



February 2, 2010

Ms. Linda Adams
Climate Action Reserve Chairperson
Cal/EPA Secretary
California Environmental Protection Agency
1001 "I" Street, 25th Floor
Sacramento CA 95814

Dear Chairperson Adams,

We are writing on behalf of the signatory organizations, the California Forestry Association (CFA), the California Farm Bureau Federation (CFBF), and the Forest Landowners of California (FLOC), who collectively represent more than 5 million acres of private forests in California. It has come to our attention that a serious potential misinterpretation of the Climate Action Reserve's (CAR) Forest Project Protocol baseline by CAR staff could have overwhelming negative consequences to the use of the protocols by California forest owners large and small if not immediately addressed. Ironically, forest owners outside of California would not be affected by this interpretation and could likely become the only significant participants in the registry.

Now, in an apparent pending action by CAR staff, the current interpretation for establishing a project's baseline calculation would be modified to eliminate forest landowner participation simply by re-interpreting, as a legal mandated minimum, the state's requirements that forest owners must submit a modeling analysis for Long-Term Sustained Yield (LTSY) and Maximum Sustained Production (MSP). This interpretation is apparently being contemplated even though the levels of MSP/LTSY are established solely at the landowner's discretion, and can be modified at anytime by the landowner to reflect current economic conditions/investment decisions.

Pursuant to the options for demonstrating MSP in the California Forest Practice Rules (CFPR), CCR Section 913.11 a-c, the two operative issues are that at all times the level at which MSP is achieved is voluntarily established by the landowner, and that it can be voluntarily rescinded and adjusted at the discretion of the landowner, as long as it is consistent with the minimum stocking standards of the rules, balances growth and harvest over the 100-year modeling period, and avoids or mitigates potential environmental impacts.

Therefore, all options for achieving MSP are consistent with the first paragraph of Section 6.2.1.1, "*Consideration of Legal Constraints*" of CAR's Forest Project Protocol, which was endorsed by the Forest Carbon Workgroup (FCW) and which states:

"In modeling the baseline for standing live carbon, the Forest Owner must incorporate all legal requirements that could affect baseline growth and harvesting scenarios. The standing live carbon baseline must represent a growth and harvesting regime that fulfills all legal requirements. **Voluntary agreements that can be rescinded, such as voluntary Habitat Conservation Plans (HCPs), Safe Harbor Agreements, rental contracts, and forest certification are not legal requirements.**"

To conclude, options for establishing MSP levels have always been modeled as discretionary to the landowner and therefore considered as rescindable voluntary agreements, just as HCPs are voluntary at the federal level. This interpretation is so fundamental to the establishment of these forest protocols that the forest landowner representatives on CAR's Forest Carbon Workgroup would have immediately reached irreconcilable gridlock on this issue alone, and not dedicated over 2 years of their time to this endeavor.

If CAR were to now re-interpret the methodology for determining baseline, all forest landowners over 50,000 acres in size, and all small and mid-sized landowners who have Sustained Yield Plans (SYP), Programmatic Timber Environmental Impact Reports (PTEIR) or Non-industrial Timber Management Plans (NTMP) regardless of management regime would be precluded from creating forest carbon credits because the baseline and project line would be one-in-the-same. This would affect nearly all of California's 5 million acres of actively managed productive private forest.

Moreover, this interpretation could actually encourage landowners to demonstrate MSP at the lowest legal level, instead of encouraging them to make discretionary investments in their forests to increase carbon sequestration, whether or not they submit CAR forest carbon projects.

We do not believe that an issue of this magnitude should be delegated to CAR staff guidance. We would like to meet with you at your earliest convenience, but would ask that you consider the following two actions:

1. Refrain from having CAR staff issue guidance on this interpretation under item "IV. F. Update on Forest Project Protocol" at your February 3rd board meeting agenda.
2. Reconvene an urgent meeting of CAR's Forest Carbon Workgroup for review and advice to the CAR Board and staff on this issue prior to the next CAR Board meeting.

As always, we also strongly encourage participation by all interested parties and organizations at the FCW meeting, and to provide their perspectives to the discussion.

Thank you for your serious consideration of our concerns.

Sincerely,

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