



To: California Climate Action Registry
[Policy@climateregistry.org]

From: National Alliance of Forest Owners
Oregon Forest Industries Council
Washington Forest Protection Association

Subject: Comments on Climate Action Reserve's Forest Project Protocol, April 15th final draft

Date: May 11, 2009

The undersigned organizations appreciate the opportunity to comment on the Climate Action Registry's (CAR) *Revised Forest Project Protocol, Final Draft*. The members of the undersigned organizations represent more than 100 private owners who collectively provide long-term sustainable management of millions acres of forestlands in California and the rest of the United States.

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National Alliance of Forest Owners (www.nafoalliance.org) is a national trade association representing 74 million acres of private timberland in 47 states. Our mission is to protect and enhance economic and environmental values of privately-owned forests.

Oregon Forest Industries Council (www.ofic.com) is a trade association representing over 50 large private forest landowners and manufacturing facilities in Oregon State that works to promote a reliable timber supply and a stable business environment while maintaining forest productivity and environmental values. Our members represent roughly 5 million acres of forestland.

Washington Forest Protection Association (www.wfpa.org) is a trade association representing private forest landowners in Washington State. Our members are large and small companies, individuals and families who grow, harvest and re-grow trees on more than 4 million acres.

Our review of this most recent draft of the Reserve's Forest Project Protocol (Protocol) indicates that there has been no material modification that recognizes the fundamental differences between working (managed) forests and conservation forests. In this regard, we are extremely disappointed and cannot support or endorse the adoption of this update. Further, we recommend that CCAR, the California Air Resources Board (ARB), and other state and federal policymakers set this protocol aside – at least those provisions that apply to working or “managed” forests. We also recommend that CCAR and ARB commit to working with representatives of the nation's private landowners and others in the forest products industry to develop a separate and viable protocol for managed forests, be they industrial in size and scope or limited to the small scale common among the nation's 9.3 million private, non-industrial owners.¹

As noted in the opening section of this final draft, the update was intended to “allow greater landowner participation, particularly...industrial working forests.” This objective grew out of the acknowledged recognition that the initial version of the CCAR Forest Project Protocol was essentially designed to address sequestration in conservation forests and land that could be converted to conservation forest so as to prevent other uses of the land. While these objectives are appropriate elements of any forest offset protocol intended to complement a cap-and-trade program, they do not encompass the full spectrum of forests-based carbon offset benefits available to California, and indeed, all of the U.S. By failing to include provisions that reflect the carbon sequestration benefits of privately owned and actively managed forestland, the initial, and this subsequent draft, fail to capture a significant portion of the climate benefits that are provided by sustainably managed forests, year after year.

Public policy is, arguably intended to provide economically viable approaches to address the challenges of climate change and the need to move our society towards a much reduced carbon footprint. In this regard, policies should be structured to recognize, value and reward those activities that currently contribute to the reduction of atmospheric GHG concentrations and reduce the use of fossil fuels, so as to encourage further and increased private investment in these activities. This draft, as did the original protocol, fails to do this with respect to managed forests. And because of this, it fails to fully value one of California's – and the Nation's – most valuable natural resource benefits – the contribution of managed forests to mitigating adverse effects of climate change, and to providing cost-effective methods to support the transition to a low carbon economy. This is of particular note with respect to working forests, which (1) maintain their carbon stocks over time, (2) annually generate additional long lived wood products that remove over 100 million tons of carbon dioxide from the atmosphere every year,² and (3) provide a renewable source of GHG-neutral biomass that can be used to generate energy and that can, in the future, serve as a non-food feedstock for non-GHG-emitting fuels such as bio-diesel and cellulosic ethanol.

¹ Best, Weyburn, *America's Private Forests*, 2001, p.3.

²<http://www.epa.gov/climatechange/emissions/downloads06/07LULUCF.pdf> page 7-11

As noted in the Intergovernmental Panel on Climate Change Fourth Assessment (IPCC) Report, Mitigation:

“In the long term, a sustainable forest management strategy aimed at maintaining or increasing forest carbon stocks, while producing an annual sustained yield of timber, fiber or energy from the forest, will generate the largest sustained mitigation benefit.”³

Nonetheless, despite this acknowledged need to expand the scope of the initial Protocol to include managed forests, and despite the provision of multiple sets of detailed forest industry comments over the past several months on improvements and changes needed to accomplish this objective, this final revised draft remains essentially a Protocol that will only serve the interests of those who desire and intend to manage their forestlands as conservation land, or who seek to see working forests converted into conservation land. This is disappointing from both a public policy perspective, and from a climate change mitigation perspective, especially when one considers that one third of the Nation's land is forested, and that 58% of that forested land is privately owned and managed.⁴

