



## **SUMMARY OF COMMENTS & RESPONSES**

### **Proposed Amendments Relative to Baseline Determination Forest Project Protocol Version 3.1**

8 sets of comments were received during the second public comment period for the Climate Action Reserve (Reserve) Proposed Amendments Relative to Baseline Determination (California MSP Requirements) in the Forest Project Protocol Version 3.1. Staff from the Reserve summarize and provide responses to these comments in this document.

The comment letters can be viewed in their entirety on Reserve's website at <http://www.climateactionreserve.org/how/protocols/adopted/forest/baseline/>

#### **COMMENTS RECEIVED BY:**

1. California Forestry Association (CFA)
2. Center for Biological Diversity (CBD)
3. Equator, LLC (Equator)
4. Finite Carbon Corporation (Finite Carbon)
5. North Coast Resource Management (NCRM)
6. Pacific Forest Trust, Natural Resources Defense Council, The Wilderness Society, Forests Forever, Ebbett's Pass Forest Watch, Center for Biological Diversity (PFT et al.)
7. Sierra Pacific Industries (SPI)
8. The Nature Conservancy (TNC)

## GENERAL COMMENTS:

1. We strongly encourage the Reserve to continue and enhance its coordination with the ARB in an effort to harmonize their protocols. Protocol coordination between ARB and the Reserve would eliminate the risk that offset credits obtained under the Reserve subsequently fail to qualify for compliance under ARB's protocols. This is crucially important to credit buyers and all market participants. The greater the divergence between the Reserve and ARB protocols, the greater the chance that Reserve offsets will not be approved by ARB as useable compliance instruments. Considering the enormous effort put forth by the Reserve in the creation of this program, it would be unfortunate for such ineligibility to threaten the role of the Reserve in any future regulatory system. **(Equator)**

**RESPONSE: Noted.**

2. It is disappointing that this proposal does not address the tremendous concerns regarding even-age management and the conversion of native forest to plantations. We ask that the Reserve announce a timeline for addressing these issues as soon as possible. **(CBD)**

**RESPONSE: Noted. As noted at recent Reserve Board meetings and as posted on the Reserve's website (<http://www.climateactionreserve.org/how/protocols/adopted/forest/punch-list/>), the Reserve has commissioned a set of white papers to explore several issues related to carbon accounting of optional pools and criteria for sustainable forest management and natural forest management. These white papers will be completed in September. Upon their completion, the Reserve will use these white papers as a basis for further stakeholder engagement and consultation to decide whether further amendments to the Forest Project Protocol are necessary. We expect to reach final decisions by the end of 2010.**

3. The term "entity" needs to be defined and used consistently to identify the appropriate lands that should be included in the "entity-adjusted common practice" guidance. The formula to develop a weighted average for the improved forest management baseline initially uses the term "entity" as the basis for assessing the potential for a weighted average approach to the baseline. There is reference in the proposed formula to "entity-adjusted" common practice as well as reference to all "entity" landholdings to determine the weighted average of above ground live carbon stocks. The term entity, however, is not defined in the proposed amendment and is not defined in Version 3.1 of the Forest Protocol guidance. As a consequence, it is unclear what lands within an assessment area would need to be considered for purposes of the entity-adjusted common practice. This issue is confounded by the subsequent use of the term "forest owner" as described in the next comment. **(TNC)**

**RESPONSE: Noted. In the final proposed amendments to Section 6.2.1 the Reserve has clarified which lands must be considered. In lieu of the term "entity," the protocol now refers to lands that the "Forest Owner and its affiliate(s) own in fee or hold timber rights on." An "affiliate" is defined as "any person or entity that, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with the Forest Owner, including any general or limited partnership in which the Forest Owner is a partner and any limited liability company in which the Forest Owner is a member." Furthermore, the final proposed language states that "[f]or the purposes of this definition, 'control' means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the**

**ownership of voting securities, by contract or otherwise, and ‘person’ means an individual or a general partnership, limited partnership, corporation, professional corporation, limited liability company, limited liability partnership, joint venture, trust, business trust, cooperative or association or any other legally-recognized entity.”**

**Finally, the proposed protocol amendment now specifies that Project Area carbon stocks must be compared to stocks on other lands within the same “logical management unit” managed by the Forest Owner and its affiliate(s) (please see response to Comment #6). These added definitions should clearly delineate what lands need to be considered for the purpose of determining an appropriate baseline.**

