CLIMATE ACTION RESERVE

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Via Electronic Submission

Re: Comments on the Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation

Dear Chairwoman Nichols and Members of the California Air Resources Board:

The Climate Action Reserve commends the California Air Resources Board and its staff for the achievements of the state's pioneering cap-and-trade program and the work being done to expand and strengthen the program. The Reserve is the largest Offset Project Registry (OPR) serving California's Compliance Offset Program and has issued over 38 million registry offset credits to 151 projects under the current Cap-and-Trade Regulation. Supporting these offset projects over the last five years has given us significant insight into the processes and requirements codified in the Cap-and-Trade Regulation. The Reserve is supportive of the changes made by ARB staff to improve operation of the Compliance Offset Program. Our comments below are based on this experience working with ARB staff and offset project developers, and our desire to improve the efficient implementation of the Compliance Offset Program.

§95973(b)(1)(E) – Updated approach to regulatory compliance
We appreciate ARB's effort to provide flexibility to Forest Offset Projects in regard to regulatory compliance eligibility requirements. The revision to this section will provide an important level of clarity to the market moving forward. We suggest that ARB staff provide additional details regarding the impact of such violations on future reporting periods, as this section appears to primarily address the reporting period in which the violation takes place. Our assumption is that the project baseline must be modified for all reporting periods moving forward, but this is not clearly stated.

Furthermore, we would urge ARB staff to consider allowing similar approaches for urban forest and rice cultivation offset projects. We believe urban forest projects could be treated similar to forest projects, as described in this section, while rice cultivation projects could pro-rate emission reductions based on the number of days out of compliance. We see no reason to exclude these project

types from the flexibility afforded to others and believe providing clarity on this matter may help improve uptake of these underutilized Compliance Offset Protocols.

Lastly, ARB staff have recently provided guidance with respect to the application of § 95973(b)(1)(E) to livestock projects. The guidance confirmed that for every day the project is out of regulatory compliance, the project must remove such full days from the modelled or measured baselines, but continue to account for all project emissions. In examining the livestock 2014 COP equations closely - in particular, Equations 5.8 and 5.9 - it appears these equations support the removal of project emissions (as well as baseline emissions) during periods the project is out of regulatory compliance, in so far as those equations quantify project emissions based on reporting period days. It is the Reserve's long-standing interpretation of the livestock COP that the appropriate requirement is to remove days a project is outside of regulatory compliance from both the baseline and the project emissions, when using the modelled emission reductions. We believe this approach effectively penalizes the project by ensuring it is not issued credits for any period during which it is out of regulatory compliance. The most recent ARB interpretation effectively penalizes the project further, by requiring them to still account for full project emissions during any such period the project is out of regulatory compliance. This interpretation has the potential to significantly impact emission reductions, such that even a small period of regulatory non-compliance could result in no emission reductions for the entire reporting period. Given the complex regulatory framework that livestock projects typically operate under, this current interpretation has the potential to significantly affect the emission reduction potential of the program, and livestock COP project feasibility. The Reserve advocates that §95973(b)(1)(E) and/or the 2014 Livestock COP, be amended to make it clear that any day with a noncompliance issue should be removed from both the baseline and project emissions when using the modelled baseline approach. We believe such an approach is conservative, that it provides a strong signal with respect to regulatory compliance, and that it does so without being overly punitive.

The Reserve also advocates that §95973(b)(1)(E) and/or the 2014 Livestock COP be amended to direct that during periods that a project is out of regulatory compliance, the project should also remove all CO_2 emissions from its emission reduction calculations (provided the combined project and CO_2 emissions do not exceed baseline emissions during the period the project was out of regulatory compliance). For projects that consume a significant amount

of fossil fuels (for instance in the use of kilns to dry manure), requiring projects to account for these CO_2 emissions for even a short period of time, could significantly reduce overall project emission reductions. This suggested change in guidance would ensure that projects receive no emission reduction credits during periods of regulatory non-compliance, without overly penalizing projects.

§95989 – Direct Environmental Benefits in the State (DEBS)
Any definition of DEBS that ARB uses should be based on science and not political considerations. The science is very clear on the value of emission reductions beyond the state's boundaries (i.e., offsets)—reductions anywhere provide environmental benefits to California, particularly given our state's vulnerability to climate change.

We also encourage ARB staff to provide clear procedural guidelines for determining the DEBS requirements by protocol. The proposed language provides helpful insight into the types of DEBS-related evidence ARB staff will be expecting for out of state projects. However, it is not clear *when* ARB staff will make a DEBS determination for out of state projects. Since this will likely impact the feasibility of such projects, we would appreciate additional clarity on the procedure for reviewing and approving or denying DEBS-related materials. If DEBS determinations are delayed until after issuance of registry offset credits (when ARB typically begins reviewing project materials), we believe this could negatively impact the volume of projects and potentially cause a slowdown in the market. Allowing for an initial review during project listing, for instance, may help alleviate these potential delays.

We also recommend that ARB not retroactively evaluate the DEBs of any existing offsets. Not only would this place an inordinate administrative burden on ARB staff, it injects additional uncertainty into the current market at a time when many entities have already invested in offsets relying on ARB's rules at the time. Retroactively changing an offsets' designation could unfairly alter market fundamentals without providing any additional climate benefits.

Appendix E – "Offset Project Activities Within the Scope of Regulatory Compliance Evaluation"
We commend ARB staff for providing additional flexibility regarding procedural or administrative violations that do not impact the integrity of the

ARB offset credits. Since this addition focuses on the resolution of noncompliance issues, we would appreciate future clarity from ARB staff around when such issues will be considered “resolved.”

The Reserve thanks the Members of the Board as well as the ARB staff for their consideration of these comments and for their continued efforts to improve the Compliance Offset Program.

Sincerely,

Craig Ebert
President