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December 14, 2010

Ms. Mary Nichols, Chair
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Attn: Kevin Kennedy

Via Electronic Submittal

RE: Cap and Trade Regulations: Forest Project Protocols

Dear Chair Nichols and ARB Board Members:

Green Diamond Resource Company supports the proposed Forest Project Protocols. We encourage the ARB to pass the protocols to allow forest offsets to become available to the regulated Cap and Trade market to allow implementation AB 32. We would also like to request one change regarding treatment of Habitat Conservation Plans.

Our lands support healthy runs of steelhead trout, Chinook salmon, and coho salmon, and some of the highest known densities of the northern spotted owl. We made a choice to work with the federal agencies and develop two federal Habitat Conservation Plans (HCPs): one for the northern spotted owl (1992), and one for salmonid species (2008). These are voluntary agreements that were negotiated between our company and the federal agencies (USF&WS and the National Marine Fishers Service). While some provisions of these agreements require long-term commitments, the agreements can be terminated by either party.

Green Diamond was an active participant in the development of the Forestry Working Group that developed the Forest Project Protocol Version 3.1. This was an open process that occurred over a nearly two year period. At the end of the process, Version 3.1 was adopted by the CAR Board and the later by the ARB. Version 3.1 recognized HCPs as voluntary agreements that were not part of the baseline. Unfortunately, when the CAR Board passed Version 3.2 of the Forest Project Protocol, HCPs were assumed to be binding agreements and therefore part of part of the baseline (see Section 6.2.1.1). This same position regarding HCPs is contained in the protocols that are currently before the ARB.

We believe this treatment of HCPs is appropriate, and may be a deterrent to future HCPs. It is also unfair to the two landowners in the state that voluntarily committed resources and additional protection measures for the benefit of listed species. We therefore offer the following language as an alternative:

Verifiers shall review HCPs, CCAs, SHAs, and equivalents under state law (each, a "Conservation Plan") and the accompanying Implementation Agreement (IA) 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). 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 (NEPA).

Thank you for consideration of our request. We believe this change will provide a more equitable treatment of HCPs and will continue to encourage landowners to consider the entering into these agreements that benefit listed species.

Sincerely,

Gary C. Rynearson, RPF# 2117
Manager, Forest Policy and Sustainability