4. The use of the term “forest owner” in section 6.2.1.x exacerbates the lack of clarity associated with the term “entity” and expands the potential scope of lands that would need to be assessed within an assessment area for the weighted average. In addition to referencing an “entity” and entity landholdings as the basis for determining a weighted average approach to the baseline, the proposed amendment refers to a “forest owner” and their options for determining average carbon stocks for entity landholdings. Unlike the term entity, forest owner has an expansive definition in Version 3.1 of the Forest Protocol that, at the discretion of the Reserve, can include just a fee holder or a fee holder and any other party that may have an interest in the forestland. The use of this term, therefore, further confuses the issue of what and whose land should be valued to determine the proposed weighted average for the IFM baseline. If the intent is the forest owner, the assessment for the weighted average could come from a combination of different fee ownerships, which presumably is not the Reserve’s intent. However, this is unclear. If the intent is to create a weighted average based on the fee ownership within which the project area is situated and the fee owner land within the assessment area, the Reserve should state this explicitly. Otherwise, the current mix of terminology in the proposed amendment is problematic. **(TNC)**

**RESPONSE: Please see response to Comment #3.**

### **SECTION 6.2.1 COMMENTS:**

5. The proposal should consider the unintended consequence of forest entities (or forest owners) forming separate corporations or subdividing holdings to avoid the proposed weighted average approach. The current proposed amendment does not contemplate that forest owners or entities may form separate corporations or subdivide land to avoid the weighted average approach to baseline. Such actions would frustrate the intent of this approach and should therefore be addressed in the proposal. Reliance on a performance standard such as FIA data, where the approach does not rely on the definition of a forest owner or entity, could circumvent such an issue. However, in the absence of an FIA approach, the Reserve will need to consider this issue and address it. **(TNC)**

**RESPONSE: Please see response to Comment #3. The final proposed language requires comparison to land that the Forest Owner and its affiliate(s) either own in fee or hold timber rights on. Including the Forest Owner’s affiliates will ensure that a proper comparison is made in situations where an entity forms separate corporations or subdivides its holdings.**

6. We believe the Reserve should not alter the application of the performance standard as indicated by the changes proposed to section 6.2.1 of Forest Project Protocol V3.1. The existing performance standard benchmark uses the FIA database which does not differentiate between ownership profiles or entity objectives and is useful only to extent that it provides average carbon stocking statistics. Therefore, the FIA baseline can only be used to indicate what would happen, absent a carbon project, on any given acre of land irrespective of ownership size, length of land tenure, or ownership objectives.

A Reserve baseline using FIA data should not attempt to incorporate complex entity-wide ownership level effects, but rather should, as the Protocol is now written, compare the per acre stocking of enrolled project lands versus the average acre as described by the FIA database without regard to the owner's objectives on non-project lands.

Furthermore, it should be recognized that forest landowners often have different objectives for various tracts of land within their ownership or management units. If they have chosen to harvest more or less aggressively than "average" on non-project lands, this should have no bearing on the atmospheric benefits that can be obtained from enrolling acres in a forest carbon project. However, the proposed change could have the effect of raising the baseline for lands with higher project level stocking, thereby reducing the volume of offsets generated and lowering the benefits received for enrolling quality lands in a project. This proposed change is not supported by the FIA database and may discourage participation in the program.

We strongly encourage the Reserve to continue with the design of the original Protocol and reject the proposed changes as described in the June 24, 2010 proposed amendments. **(Finite Carbon)**

**RESPONSE: Noted. The proposed amendment to the performance standard is designed to ensure that it works effectively as intended, i.e., to screen out activities that would have happened anyway and make eligible only project activities that would not have occurred in the absence of carbon market incentives. As stated in the Reserve's rationale presented for this amendment, the performance standard approach in Versions 3.0 and 3.1 of the FPP works well when the Project Area is broadly representative of conditions and management practices prevailing on a Forest Owner's lands within an FIA assessment area. It works less well if Forest Owners are selective about enrolling acreage in a project, such that broader trends within the assessment area (based on "common practice" stocking levels) are poor indicators of what would happen specifically within the Project Area. The concern is that Forest Owners may be selecting Project Areas that are not reflective of their management activities and the FPP's standardized baseline assumptions, which may therefore result in the crediting of non-additional GHG reductions and removals. For example, as the FPP is currently written, Forest Owners could selectively choose to enroll a portion of their ownership that is under-stocked and has trees that would be expected to grow and accumulate significant amounts of carbon over the long run regardless of any carbon offset incentives.**