We continue to believe and advocate that climate change “cap-and-trade” programs must provide a robust role for offsets, as has been advocated by the Western Climate Initiative (WCI) and many others. Further, any such program should include offsets from managed forest lands and fully recognize the annual, additional increase in carbon sequestered in long-lived wood products. As noted repeatedly in our prior comments, and in those from others in the forest products industry, there is a growing body of studies and data that show that these two sources of biological sequestration – sustainably managed forests and the annual yield of forest products – represent a substantial, additional climate and economic benefits. These benefits should be recognized in this protocol, as it has in others. This includes the inclusion of these two carbon stock pools in the U.S. National GHG inventory, and in the US DOE's 1605(b) GHG inventory rules.

The foregoing is premised on the basis of our review of the changes made to this final draft of the revised Protocol. Rather than repeat all of the points provide in our past comments, we recommend that you re-review our past submissions, which we have appended to these comments

³ Source: IPCC. 2007. *Mitigation, Fourth Assessment Report*

⁴ Best, Weyburn. op.cit. p.3.

for your convenience, and give them further consideration before finalizing this update to the Protocol. The following summarizes our main concerns not only from a technical basis, but from the perspective of why we have determined that this draft does not, in fact, incorporate provisions that allow and encourage greater participation of managed forests:

Section 2.1.2. – Improved Forest Management: This section will, by definition, preclude most if not all managed forest operations – except those that wish to stop being a commercial, economically viable managed forest – from being able to participate. The definitions and terms continue to reflect conditions that are more appropriate for conservation forestry, not commercial forestry.

Sections 3.1 and 6, in regard to Additionality (and Baselines): This section, as expanded on by later sections and the appendices, continues to discriminate against working forests by arbitrarily excluding harvested annual growth from being additional, while allowing that same growth to be counted if it is not harvested. To require working forests to cease in the production of wood products and convert to being a commercial carbon sink, and claim that this creates a greater opportunity for managed forest owners to participate in the offset program is disingenuous at best, and illustrates a complete disregard of the economics of working forests. By only allowing additional annual growth that is not harvested, and precluding additional annual growth that is harvested, the protocol automatically precludes recognition of the positive benefits of a working forest to be recognized by essentially forcing managed forest owners to either convert to conservation or non-economic operational practices, or simply not be involved. We note that the new financial additionality requirements, addressed in more detail below in item #5, add to these biases, by restricting eligibility to those forests that require carbon credit income to be economically viable.

Section 3.3 – Project Implementation Agreement: This section sets forth a general description of the Reserve's and the Landowner's obligations, and thereby establishes the PIA as a material aspect to understanding the overall project protocol's requirements. However, there is insufficient information on which to assess the reasonableness and fairness of the terms that a landowner would be required to meet.

A recent public presentation on this revised draft protocol contained provisions that hinted at the level of detail that will be addressed in the PIA. It also suggested that the final PIA will contain conditions and terms that have not been addressed in the protocol revision process, such as the right of a landowner to buy out his/her position, but only with significant restrictions and penalties.

Given the importance of this instrument, we recommend that the Reserve make the PIA document available for public comment. The PIA should be an instrument that incorporates the requirements of the Protocol, with respect to both parties, into an enforceable legal contract. In this regard, we also recommend that the PIA address the following fundamental elements common to contracts:

Contract Termination: A reasonable contract between two parties should have provisions setting forth terms under which the contract can be terminated. This is especially important for a contract that is intended to be in force for 100 years. Further, provisions for termination should be fair and equitable, rather than punitive, unless there is a breach of the terms of the contract by one party or the other. In this context, so long as the landowner provides legitimate substitution, or compensation for outstanding offset obligations, there should be no penalty for early termination, as there will be no harm with respect to the atmospheric GHG reduction obligation, which is the objective of the Protocol and therefore the PIA.

Material Breaches: The landowner should be afforded a reasonable period to develop and implement a plan to cure any material breaches.

Force Majeure Events: Unintended reversals, due to force majeure events, should not be considered material breaches of the PIA (or protocol) by the landowner, and landowners should be allowed to either present a replacement plan for any offsets affected, and/or be required to forfeit offsets in the Reserve Pool. The Reserve, which stands in the shoes of the "insurer" for such events, will have to cover any unaddressed exposure. The Reserve has the means to do so from the larger Reserve Pool, and the power to modify overall Reserve requirements, much as any insurance company changes premium rates to address changes in expected risk.

Dispute Resolution Process: A fair contract, especially one that is intended to last for a century, should provide for a reasonable dispute resolution process. This should include an option to engage in mediation, rather than litigation. Mediation is a well-established dispute resolution mechanism, and given the time and cost benefits to both parties, it should be incorporated into the PIA.

