



June 11, 2009

Mr. Gary Gero  
President  
Climate Action Reserve  
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Los Angeles, CA 90014  
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Dear Gary:

CE2 Capital Partners LLC (CE2) appreciates the opportunity to comment on the Climate Action Reserve's Draft Project Implementation Agreement for Forest Project Protocol Version 3.0.

Founded in 2005, CE2 Capital Partners of San Diego, California is one of the largest U.S. based investors in environmental markets, including those addressing climate change, acid rain, smog, particulate pollution and clean energy generation. In the course of its activities, CE2 routinely evaluates opportunities for investment in forestry projects and has closely followed the development of the Climate Action Reserve's Forestry Protocol (Protocol).

We commend CAR for its efforts in incorporating feedback from diverse stakeholders in the development of the Protocol. However, we feel that the Project Implementation Agreement (PIA) would benefit from a similar level of scrutiny in order to ensure that it ultimately represents a document that could be used by different landowners across various geographic areas and forestry project types.

Outlined below are several PIA components that we believe could potentially limit the market's use of the Protocol thus hampering CAR's efforts to extend high-quality offset creation standards to a broader geographic area.

1. **Definition of Forest Owner.** the PIA specifically defines the Forest Owner as the party that both holds the land fee simple and possesses all interests in the timber located on the property. This may not reflect the variety of landholding

structures that actually occur across different markets. A more flexible approach that focuses on binding the party that controls the timber rights and activities might enable projects that would otherwise be excluded to be developed under the Protocol.

2. **Requirement that all Forest Owners execute a separate PIA:** the PIA does not facilitate the concept referenced in Section 2.2 of the Protocol which recognizes that project developers may aggregate acreage across multiple entities in order to reach economies of scale to enhance project feasibility. We believe that this lack of flexibility may adversely impact the ability of a developer to use the Protocol. The inclusion of a mechanism by which a project could enter into a PIA with the Reserve and ensure that the project's contractual arrangements with landowners include all relevant and binding elements of the PIA might facilitate the development of projects that aggregate acreage across multiple entities.
3. **Subordination:** The incorporation of a Subordination clause in Section 5 (f) to remain in force during the 100-year term of the agreement may be in direct conflict with financing requirements, particularly those involved in sustainable commercial forestry endeavors. Flexibility that enables commercial entities to continue their routine financing activities while providing CAR with the comfort required regarding recourse in the event of breach would be helpful for many landowners.
4. **Section 5 Transfer of this Agreement:** This section extends broad restrictions to any interests in the property which could include standard easements, rights-of-way, and rights to recreational use of the property, all of which may have little bearing on the implementation of the Protocol. Revising this section to focus on the types of encumbrances that would potentially conflict with the use of the land would avoid unnecessary conflicts between the use of the land for other compatible purposes (e.g. recreational use).
5. **Deed restriction:** The PIA does not require the CAR to lift the deed restriction on the property in the event of voluntary termination by the landowner in accordance with the termination provisions of the agreement. The inclusion of an obligation to lift the deed restriction in such event could solve this issue.

These items represent several issues that CE2 has identified in its review of the PIA. Our concern is that given the abovementioned restrictions, CAR may limit the Protocol's use due to a lack of commercial flexibility and not for reasons related to protecting the integrity of the offsets generated by a given project.

For these reasons, CE2 recommends that CAR revise the PIA and submit it to an additional, longer public comment period to ensure its broader utilization in projects across the United States.

We would be delighted to answer any questions or provide additional clarification around any of these points. Please feel free to contact me directly at 858-481-0024 or [greg@ce2capital.com](mailto:greg@ce2capital.com)

Sincerely,

**Gregory R. Arnold**

Gregory R. Arnold  
Managing Partner  
CE2 Capital Partners