The possibility for Forest Owners to exhibit this kind of selection bias in defining Project Areas creates a significant potential risk that the Reserve might credit non-additional projects. To reduce this risk, the Reserve is proposing to modify baseline calculations where a substantial risk of selection bias exists (i.e., where there is a greater than 20% deviation; see response to Comment #17) so that baseline carbon stocks are linked to a Forest Owner's own entity-wide stocking levels within a "logical management unit" (LMU). The use of LMUs limits the scope of the assessment for selection bias to

landscapes that are managed discretely due to geographic, geologic, and/or biological variations across different portions of the Forest Owner's forestlands. A substantial risk is identified where Project Area average carbon stocks differ by more than 20 percent from average stocking levels on other Forest Owner lands with an LMU. (Please also see response to Comment #17).

7. We strongly oppose the Reserve's Entity- Adjusted Common Practice method for baseline modeling, as it results in numerous anomalies which over- and under-credit projects. See **Attachment A** for examples of these anomalies that would occur when using an entity-adjusted common practice method. [Also see the two examples submitted by SPI, available in the Public Comments section of the Forest Project Baseline Determination webpage.] (**Equator, SPI**)

**RESPONSE:** With regard to the specific anomalies cited:

**Anomaly 1:** This appears to be a misinterpretation of the formula. If initial carbon stocks (ICS) are lower than Common Practice (CP), then as indicated in the proposed guidance the baseline cannot fall below the *greater of either*: (1) the "High Stocking Reference" (as defined in the FPP, usually equal to ICS); or (2) the minimum of either Common Practice or the entity average. If the entity average is less than ICS, then the baseline would be determined by the High Stocking Reference, which is no different from FPP Version 3.1.

**Anomaly 2:** This is an example of the formula working the way it is intended. If a Forest Owner selectively chooses a Project Area that is stocked significantly higher than other similarly situated forestland owned by the Forest Owner, then the baseline is adjusted to reflect the fact that the Project Area is anomalous.

**Anomaly 3:** Again, this is an example of the formula working the way it is intended, assuming that the instances identified occur where ICS and the entity average are significantly different. Where ICS and the entity average are similar, there will be little or no change to crediting under the proposed formula relative to FPP Version 3.1. Where ICS and the entity average diverge significantly, the formula will adjust the baseline to reflect the fact that the Project Area is anomalous compared to other Forest Owner landholdings.

**Anomaly 4:** Again, the formula is working the way it is intended in these circumstances. If ICS is less than both Common Practice and the entity average, then no credits are awarded until Project Area stocks reach adjusted baseline levels (which will approximate the entity average). This reflects the fact that if a Forest Owner selectively chooses an area that is under-stocked relative to other landholdings, the risk is much higher that carbon stocks would have grown within the Project Area without carbon incentives. Sequestration that occurs prior to reaching the adjusted baseline would not have the same atmospheric impact as sequestration above the baseline, because it is much more likely to be non-additional. Crediting non-additional sequestration as an offset would in fact lead to higher levels of CO<sub>2</sub> in the atmosphere.

8. The proposed amendments to section 6.2.1 are designed to address the lowest common denominator of project developers. The potential to manipulate additionality under the protocol does exist; however, the proposed amended baseline calculation methodology needs further clarification and should be revised.

At a minimum, the amendment should be modified so that project developers who include all or

some high percentage of their entity timberlands in one or more Reserve projects should not be subject to this amended baseline methodology. If an entity has more than one project, or if the project does not include all of the project developer's timberlands in an assessment area, the project developer should be required to demonstrate that the chosen configuration does not create a situation where added additionality is created by the chosen configuration. If the project developer can demonstrate that the configuration of the project does not result in a "gaming" of the protocol, then no adjustments are necessary.

Timberlands purchased after an entity has entered into a project should not be subject to the amended baseline calculations as the entity could not have "gamed" additionality when the initial project was established, nor anticipated the impact of such a purchase.

