

August 11, 2011

*Via electronic submittal*

California Air Resources Board  
James Goldstene, Executive Officer  
1001 I Street  
Sacramento, CA 95812

**RE: TWS Comments on the Proposed 15-day Changes to the Greenhouse Gas Cap-and-Trade Regulation**

Dear Mr. Goldstene and CARB staff,

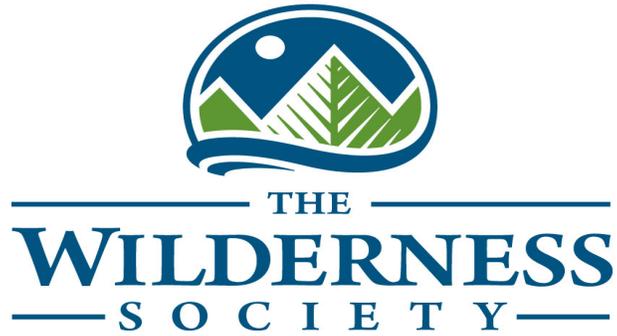
The Wilderness Society (TWS) appreciates the opportunity to provide comments on the proposed 15-day Changes to the Greenhouse Gas Cap-and-Trade Regulation issued by the California Air Resources Board (ARB) staff on July 25, 2011. TWS commends California and ARB and its staff for their continued leadership in implementing policies that place a strong cap on greenhouse gas emissions. Unmitigated greenhouse gas emissions threaten serious disruption of ecosystem services, including carbon storage and hydrological cycles, as well as species extinction. California's landmark climate policies will help ensure healthy and resilient communities, spur clean technology development, and maintain economic growth statewide. We offer the following comments on the revised cap-and-trade regulation and offer our assistance to work with ARB on the recommendations we suggest.

***Summary of Recommendations:***

- 1) Include of bioenergy emissions under the cap;***
- 2) Clarify the process for replenishing the Forest Buffer Account and ensuring cap integrity in the face of offset reversals;***
- 3) Develop an adaptive management system to monitor and mitigate any adverse impacts on the forest sector;***
- 4) Reference the work of the Economic and Allocation Advisory Committee as a resource for the Legislature during the appropriations process; and***
- 5) Maintain caution with respect to offsets and federal lands.***

***TWS requests the inclusion of bioenergy emissions under the cap.***

Section 95852.2 exempts a number of fuel source categories from compliance obligations. Exempted categories include direct combustion of several sources of cellulosic biomass, including solid waste, construction and manufacturing debris, mill residues, range land maintenance residues, all agricultural



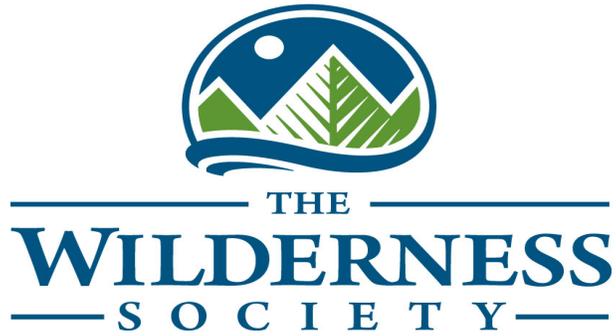
crops or waste, and wood or wood waste. Covered entities must report emissions from the combustion of these fuels but are not required to obtain allowances for those emissions.

Biomass, used correctly, can be a part of the solution to the climate crisis. But, the science does not support a blanket exemption for biomass, and biomass utilization can actually increase greenhouse gas emissions and undermine the goals of AB32. While some biomass use will result in de minimis carbon emissions or net negative carbon emissions, biomass cannot be assumed to be “carbon neutral”. The net carbon impacts of biomass utilization vary depending on a number of factors including the source of biomass, emissions associated with its transportation, the method and efficiency of its conversion to useable energy, and the type of fuel source displaced by the biomass in question. Furthermore, net long-term GHG benefits of wildfire fuel reduction treatments have significant regional variability and may change over time. A cap-and-trade system that does not account for important and significant potential variability of GHG emissions from biomass utilization compromises not only the integrity of the program cap, but may also have the unintended impact of incentivizing detrimental impacts on air, water, soil and wildlife habitat.

***TWS seeks clarification on the process for replenishing the Forest Buffer Account and ensuring cap integrity in the face of offset reversals.***

