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July 30, 2010

Mr. Gary Gero
President
Climate Action Reserve
523 West Sixth Street, Suite 428
Los Angeles, CA 90014

**Re: Comments Concerning Climate Action Reserve (CAR) Proposed Amendments to Forest Project Protocol (FPP) Version 3.1**

Dear Gary,

On behalf of the California Forestry Association, which represents approximately 4 million acres of private forest landowners, 90 percent of California's primary wood-products producers, as well as professional foresters and other natural-resource managers throughout the State of California, we would like to thank you for the opportunity to provide input on your current proposed amendments to FPP 3.1.

After nearly three years of dedicated work by the Climate Action Reserve (CAR) and their Forest Protocol Workgroup, we believe that the current FPP 3.1 has been fully vetted via the open and transparent stakeholder workgroup process with full evaluation via a public input and hearing process, subsequently being adopted by the CAR board, and ultimately heard and preliminarily adopted/endorsed by the California Air Resources Board (ARB) itself for use as early action in the voluntary carbon off-set markets.

Having been participants in that process, both you and I are well aware of the depth of scientific review, consideration of environmental co-benefits, social responsibility and economic feasibility that went into the creation of version 3.0, and subsequently 3.1 which included minor adjustments suggested by ARB.

The final result of that grueling 2½ year process was the issuance of CAR's Forest Project Protocol Version 3.1. Version 3.1 was originally commissioned by ARB with the intention of creating a forest protocol for use in the voluntary carbon markets, but with the stated goal of creating a protocol that could be directly converted into an AB 32 compliance-grade protocol, including AB 32's early action provisions.

Version 3.1 is the only version that has been fully vetted through a transparent stakeholder-driven process and originally endorsed by ARB for use in the voluntary arena (even though ARB endorsement was later rescinded due to California Environmental Quality Act process litigation concerns).

Subsequent to its adoption by CAR and by ARB, CAR conducted hearings and public input concerning guidance related to a California-only issue: separation of the mandatory regulations and voluntary provisions of the various documents describing Maximum Sustained Production (MSP)/Long-term Sustained Yield (LTSY) calculations that forest owners must file when seeking a permit to harvest timber. You have now proposed amendments to Section 6.2.1.1.

CFA fully endorses CAR's interpretation that certain voluntary provisions of MSP/LTSY documents constitute additionality. We also believe that this interpretation can be fully addressed via guidance to verifiers, without amending FPP Version 3.1; as you have already recommended for early action pursuant to Version 3.1.

We also strongly disagree with your recommendation concerning "voluntary agreements" of Section 6.2.1.1. This issue was thoroughly vetted by the CAR Forest Protocol Workgroup and the outcome of those discussions is represented by Version 3.1. CAR is now apparently proposing that **voluntary agreements** be considered a part of the project baseline, including Habitat Conservation Plans (HCP) and Safe Harbor Agreements. Considering rescindable and non-binding agreements in a baseline will result in inaccurate and inconsistent baseline scenarios. Each HCP is a unique discretionary agreement between the landowner and the government with provisions that can be wholly or partially rescinded by either party. HCPs should therefore be analyzed individually to identify any binding requirements. For accuracy and consistency across sectors and programs, it is therefore strongly recommended that CAR require only legally binding agreements to be considered in project baselines, as provided in CAR Protocol Version 3.1.

Finally, CAR has proposed a totally new concept based upon your concern that a project that does not include the entire forest ownership within an assessment area may somehow allow "cherry picking" project areas to gain credits that were not earned pursuant to the protocol's goals. We strongly disagree that projects were ever intended to include the entire forest ownership; this was fully vetted by your stakeholder workgroup. Moreover, all possibilities for potentially "gaming the system" were fully vetted and accounted for via an array of protection measures provided in the protocol. But to ensure full protection, we have suggested language for your consideration addressing this issue, in the form of guidance to verifiers in Attachment A to this letter. This would surely eliminate any real or perceived "cherry picking."