As the amended baseline methodology is currently described, there are potential reductions in additionality after the methodology is employed which are inconsistent with the Reserve's goal of limiting "cherry picking" of project areas. Please see **Attachment B** for detailed examples of the limitations of the amended baseline methodology. **(NCRM)**

**RESPONSE: Noted. The proposed amendment has been modified to address many of these issues. The baseline adjustment is only conducted if there is a determination of substantial risk of selection bias. Substantial risk of selection bias is identified where Project Area average carbon stocks differ by more than 20 percent from average stocking levels within management tracts provided the management tracts meet the definition of a Logical Management Unit. (Please see responses to Comments #6 and #17).**

However, simply submitting multiple projects that contain a high percentage of an entity does not ensure against non-additional projects. As an example, consider an entity that has a small percentage of its forestlands with high carbon stocks that exceed Common Practice and the balance of the forestlands are below Common Practice. The entity as a whole, assuming the average stocks are below Common Practice, would receive credit only for growth, providing the project meets other additionality requirements. The Forest Owner could receive non-additional credits by submitting two projects that only include the highly stocked areas to take advantage of the stocks' comparison to Common Practice and get credit for growth for the stocks that are below Common Practice. The combination of two projects provides a substantially different result of additionality than evaluating the entity as a single project. The key determinant in developing an appropriate baseline for the Logical Management Unit is that the baseline is reflective of the management performance as a whole. The baseline adjustment is intended to ensure that the project baseline is reflective of the entity's performance.

**With regards to the Examples in Attachment B:**

**Example 1. It is acknowledged that the sum of the credits for the two projects in this specific case is 25% less than the credits derived if this were one project. The baseline adjustment is intended to be conservative and ensure that credits derived from subsets of an entity's management tracts are additional. The example displays what is perhaps a rare case where the projects add up to the whole entity. In many cases, the project will not add up to the whole and is compared to an inventory estimate that lacks the statistical confidence and verification oversight of project stocks, necessitating the need for a conservative adjustment.**

**Example 2. Similar to Example 1, the combined project acres sum to the entity acres which indicates a high level of statistical confidence in the inventory for the entity. This is expected to be an exception rather than a rule. Projects submitted as portions of an entity will more often be compared to entity estimates that lack comparable statistical confidence and are not verified to the same level of rigor as project stocks. This will necessitate a baseline adjustment that is conservative.**

**Example 3. The development of a baseline for a newly acquired parcel must reflect the management performance (as measured by carbon stocks) of the entity. Otherwise, projects could be credited incorrectly for averting a risk of depletionary harvesting and/or growth that was likely to occur regardless of the project activity.**

9. Regardless of the potential for “cherry picking” of projects as a means of manipulating additionality in relation to common practice, the use of a “performance standard” based on regional average carbon stocks presents its own set of limitations. A regional average is more applicable to larger ownerships; however, the protocol does not limit the acreage of a property which may participate. Landowners who configure their ownerships in several Reserve projects due to operational considerations should not be penalized as if they were “gaming” the protocol. **(NCRM)**

**RESPONSE: Noted. The amendment has been modified to address operational considerations at the management tract or Logical Management Unit level. A performance standard is only valid to the extent it is applied to an appropriate unit of comparison for evaluating performance. The Reserve believes this comparison can be made at the Logical Management Unit (LMU) level rather than the entire entity holdings, provided the LMU meets defined criteria.**

10. We all strongly agree with the need to modify the baseline modeling approach contained in section 6.2.1. Failure to modify the approach contained in Version 3.1 could lead to a substantial volume of non-additional offsets, fundamentally threatening the integrity of any offset program that utilizes this protocol.

We believe that it is imperative to address this serious shortcoming in the FPP, and that the proposal to moderate the project baseline based on the difference in the stocking inside and outside the project area is fundamentally sound. We do note that the formula generates an anomalous result when the initial project stocks are exactly the same as common practice. We believe this issue can be rectified by staff without changing the fundamental approach of weighting the project baseline to avoid “cherry-picking” project areas to generate non-additional offsets. **(PFT et al.)**

**RESPONSE: Noted. The formula has been corrected to avoid the anomalous result identified.**

11. The proposed modification to the baseline modeling approach contained in section 6.2.1 is critical to reducing the vulnerability of the protocol to the abuse of cherry-picking, in which a landowner develops a carbon project that provides no actual reductions, but accrues offset credits based solely on the differences between the project site and the overall surrounding property. In this case, a landowner could designate a project area consisting of a large component of recently harvested forest stands in order to create a project with forest stocking levels near the legal baseline and below the “common practice” stocking level for the overall property. Because FPP 3.1 sets the baseline for the project at current stocking levels if the site

is below “common practice” stocking levels, such a project would allow the project developer to count as greenhouse gas reductions the annual tree growth and regeneration that would have occurred on the project area under business-as-usual, thereby generating offset credits without making any changes at all to the management of the project site. The proposed addition of the first step in section 6.2.1 makes a strong attempt to close this loophole. Failure to adopt this amendment could lead to a substantial volume of non-additional offsets, fundamentally threatening the integrity of any offset program that utilizes this protocol. **(CBD, PFT et al.)**

