

Southern Oregon Climate Action Now

**SOCAN**

Confronting Climate Change

<http://socan.eco>

Alan R.P. Journet Ph.D.

Co-facilitator

Southern Oregon Climate Action Now

7113 Griffin Lane, Jacksonville

OR 97530-9342

[alan@socan.eco](mailto:alan@socan.eco)

541-301-4107

July 14<sup>th</sup> 2021

Richard Whitman, Director DEQ

Colin McConnaha, Manager, DEQ Office of Greenhouse Gas Programs

[GHGCR2021@deq.state.or.us](mailto:GHGCR2021@deq.state.or.us)

## **SOCAN Comments on RAC 7**

Colleagues:

Once again, I write as co-facilitator of Southern Oregon Climate Action Now, an organization of over 1500 Southern Oregonians dedicated to promoting awareness and understanding about the science of climate change and encouraging individual and collective solutions to address the problem. Since the RAC meetings have come to a close, I will offer a series of summary points addressing the key issues that are of importance to SOCAN.

As a preliminary comment, I would like to express gratitude to DEQ for orchestrating an open and transparent process through which the public is able to see and provide input on the program as it is being developed. I may not support all the decisions made by DEQ along the way or the final rules that are developed, but I appreciate the process.

### **Fuel Supplier Threshold Appreciation**

I would first like to express appreciation to DEQ for agreeing to adopt a declining fuel supplier threshold for inclusion in the cap. This partially addresses a major concern about the previous draft rule that maintained that threshold at 200,000 MT annually and could have resulted in all contributors to the largest sector of regulated greenhouse gas emissions being exempt from the program if they were all able to creep below that threshold. This would have been an unfortunate, if not insane, consequence of the threshold. A lowering threshold addresses this problem though we would have liked that cap to reduce to zero emissions.

## A - Community Climate Investment Funds

1. The main concern, that I offer relates to the Community Climate Investment fund being restricted only to projects that reduce emissions. I realize that DEQ is primarily responsible for emissions reductions. However, it is important to appreciate that the DEQ effort is but one prong in a statewide campaign to address the Governor's Executive Order, a campaign that involves some 16 state agencies. Rather than each agency digging into its own trench, the agencies should be cooperating. In this case, DEQ should be supporting ODA, ODF, OWEB and OGWC to assist them in achieving their goals.

It is worth noting that the [IPCC 2018 report](#) on the need for a limit on warming of 1.5 °C above the pre-industrial level clearly underlines how critical is the need, in addition to reducing emissions, to reduce the atmospheric concentration of GHGs. This underlines the importance of including carbon sequestration in the CCI fund options.

Presumably, it was recognition of this IPCC report that led the Governor, in her Executive Order 20-04 of March 2020, to identify carbon sequestration as a critical goal for the relevant agencies ([https://www.oregon.gov/gov/Documents/executive\\_orders/eo\\_20-04.pdf](https://www.oregon.gov/gov/Documents/executive_orders/eo_20-04.pdf)). Thus Section 12 (p. 13) states:

“In coordination with ODA, ODF, and OWEB the Oregon Global Warming Commission is directed to submit a proposal to the Governor for consideration of adoption of state goals for carbon sequestration and storage by Oregon's natural and working landscapes, including forests, wetlands, and agricultural lands based on best available science.”

In the case of carbon sequestration, ODF, ODA, OWEB, and OGWC are charged with developing plans to sequester (i.e., capture and store) carbon from the atmosphere. It should be recognized that rural Oregonians, the folks managing our natural and working lands, are among the most affected Oregonians when it comes to climate change. We are the residents suffering the most from climate-induced drought, wildfires and the smoke they produce. We are also the Oregonians making a living from farming the land and managing its forests. If carbon sequestration is to be encouraged effectively, financial incentives will be necessary. Since the Community Climate Investment fund is the only source of funding across the entire Oregon Climate Action Program available to provide financial incentives for projects, by precluding carbon sequestration from this fund, DEQ is undermining the capacity of those other agencies to develop proposals that could provide incentives.

In addition, in developing an Oregon Climate Protection Program, DEQ should acknowledge that the Fact Sheet on [President Biden's 2030 Greenhouse Gas Pollution Reduction Target](#) which states:

“The United States can reduce emissions from forests and agriculture and enhance carbon

sinks through a range of programs and measures including nature-based solutions for ecosystems ranging from our forests and agricultural soils to our rivers and coasts.” It would seem appropriate for Oregon to be equally as proactive as the federal proposal in encouraging both emissions reductions from, and carbon storage in, our natural and working lands - just as the Governor’s Executive Order charges.