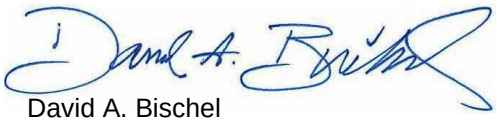
CAR's Forest Project Protocol Version 3.1 was developed with a general understanding that it would likely provide a basis for both recognizing early action carbon credits pursuant to AB 32's early action provisions, as well as be the basis for ultimate adoption by ARB of a compliance-grade protocol.

There has yet to be a single project that has been fully processed through FPP 3.1, yet you are proposing major adjustments just as ARB begins their regulatory process for compliance-grade protocols. Parallel protocol-adjustment processes are problematic at best. This point is critical to the stability and acceptance of this program by the producers, users and market developers of carbon credits.

We ask that you stand firmly behind your FPP 3.1, and recommend that the CAR Board endorse the attached guidance to verifiers, which will allow ARB to complete their regulatory process.

Please do not hesitate to contact me if you have any questions.

Sincerely,



David A. Bischel
President

Attachment

# Attachment A

## The following guidance will be provided to verifiers to clarify provisions of FPP Version 3.1

### *Clarification for Section 6.2.1.1 - Considerations of Legal Constraints*

**For Maximum Sustained Production of High Quality Forest Products (MSP):** For forest projects located in California, the baseline must be modeled to reflect all silvicultural treatments associated with Timber Harvest Plans (THP) active within the Project Area at the time of the project's initiation. All legally enforceable silvicultural and operational provisions of a THP – including those operational provisions designed to meet California Forest Practice Rules requirements for achieving Maximum Sustained Production of High Quality Wood Products [14 CCR 913.11 (933.11, 953.11)] – are considered legal constraints and must be reflected in baseline modeling for as long as the THP will remain active. For portions of the Project Area not subject to THPs (or over time periods for which THPs will not be active), baseline carbon stocks must be modeled by taking into account any applicable requirements of the California Forest Practice Rules and all other applicable laws, regulations and legally binding commitments that could affect onsite carbon stocks. On a case-by-case basis, the California Department of Forestry and Fire Protection may assist Forest Owners in identifying minimum carbon-stocking levels that would be effectively required under California Forest Practice Rules.

**For Conservation Agreements:** Verifiers shall review Habitat Conservation Plans (HCP), Candidate Conservation Agreements with Assurances, Safe Harbor Agreements, and equivalents under state law (each, a "Conservation Plan") and the accompanying Implementation Agreement to determine if they contain a termination clause that could be exercised by the property owner without post-termination mitigation measures that would survive the termination and affect the baseline (such as retained habitat above the state or federal requirements without the HCP or equivalent). If a Conservation Plan may be terminated without post-termination mitigation, the conservation measures in the Conservation Plan shall not be deemed to be part of the baseline for carbon credits. Verifiers shall also review Conservation Plans to determine if any of their measures are mandated by statute or rule and therefore have the full effect of regulation. Verifiers also may deem a Conservation Plan to be a new Conservation Plan that is beyond the carbon credit baseline when the property owner proposes amendments to an existing Conservation Plan that require federal approval after public review and comment on an Environmental Assessment or Environmental Impact Statement prepared in compliance with the National Environmental Policy Act.

### *Clarification for Section 4 - Identifying the Project Area*

**For Improved Forest Management Projects:** For a proposed project whose Project Area is less than the entire entity's timberland ownership within an assessment area, the Project Area's average above-ground live carbon stocking cannot be more than 20 percent below the entity-wide average above-ground live stocking within the assessment area. The verifier shall compare the project's average above-ground live carbon stocking to the entity's average above-ground live stocking within the assessment area to confirm this requirement.

If a proposed project does not meet the above requirement, it may still be acceptable as a project if upon request by the entity further analysis by the verifier confirms the following:

1. It is a logical management subdivision of the entity (e.g. planning watershed or contiguous ownership, etc).
2. It is representative of the silvicultural and management practices applied across the entity's ownership within the assessment area.
3. It is demonstrated to be a representative part of a sustainably managed unit (e.g. via an entity-wide certification or a Long-Term Sustained Yield Plan).
4. Explain and justify why the project area's inventory is 20 percent or more below the entity-wide inventory and demonstrate that the project as proposed meets all other protocol tests including high stock reference, maintenance/increasing live stocking and legal constraints.