**RESPONSE: Noted.**

12. It is not clear whether the changes proposed to section 6.2.1 address the risk that “common practice” average stocking levels can be manipulated by a single landowner that dominates an Assessment Area. In such instances the protocol potentially rewards large timber operators that have historically done the most to degrade the forests. Such landowners may have reduced stocking levels on their properties, and thus would have lower average FIA stocking levels. In addition, this methodology potentially encourages large landowners to increase harvest operations to manipulate the FIA average in the assessment area, lowering the “common practice” baseline and increasing the offset value of projects without changing the management of the project site. **(CBD)**

**RESPONSE: It is unclear how a low FIA average of carbon stocks could benefit a landowner that has equally low carbon stocks. Such a landowner would only get credits for increasing and maintaining their carbon stocks which would have the effect of raising the FIA average. Landowners can always get credit for growing and maintaining carbon stocks above the project’s baseline.**

**Additionally, there is no benefit to increasing harvest to reduce the FIA average. Common Practice statistics will be updated every 5 – 10 years and the update will not change the fact that the landowner, where landowner stocks are at or below Common Practice, will only be credited for growing and maintaining carbon stocks. The proposed changes in Section 6.2.1 would, however, prevent over-crediting in situations where such a landowner increases harvest on the majority of its landholdings within a logical management unit and then attempts to pursue carbon projects on remaining lands that remain above Common Practice (however likely or unlikely such a scenario might be).**

### **SECTION 6.2.1.1 COMMENTS:**

13. **Habitat Conservation Plans:** Incorporating the provisions of Habitat Conservation Plans and Safe Harbor Agreements into the project baseline is a significant improvement over the previous language. However, the decision to exclude HCPs and SHAs initiated less than a year before the start of the offset project exposes the protocol to gaming, where landowners deliberately postpone the completion of HCPs and SHAs. In addition, it unnecessarily ignores real constraints, even when those constraints may be expected at the time the project is initiated. The limitation also encourages the creation of non-additional credits, by providing an incentive for landowners to concentrate future constraints within the project areas, when other lands may otherwise have been identified for conservation. Lastly, the Reserve did not provide any reasons for adopting this exception in the “Rationale” document accompanying these proposed changes. It is therefore impossible to evaluate why the Reserve believes this exception is needed. **(CBD)**



**RESPONSE:** The decision to exclude HCPs and SHAs that are already in place for more than a year is based on the determination that these agreements are effectively binding. The decision to consider that HCPs and SHAs developed up to a year prior to submitting a project is in acknowledgement of the time required to perform the analysis and documentation needed to develop a carbon project. Up to one year from the completion of an HCP and/or SHA, the project documentation is considered to be part of a comprehensive effort to improve habitat and carbon stocking within a managed forest.

**Real constraints must be included in the landowner's baseline analysis. Landowners are required to demonstrate compliance to legal constraints at the time of the project's initiation, including any management constraints associated with endangered species and compliance to the Endangered Species Act.**

14. While we support the Reserve's decision to include Habitat Conservation Plans (HCPs) and Safe Harbor Agreements (SHAs) in baseline modeling, we strongly urge a clarification of language to emphasize inclusion of only those HCPs and SHAs that are in fact legally binding. There exist both legally binding and voluntary HCPs and SHAs. Only those that are legally binding, however, can accurately be considered as legal constraints for baseline calculation purposes. Clarification that differentiates between voluntary and legally binding agreements would serve to enhance program participation. Further, it would harmonize the Reserve's treatment of HCPs and SHAs with its renewed affirmation that baseline calculation should only include legal constraints, as illustrated by the inclusion of only legally binding THPs in baseline calculations. **(Equator)**

**RESPONSE:** Habitat Conservation Plans and Safe Harbor Agreements are agreements that enable landowners to continue managing their property and avoid liability under the Endangered Species Act. They are generally entered into where significant liability exists and management in their absence would be further constrained. The terms and conditions identified in HCPs and SHAs are clearer and provide greater ease of verification than attempting to identify activities that would meet compliance with no-take provisions under the Endangered Species Act.

