

THE CONSERVATION FUND

May 11, 2009

California Climate Action Registry
523 W. Sixth Street, Suite 428
Los Angeles CA 90014

Subject: Comments of The Conservation Fund to the Revised Forest Project Protocol Draft, April 15, 2009 (“Draft Protocol”).

We urge CCAR and the Air Resources Board to accept and consider public comment on the Project Implementation Agreement (“PIA”) before either body adopts the revised protocol.

Many reviewers of the December 2008 version of the Draft Protocol, including The Conservation Fund, requested that CCAR release the form of PIA for public comment prior to the adoption of the protocol. Similar requests were made at the public workshops in February and April. CCAR’s helpful and thorough Summary of Comments & Responses on the Draft Forest Project Reporting Protocol dated April 6, 2009 stated that a “sample Project Implementation Agreement (PIA) will be made public on the Reserve’s website as soon as possible” (see, for example, CCAR Responses 74, 89, 309, 312 and 317). The implication, of course, was that CCAR intended to release the sample in time to allow public review and comment. As of May 8th no sample PIA was posted to the Reserve’s website.

Accordingly, we are restating below our original comment on this subject that was submitted on January 19, 2009.

“CCAR should release for public comment and review the Project Implementation Agreement (“PIA”) referenced in **Section 3.3** of the Draft Protocol.

Discussion: The PIA lies at the heart of the Draft Protocol’s permanence mechanism. Recorded agreements affecting real property, such as the PIA, may have very significant consequences to a landowner’s ability to manage, sell, finance or gift property to their heirs. Taking public comment would ensure that the PIA is generally acceptable to project developers and landowners before it becomes embedded in the Draft Protocol. It is therefore important that there be an opportunity for public review and comment of its contents.

It is also critically important that the PIA be identical for all projects, for several reasons. First, all project developers need to know that they will be treated equally with respect to the substantive provisions of the PIA. Leaving open the possibility that CCAR could negotiate different terms with different landowners presents the possibility of creating competitive disadvantages among projects. Second, landowners should know what will be required of them under the PIA before they begin the process of developing a project. Otherwise, they could spend considerable time and money only to reach an impasse over the terms and conditions of the PIA.

Finally, significant variation of contract terms will hinder the eventual development of an insurance product that many see as an important, perhaps even a preferred, permanence mechanism in the future.”

Once again, thank you for your leadership and hard work on behalf of the environment, and for the opportunity to comment on the proposed revised protocol.

Chris Kelly
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The Conservation Fund
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