Section 3.5.1 – re: Natural Forest Management: This requirement continues to be overly narrow and restrictive, and will preclude most working forests in the other 49 states from participating.

Section 6.1.1 – Broadcast Fertilization: This provision is yet another element that will preclude many, if not most managed forests, from being eligible. It disqualifies any forest that employs this practice, which is a highly common method of fertilization in actively managed forest operations, both large and intermediate in size. The given rationale is that there is insufficient

data to measure the emissions from such practices. However, there are methods for estimating N₂O emissions and the enhanced sequestration rates that result from the use of fertilizer. Of particular note are studies that show that such applications can significantly increase soil carbon storage, a recognized carbon stock pool, by as much as 250% in some cases.⁵ Private company estimates of N₂O emissions from actively managed forest operations, which normally apply fertilization only periodically, indicate that the total biomass sequestration is significantly in excess of N₂O emissions, often by one or more orders of magnitude. For these reasons, this barrier to participation would appear to be totally inappropriate and should be revised to simply require that expected N₂O releases from fertilizer use should be addressed in the baseline and annual carbon inventories.

Section 6.1.1 – Financial Additionality – The addition of this parameter is completely inappropriate. The terms of this provision essentially preclude any economically viable managed forest operator from participating in the program. This issue has been long debated in the highly criticized Kyoto Protocol CDM program, and sends a message that only un-economical ventures are qualified to participate.⁶ Yet, few if any forest owners will undertake a forest operation that is not fundamentally sound on a primary economic basis, i.e., before the speculative value of carbon credits are considered. Further, as noted above, climate policy, and a forest offset program, should seek to enhance the economic attractiveness of managed forests, so as to ensure their continuance as working, sustainably managed forest operations and to ensure that the multiple climate and other ecological service benefits that forests provide to society are encouraged. The inclusion of this financial additionality hurdle encourages the opposite outcome and should be deleted.

Accounting for Harvested Wood Products: The final draft protocol fails to reflect the advancement in the knowledge base with respect to the carbon-storing benefits of long-lived harvested wood products (HWPs). As presently stated in the draft and its appendices, the amount of carbon stored in HWPs in use for 100 years is calculated to be far less than their atmospheric effect. It should be noted that the weighted average effect of 1 metric ton of CO₂ in the atmosphere over 100 years is equivalent to 0.491 metric tons of CO₂, due to the decay of the CO₂ over that time period. The weighted average effect of carbon stored in wood products over 100 years is equal to 0.47 metric tons. Thus, storing 1 metric ton of CO₂ in harvested wood products for 100 years is actually equivalent to offsetting 97.9 percent of a 1 metric ton emission of CO₂

⁵ K.H. Johnsen, et al., *Fertilization Increases Below-Ground Carbon Sequestration of Loblolly Pine Plantations*, 200_, p.1.

⁶ Savcor Indufor Oy, Helsinki, *Developing a Conceptual Methodology for Successful CDM Industrial Afforestation / Reforestation Carbon Sequestration Project*. Oct. 2005, p. iv. The report, prepared for NCASI and presented at COP 11, Montreal (UNFCCC), identified barriers to approval of managed forests under the CDM program. The report notes that forest projects must be “economically less attractive than the baseline” and dependent on [carbon offset credit income] under the CDM financial additionality rules. I.e., economically viable managed forests, whether or not they sequestered additional carbon, are ineligible.

from fossil fuel.⁷ Further, this does not take into account the additional storage afforded by the fraction of long-lived wood products that remain in landfills for 100 years or more. In effect, this would argue that a large portion of the carbon stored in the wood product in use and in landfills carbon stock pools is well in excess of the CO₂ emissions that would be offset by a credit derived from this category of carbon storage pools under the draft protocol's methodologies. Unfortunately, none of this scientific information is reflected in the draft protocol and its appendices that set forth the methodologies for accounting for this stock pool of sequestered atmospheric carbon.

Other deficiencies: Other significant deficiencies in the draft include the continued narrowness of the options by which reversals can be remedied, the absence of provisions that allow a project developer to sell offsets for short durations (requiring the buyer to be obligated to replace the offset); and the right of a project developer to "opt out" of the program, so long as all offsets that have been registered and sold, are fully replaced. The current draft also fails to reflect more current data that show that the amount of carbon stored by long-lived wood products at the end of 100 years is substantially higher than the values in the US DOE 1605(b) regulations.

⁷ Correspondence from R. Miner, NCASI to R. Hale, AF&PA, February 19, 2009, summarizing current knowledge on the climate effects of forest and wood product storage of atmospheric carbon dioxide.