15. CFA strongly disagrees with the Reserve's recommendation concerning "voluntary agreements" of Section 6.2.1.1. This issue was thoroughly vetted by the Reserve Forest Protocol Workgroup and the outcome of those discussions is represented by Version 3.1. The Reserve 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 the Reserve require only legally binding agreements to be considered in project baselines, as provided in Reserve Forest Project Protocol Version 3.1. **(CFA, SPI)**

**RESPONSE:** The Reserve believes that HCPs and SHAs should be considered as legally binding agreements to be modeled as part of a project's baseline as they clearly define the legal restrictions that will avoid liability under the Endangered Species Act. See response to Comments #13 and #14.

16. **LTSY projections:** The proposed “clarification” to ignores the concerns we raised in previous comment letters regarding the need to incorporate long-term sustained yield projections into the forest project baselines. To summarize the conclusion of our previous comments, LTSY projections are not only “legal constraints” under the Forest Practice Rules, but also strong indicators of “business as usual” activities and congruent with the “financial constraints” analysis that the Protocol requires. These projections must be incorporated into forest project baselines in order to ensure the additionality of forest project credits. If the proposed clarification is adopted by the Reserve, the Air Resources Board would be legally bound to reject FPP 3.1 and revise the protocol to comply with the additionality requirements of AB 32.

Furthermore, in order to harvest timber, a landowner must demonstrate compliance with the maximum sustained production (MSP) goals of the Forest Practice Act, and a large landowner must do so by preparing either an Option A or a SYP that projects LTSY. By incorporating this requirement into the baseline modeling only while a THP remains active essentially renders the demonstration of MSP meaningless, because a THP is “active” only as long as it takes to harvest the timber. **(CBD)**

**RESPONSE:** As noted in the rationale presented for this clarification, the Reserve has been persuaded from the comments and feedback it has received concerning LTSY projections that such projections are not strong indicators of “business as usual” activities. Numerous comments suggested that MSP plans not only can be rescinded, but in fact are likely to be rescinded and changed in response to changing economic conditions as long as landowners are not bound by a legally enforceable commitment to maintain carbon stocks, such as that provided by the Reserve’s Project Implementation Agreement.

17. CFA fully endorses the Reserve’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 the Reserve has already recommended for early action pursuant to Version 3.1.

The Reserve has proposed a totally new concept based upon its 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 the Reserve’s consideration addressing this issue, in the form of guidance to verifiers [please see **Attachment C**]. This would surely eliminate any real or perceived “cherry picking.”

We ask that the Reserve stand firmly behind the FPP 3.1, and recommend that the Reserve Board endorse the guidance to verifiers [see **Attachment C**], which will allow ARB to complete their regulatory process. **(CFA, SPI)**

**RESPONSE:** Noted. Please see the response to Comment #6. Because of inherent uncertainties in forest carbon inventories, however, the Reserve agrees that a 20 percent discrepancy threshold is appropriate for applying any baseline adjustment for selection bias. That is, there will be no change to the baseline formula from FPP Version 3.1 where Project Area stocks do not differ by more than 20 percent from stocks on other Forest

**Owner landholdings within the same logical management unit.**

18. We strongly support and commend the Reserve's decision to exclude Option A agreements from consideration as legal constraints in the baseline calculation under Section 6.2.1.1. Option A agreements are voluntary whereas only active THPs are legally binding and appropriate to include in baselines calculations. Since Option A agreements are revocable-at-will by the landowner, only legally enforceable THPs provide an accurate assessment of business as usual scenarios. **(Equator)**

**RESPONSE: Noted.**

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## **Attachment A: Equator Examples of Entity-Adjusted Common Practice Anomalies**

CP = Common Practice

ICS = Project Initial Stocking

CPa = Entity-Adjusted Common Practice

*Anomaly 1:* Where the Entity Average is less than the Common Practice (CP), but the Project Initial Stocking (ICS) remains greater than the Entity Average, a project developer would be awarded early action credits despite the fact that their ICS is lower than the CP. Version 3.1, on the other hand, would not award any credits.