As we know, historically, opponents of climate action have consistently claimed that legislative proposals represent liberal urban Oregon trying to tell rural Oregonians what they should do, even to the extent of claiming that proposed programs are designed to benefit urban Oregon (especially Portland) at the expense of rural Oregon. Precluding carbon sequestration incentives from the CCI funds only bolsters that argument. On the other hand, incentivizing carbon sequestration could serve economically disadvantaged rural Oregonians and undermine that argument.

There seems to be considerable confusion within DEQ about carbon sequestration. This is not an experimental approach. Rather, it has been incorporated into the California Cap and Trade program where carbon sequestration in forests has been funded for many years, to the benefit even of some Oregon tribes. Presumably, an Oregon program funding carbon sequestration could offer similar benefits if constructed appropriately with rigorous rules. In addition, as has been pointed out during RAC meetings, Australia has had a carbon sequestration program in place for several years where federal funds encourage Australian farmers to adopt regenerative agriculture techniques. This program has provided farmers in that nation with considerable income not to mention healthier soils. The same could happen in Oregon, to the benefit of rural Oregon, if only DEQ were to allow the CCI funds to be used for carbon sequestration.

I close this discussion by fully endorsing the comments on carbon sequestration and the CCI fund submitted by Jan Lee, Executive Director of the Oregon Association of Conservation Districts. The support for this concept offered by OACD is testimony to the value of these investments for rural Oregon.

- 2) I am very concerned about the lack of rigorous rules covering the CCI program. As the social justice representatives have often accurately argued, there is a history of offset projects that compromise disadvantaged communities or claim GHG outcomes that are a sham. The only way this problem can be countered is to develop and impose strict rules that address the potential problems.

Absent such a set of rules, the program that DEQ is developing could easily become an embarrassing focus for arguments against offsets. I have been offering suggested rules over the last several RAC responses. Currently, they are as follows:

*I - Polluting entities should not be permitted to apply to the Community Climate Investment fund:*

- a. unless they have already installed the best available technology (BAER) for reducing emissions or have solid demonstrable plans for undertaking such installation,
- b. if credits purchased allow them to continue releasing co-pollutants that undermine the air quality and health of neighboring communities whether or not such emissions compromise the air quality attainment status of such communities. Interestingly, both HB2020 (2019) and SB1530 (2020) included provisions precluding this, but such concerns seem to have escaped DEQ as they develop their Climate Protection Program.

Rather than guarding against this injustice, DEQ seems actually to encourage inequity by allowing covered entities to obtain credits with no prerequisites or rules. The consequence could be a program that becomes the poster child for offset abuse.

*II - Projects receiving CCI funds must:*

- a. be third-party certified as achieving carbon sequestration that is real, measurable, additional, long-lived, monitored and verifiable. The concept of 'permanent,' so often included in such rules is of questionable value since no project can guarantee that the benefits it offers are genuinely permanent. For example, a solar farm or wind farm cannot assure that any panels or turbines established will run at initial effectiveness in perpetuity. At some point, they will age and need to be replaced. Meanwhile, it is difficult in the case of carbon sequestration on our natural and working lands since the carbon in forests and farms is in constant though slow flux through the system. Rather than demanding that the carbon should be permanently locked, as in a vault, we should expect that the overall carbon content of a system increase as individual carbon atoms flow through them much more slowly than previously and thus a net accumulation occurs.
- b. not allow leakage. This means that projects reducing emissions (e.g., solar farms) cannot be negated by increased fossil fuel combustion or increased emissions elsewhere. Meanwhile, any carbon sequestered in a project cannot be negated by increased emissions elsewhere (e.g., increased logging). For example, forest carbon sequestration projects cannot be compensated by activities elsewhere under the management of the project manager that result in an increase in emissions similar to or greater than the carbon sequestered.
- c. in the case of carbon sequestration projects, programs should incorporate a buffer pool (e.g., <https://ww2.arb.ca.gov/sites/default/files/classic/cc/capandtrade/offsets/overview.pdf> and <https://climatetrust.org/forest-carbon-is-backed-by-good-science-scorcher/>) that can compensate for unintentional carbon losses (from wildfire, for example).
- d. generate greenhouse gas reductions at the rate of 1 ton of CO<sub>2</sub>e per credit.
- e. not generate conditions that compromise equity and social justice.

As currently drafted, the program imposes no limitations or prerequisites on entities seeking CCI credits and none to assure the legitimacy of projects receiving funds. Indeed, the rules seem to encourage application for the credits.

