is cap-and-trade?

Cap-and-trade systems, also known as allowance trading, can be best summed up as "pollution credits."

Under a cap-and-trade system, overall air quality goals are set for an area (such as the state of California) and specific sources of air pollution (such as power plants and waste incineration facilities) are given a certain number of allowances, which represent the amount of various pollutants that the organization or facility is allowed to emit. Facilities that come in under that allowable limit because of air pollution control systems can then sell their leftover allowances to other facilities and organizations on the open market. This allows the facilities that buy up such allowances (pollution credits) to pollute more, because other facilities are polluting less.

In theory, the system does have some good points: rewarding facilities that control air pollution and providing a means for

those who cannot afford the latest air pollution technologies (or who have not completed upgrades) to buy some maneuvering room. A big problem with cap-and-trade systems is that they allow for certain parts of the country to become much more polluted than they should be. Overall air standards in the nation might be met, but people in some parts of the country get horrible air quality as a result, and this is neither fair nor healthy. It is a problem caused when cap-and-trade systems are left too open-ended, which is generally the case. ■

(Source: Center for Environmental Health)

What is a carbon offset?

For many industries, it is not easy to reduce the amount of carbon dioxide and other greenhouse gasses. A carbon offset is a promise by one entity to reduce greenhouse gas pollution in another location, to offset the pollution generated by a company that must meet emissions limits. This allows a

polluter to meet its emission reductions by purchasing an offset from someone else. For-profit businesses and nonprofit groups work to create offset projects to sell to polluters, but a company can also purchase a carbon offset—like any other commodity—from a carbon broker at a financial firm or bank. ■

(Source: California Watch)

What is REDD?

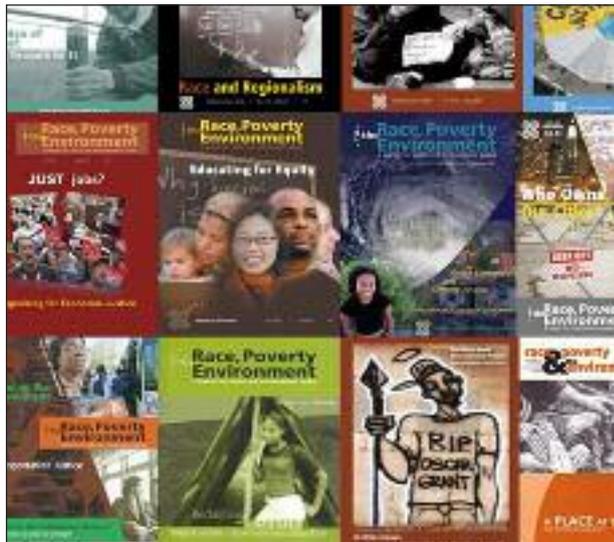
Reduced emissions from deforestation and forest degradation (REDD) is a United Nations acronym for a program that proposes to provide offset credits to governments, companies, or forest owners for keeping their forests instead of cutting them down. Uncertainties in the definition of what constitutes a forest, who should be compensated for the preservation of the forest, and what preservation entails are hotly contested points. ■ —Ed.

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