*Anomaly 2:* Where the Entity Average is less than the CP, but the project ICS is greater than the CP, all Version 3.1 early action credits are lost, despite the fact that the ICS is greater than the CP.

*Anomaly 3:* Where the Entity Average is greater than the CP, and the ICS is also greater than the CP, Version 3.1 early action credits are not defensible because they can be both greater and less than the difference between the ICS and CP. Under Version 3.1, however, early action credits are always equal to the difference between the ICS and CP.

*Anomaly 4:* Where the Entity Average is greater than or equal to the ICS, and the ICS is less than the CP, no credits are generated until the ICS grows above the Entity-Adjusted Common Practice. This arbitrarily penalizes land owners with low site class forests, and produces a significant impediment in terms of the time it will take to grow stocks up to either the Entity-Adjusted Common Practice or CP before any credits can be generated. Additionally, it results in the failure to recognize sequestered tons between the ICS and CP, even though they result in the same atmospheric impact as any other registered tons.

## Attachment B: NCRM Examples of Applied Baseline Methodology

The examples presented below indicate several limitations of the amended baseline methodology.

**Example 1:** Landowner owns 15,000 acres of timberland and wishes to submit one 10,000 acre project and one 5,000 acre project. Each project's ICS is above common practice, and as such the landowner's entire ownership's ICS is above common practice.

Project 1		Project 2	
Acres	10,000	Acres	5,000
ICS	90	ICS	140
CP	60	CP	60
WCS	106.67	WCS	106.67
CPa	60	CPa	93.33

all values are Mg C per acre Above Ground (AG)

ICS = Initial AG Standing Live Carbon Stocks

CP = Common Practice

WCS = Average AG Standing Live Carbon Stocks for All Entity Landholdings within the Relevant Assessment Area

CPa = Entity-Adjusted Common Practice

This example shows that the amended baseline calculation methodology results in a reduction of additionality. In this example the potential to "game" the protocol by "cherry picking" project areas does not exist because both project areas are initially above common practice. A combined project absent the amended baseline calculation would net the same additionality as that generated by the two separate projects.

**Example 2:** Landowner owns 20,000 acres of timberland and wishes to submit two 10,000 acre projects. The ICS for both project areas is above the financial and legal baseline, such that the baseline of each project area (calculated per existing protocol) would be equal to each project area's ICS respectively.

Project 1		Project 2	
Acres	10,000	Acres	10,000
ICS	45	ICS	55
CP	60	CP	60
WCS	50.00	WCS	50.00
CPa	50.00	CPa	55.00

all values are Mg C per acre Above Ground (AG)

ICS = Initial AG Standing Live Carbon Stocks

CP = Common Practice

WCS = Average AG Standing Live Carbon Stocks for ALL Entity Landholdings within the Relevant Assessment Area

CPa = Entity-Adjusted Common Practice

This example shows that the amended baseline calculation methodology results in a reduction of additionality because the project with ICS below WCS must use WCS as a baseline, but the project with ICS above WCS cannot go below its own ICS. If one project were proposed, the additionality would be the same as that of the combined separate projects utilizing the current baseline calculation methodology.

**Example 3:** Landowner owns 10,000 acres of timberland with ICS below common practice and submits a Reserve project for the entire ownership which is registered and issued CRTs. Two years later the same landowner wishes to purchase an adjacent 5,000 ownership with ICS above common practice.

Project 1		Project 2	
Acres	10,000	Acres	5,000
ICS	45	ICS	140
CP	60	CP	60
WCS	45.00	WCS	76.67
CPa	45.00	CPa	123.33

all values are Mg C per acre Above Ground (AG)

- ICS = Initial AG Standing Live Carbon Stocks
- CP = Common Practice
- WCS = Average AG Standing Live Carbon Stocks for ALL Entity Landholdings within the Relevant Assessment Area
- CPa = Entity-Adjusted Common Practice

This example shows that the landowner would be forced to utilize a CPa of 123.33 Mg C for a Reserve project on the 5,000 acre property. A second potential purchaser of the same 5,000 acre property with the same goal of submitting a Reserve project, but who did not own any other timberlands would be entitled under the protocol to claim a CPa of 60 Mg C. In this case, the protocol has created a barrier to further participation for landowners with existing Reserve projects, or for landowners with existing timberland who wish to purchase a property specifically for inclusion in a Reserve project.

## Attachment C: CFA Proposed Guidance to Verifiers

The following guidance would 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.