The starter set of rules suggested above should be a minimum if the program is to have any credibility.

#### **B - Focus on Combustion Emissions:**

Greenhouse gas emissions result from more than just the combustion of fossil fuels. It is well understood that leakage (aka fugitive emissions) occurs throughout the lifecycle of the fuels, from extraction, through processing and transmission, to final combustion. Indeed, for fossil (natural) gas, it is the fugitive emissions of methane that are the main problem. It is these fugitive emissions of methane that make fossil gas potentially as bad as coal or oil in terms of their greenhouse gas impact.

By focusing only on combustion emissions DEQ is not only promoting the major culprit of fossil gas, it is also encouraging use of biofuels (including RNG) and creating the illusion that biofuels, H, etc. are zero emissions fuels. This is false! Energy is expended in their production; emissions from this production must be accounted to level the playing field for more credible low emissions energy sources.

#### **C - The Shifting Baseline:**

- 1) In terms of the emissions reduction trajectory, I note that the reference point has shifted from the 2020 EO. The Executive Order clearly stated that the target should be 'at least 80% reduction from 1990 levels by 2050.' DEQ started with that baseline. Then in the middle of the modeling discussion the baseline quietly shifted to 2010, and now seems to have shifted again to the 2017-2019 average.

Where DEQ calculates its baseline for the purpose of calculating the trajectory is not important. However, what is clearly important is that the 2050 target should remain 'at least 80% below the 1990 emissions.' Since the 2017-2019 GHG emissions average is 11% higher than 1990, the 2050 target should be adjusted accordingly. This means that the 2050 goal for reduction needs to be 'at least 81.84% below 2017-2019 emissions.'

#### **D - Total Emissions versus Covered Emissions: Will the Climate Protection Achieve EO Goals?**

In establishing the program, the Executive Order did not charge DEQ to reduce those emissions it chooses to cover to 'at least 80% below 1990 level.' Rather the Executive Order "calls for the state of Oregon to reduce its GHG emissions (1) at least 45% below 1990 emissions levels by 2035 and (2) at least 80% below 1990 levels by 2050." The EO continues by stating: "Agencies shall exercise any and all authority and discretion vested in them by

law to help facilitate Oregon's achievement of the GHG emissions reduction goals set forth in paragraph 2 of this Executive Order."

Regrettably, what DEQ seems to have done is elect to include in its program less than 50% of the emissions under its authority. The modeling and projections then simply identify how the proposed Climate Protection Program is likely to affect these emissions. What we never see is what the expectation is for the emissions that are not covered. As Slide 20 from the RAC 7 set demonstrates, covered emissions start at 28.1 MMT in 2022 declining to 6 MMT in 2050 which represents a decline of less than 80% from the starting covered value and fails to meet the required 81.84% drop, but we know nothing about the trajectory or end-point for the remaining emissions.

Indeed, the best we can do to infer what will happen to non-covered emissions is look at the Reference Projections (Slide 7 from the Oregon Climate Protection Program: Modeling Study on Program Options). From this slide, we see that Natural Gas and Agriculture emissions remain essentially constant and electricity emissions decrease largely as a result of 2016 SB1547 which eliminates coal from the Oregon electricity mix by 2030. In fact, the electricity sector emissions we hope will decline even more with passage of HB2021 in this session. These projections also suggest industrial emissions will rise slightly during the period; an eventuality that could occur even with stationary sources covered by the Best Available Emissions Reduction protocol proposed in the program. Thus, we have little idea what is likely to happen to the total emissions under DEQs authority. This raises a serious question about whether the Climate Protection Program can possibly achieve the charge in the Executive Order. Indeed, as the RAC sessions unfolded, we heard comments that DEQ was not even striving to achieve the EO goal but merely trying to reduce emissions as much as possible. The focus on less than 50% of regulated emissions raises questions about even this goal.

#### **E - Fossil Gas Utilities should be covered**

Throughout the discussions and draft rules development DEQ has offered the 'leaning' that the electricity sector should not be covered. The justification for this recommendation was partly that passage of HB2021 would obviate the need to cover this sector, and partly that out-of-state generation facilities are outside the authority of DEQ. However, there never was offered a satisfactory justification for excluding in-state fossil gas generation facilities.