TWS supports in principle the inclusion of offsets as part of a comprehensive approach to limiting and mitigating greenhouse gas emissions; however, such offsets must be additional, permanent, verifiable and enforceable. The California cap-and-trade regulation draws distinctions between forest offset reversals (unintentional and intentional) and offset invalidation. For unintentional forest reversals, ARB will retire credits from a ‘Forest Buffer Account’; in the case of intentional forest reversals, a forest owner must provide a replacement offset or other compliance instrument or ARB will retire credits from Forest Buffer Account and commence an enforcement action against the forest owner. It is unclear what mechanism, if any, exists for replenishing the Forest Buffer Account; ARB should make explicit any mechanism by which an enforcement action in the case of an intentional reversal will result in replenishment of the Forest Buffer Account and if any process exists for replacing retired Forest Buffer Account credits in the case of unintentional reversals. If no process exists for replacing Forest Buffer Account credits, or even if the Forest Buffer Account is only replenished in the case of intentional reversals, depletion of the Forest Buffer Account is a concern. If the Forest Buffer Account is depleted and unable to help restore tons to the cap-and-trade system that are lost due to reversals, then the integrity of the cap may be compromised. As noted in the 2010 California Adaptation Advisory Panel report, the 2009 California Climate Adaptation Strategy, and the 2009 Indicators of Climate Change in California report, rising temperatures in California are projected to lead to increased wildfire risk and tree mortality. The risk of unintentional reversals due to fire or disease may be increasing overtime and processes for ensuring the integrity of the cap in the face of such reversals will be important.

Additional clarification about the relationship between intentional forest reversals and offset invalidation would also be helpful.



***TWS recommends the development of an adaptive management system to monitor and mitigate any adverse impacts on the forest sector.***

TWS commends ARB on its continuing efforts to work, in combination with other agencies and entities, to improve the monitoring and tracking of relevant forest data in California in support of the cap-and-trade program, the state greenhouse gas emissions inventory, and the AB32 Scoping Plan goal for the forest sector. Tools that allow accurate assessment of the state of forest carbon and the health and resiliency of forest ecosystems within California are essential to assessing the effectiveness and impacts of California climate policies affecting forests. Public engagement in the development of these measurement systems will help ensure that the assumptions, inputs, and methodologies used in these systems are rigorously vetted and widely supported.

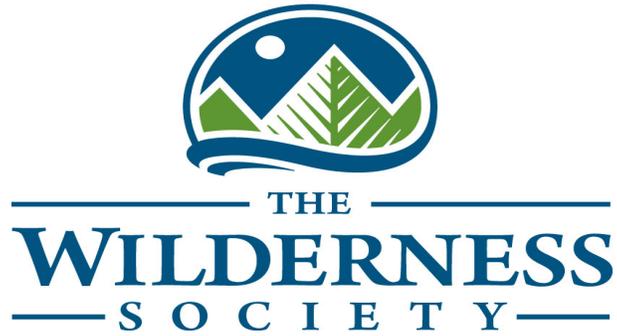
The cap-and-trade regulation should include provisions for periodic review and revision of the regulation in light of any potential adverse or unintended impacts caused by provisions of the cap-and-trade program such as the provisions in the cap-and-trade program governing offsets or biomass.

***TWS recommends referencing the work of the EAAC as a resource for the Legislature during the appropriations process.***

The cap-and-trade regulation provides that proceeds from the sale of allowances will be placed in the Air Pollution Control Fund for appropriation by the Legislature for the purposes designated in AB32. TWS urges that ARB explicitly reference the 2010 report of the Economic and Allocation Advisory Committee (EAAC) in the cap-and-trade regulation as an articulation of possible relevant uses of AB32 allowance value. As the economic, financial, and policy experts on the EAAC found, investments in adaptation will be especially important, including investments in ecological services that are not dependent on offsets for funding. California's natural systems including its wetlands, forests, rangelands and deserts provide multiple benefits to current and future generations, including, but not limited to, clean drinking water, climate regulation, flood control, wildlife habitat, carbon sequestration, and air quality protection. The resiliency of these natural systems is increasingly threatened by climate change impacts and the loss of these systems will imperil the health and economic welfare of California.

***TWS urges continued caution with respect to offsets and federal lands.***

TWS applauds ARB on its decision to remove federal land eligibility for projects under the forest protocol until the technical and policy contexts of any such projects are better understood. National Forests, National Wildlife Refuges, National Parks, and BLM lands exist and should be managed for the full spectrum of ecosystem services and the benefits to human and natural systems that those services



represent. Any commitment of federal land agencies to manage for increased carbon sequestration, and especially participation of these agencies in private offset markets must be consistent with their broad public mission and fully protect other public benefits. A thorough public and scientific review is necessary to develop a cohesive national policy regarding the appropriateness of use of federal lands in any offset program. The experience of California state lands participating in the California compliance offset program may provide valuable information to inform the development of federal public lands policies regarding offsets.

TWS believes that the proposed 15-day changes amended the title of the forest compliance protocol to read “Compliance Offset Protocol for U.S. Forest Projects” in order to distinguish such protocols from protocols in development for projects based in other countries such as Mexico. However, TWS respectfully submits to ARB that “U.S. Forests” is a term of art used to refer to federal forest lands and, therefore, the title of the protocol may be misleading given the explicit exclusion of federal lands from participation in the CA cap-and-trade program. TWS suggest that the protocol instead be titled, “Compliance Offset Protocol for Forest Projects in the United States”.

Once again, TWS appreciates the hard work and leadership of ARB in developing thoughtful and comprehensive climate policies that promote sustainable stewardship of natural resources. We offer our assistance in working on the recommendations included in this letter. If you have any questions, please contact Ann Chan at [ann\\_chan@tws.org](mailto:ann_chan@tws.org).