Now that HB2021 has passed, it's time to revisit domestic generation. These entities include the largest emitters of greenhouse gases in the state. Ignoring the upstream fugitive emissions that make fossil gas totally unacceptable in any reasonable climate protection effort, the exclusion of fossil gas utilities seriously compromises both the GHG emissions reduction goal in the program, and the health of neighboring communities. Furthermore, the upstream fugitive emissions will continue to contribute substantially to global warming throughout the period covered by the program. There should be no doubt

that fossil gas has no place in a sane Climate Protection Program. Although the BAER plan to cover stationary sources is inadequate (see below), the fossil gas utilities should at least be required to comply with these regulations.

#### **F - Renewable Natural Gas**

The claim evidently accepted by DEQ is that fossil gas companies can reduce their emissions substantially by replacing the fossil gas in their pipelines with up to 50% - 70% Renewable Natural Gas. The arguments [against RNG](#) are many. Even if these arguments are ignored and we accept the demonstrably false assertion that RNG is 'clean,' [Oregon's Department of Energy](#) has reported that the state simply does not have the capacity to supply the 50% - 70% that is assumed both by DEQ models and the fossil gas companies. Instead, the technical capacity is some 22% of 2017 fossil gas production. The DEQ models, however, assume that substantial emissions reductions are possible as RNG use increases. These embedded assumptions are apparently bogus. The limited potential supply of RNG that is possible should, at least, be confined for application in those situations where GHG emissions reductions are difficult. Inserting this RNG in gas pipelines can serve only to maintain our collective dependence on the destructive fossil gas supply for decades.

#### **G - The Best Available Emissions Reduction (BAER) Approach for Stationary Sources.**

It has become increasingly clear that this protocol comprises a gift to the most serious industrial polluters in the state. Yet these are the very entities that have made this program necessary as a result of their campaigns against legislation and their foot-dragging and inaction on the voluntary emissions reduction program established by HB3543 in 2007.

This component of the program offers no guarantee that it will effectuate emissions reductions among these entities; indeed, it may result in emissions increases. Furthermore, it undermines the entire free market justification for cap (and trade) programs. This justification is that the cap approach does not impose any technology on industry, merely imposes on industries a reducing cap on emissions. Industries are then expected to determine what approach to reducing emissions is most appropriate for them. As we have heard, the BAER approach places the ultimate responsibility for determining BAER protocols on DEQ with a very sloppy and ill-defined array of criteria in effect. The result will inevitably be a series of protracted court cases as industries appeal against the DEQ decisions.

Meanwhile, once industries have adopted BAER protocols, they are immune from the requirement of further emissions reductions until the subsequent review period, some five years later. Finally, unlike the conventional cap and reduce approach, which is itself an incentive to industries to innovate, the BAER protocol simply requires industries to adopt the best emissions reductions procedures already available.

To be effective, the Climate Protection Program should incorporate all stationary source polluters within the Cap and Reduce component of the program with their ability to engage

in the Community Climate Investment procedure contingent on their adopting BAER protocols.

#### **H - Pipeline Owner Exemption:**

##### **340-271-0110 Covered Entity and Covered Emissions Applicability**

Besides exempting fugitive emissions (see B above), this item exempts: *(viii) Emissions from an air contamination source that is owned or operated by an interstate pipeline;*

On face value, this would seem to exempt an entity such as Pembina's Jordan Cove LNG Liquefaction and Export facility which would have been the largest GHG emitter in the state because the ownership corporation also owned the Pacific Connector Pipeline. There is absolutely no excuse for this kind of egregious exemption.

#### **I - Compliance Instrument Retirement**

The purpose of the Climate Protection Program is to address climate change and reduce the contribution Oregon makes to the atmospheric concentration of greenhouse gases.

Contrary to this purpose, **340-271-0430** suggests that when an entity ceases to be part of the program, any compliance instruments it holds might be assigned to the Compliance Instrument Reserve or distributed among other polluting entities. This clearly defies the purpose of the program and should be removed. There is but one logical action for such instruments; they should be retired.

In addition, we learned that if the Compliance Instrument Reserve contains an excess of instruments, these might be distributed to polluters. This, again, defies the purpose of the program. Retiring these instruments is the only rational option.

#### **Conclusion**

In closing I again thank DEQ staff for the transparency they have demonstrated and their willingness to accept public comment. When DEQ initiated its efforts some 12 months ago, I was very enthusiastic and encouraged by it. As the RAC meetings have unfolded this enthusiasm has waned. Indeed, as these comments will testify, I remain very dubious about many aspects of the developing Climate Protection Program and the likelihood of its ultimately proving effective at achieving the goals stated in the Governor's Executive Order.

Respectfully submitted



Alan Journet Ph.D.