

CAPITOL OFFICE
STATE CAPITOL
ROOM 4085
SACRAMENTO, CA 95814
TEL (916) 651-4010
FAX (916) 651-4910

DISTRICT OFFICE
39510 PASEO PADRE PKWY.
SUITE 280
FREMONT, CA 94538
TEL (510) 794-3900

WWW.SEN.CA.GOV/WIECKOWSKI

California State Senate

SENATOR
BOB WIECKOWSKI
TENTH SENATE DISTRICT



CHAIR
BUDGET SUBCOMMITTEE #2
MEMBER
APPROPRIATIONS
BUDGET AND FISCAL REVIEW
ENVIRONMENTAL QUALITY
HOUSING
JUDICIARY
TRANSPORTATION

August 13, 2019

Jared Blumenfeld, Secretary
California Environmental Protection Agency
1001 I Street / P.O. Box 2815
Sacramento, CA 95812

Mary Nichols, Chair
California Air Resources Board
1001 I Street / P.O. Box 2815
Sacramento, CA 95812

Re: Opposition to the Proposed Tropical Forest Standard

Dear Secretary Blumenfeld and Chair Nichols:

I write to express our strong opposition to the Air Resources Board's Tropical Forest Standard (TFS).

Adopting the TFS would put California on the path to allow California polluters to continue to emit greenhouse gases emissions, by offsetting these emissions on paper with credits sold by subnational states that report reduced rates of tropical deforestation. It would also align California with one side in the deepening international controversy about the role of forest offsets under the Paris Agreement. Although we all share the goal of reducing tropical deforestation, the risks that international forest offset programs present to climate change mitigation and to tropical forest communities are simply too high for California's endorsement.

The world's largest experiment with carbon offsetting in developing countries, the Kyoto Protocol Clean Development Mechanism (CDM), weakened global climate agreements by allowing countries to meet their targets with credits that did not represent real emissions reductions.¹ The environmental integrity of international offsets in the forest sector is extremely difficult to ensure, and for this reason, climate policy leaders have decided to make them ineligible for national climate programs. For example, the European Union's cap-and-trade program does not allow forest offsets in its current

¹ Cames, M., Harthan, R.O., Füssler, J., Lazarus, M., Lee, C.M., Erickson, P., & Spalding-Fecher, R. 2016. *How additional is the Clean Development Mechanism?* Berlin: Oeko Institut, https://ec.europa.eu/clima/sites/clima/files/ets/docs/clean_dev_mechanism_en.pdf.



program phase and expects to ban all international offset credits in its post-2020 program phase.²

The TFS approach risks producing a landslide of false credits due to the challenges with ensuring credited reductions are *permanent, non-leaking, and additional*, and the inherent possibility that other jurisdictions buying and selling TFS credits will interpret the TFS' protections liberally. California should not lend its name to these efforts nor commit to the implausible project of monitoring other governments' use of the TFS going forward.

Permanence Unlike emission reductions in the industrial sector, the environmental benefits of a forest-carbon transaction can be completely reversed by events like fire, relaxation of logging restrictions, or changes in global commodity prices, and other factors largely outside of the control of subnational governments. A tropical forest program in Acre, Brazil—which ARB identified in 2016 as “ready to be considered for linkage” with California’s cap-and-trade program³ and which a Board spokesman described earlier this year as “most advanced” in the context of potential TFS jurisdictions⁴—illustrates the problem. Despite having an on-going large-scale jurisdictional forest offset program, deforestation rates in Acre have recently been rising, increasing by 83 percent from 2017 to 2018.⁵ The TFS has provisions to address such “reversals”—mainly a 10% credit buffer pool to replace invalidated credits—but the buffer pool could quickly be swamped by the effects of natural disasters, changes in global commodity prices, or political regime changes. Notably, Brazilian President Bolsonaro has weakened environmental protections in the Amazon⁶ and threatened to open protected rainforest areas to industrial development.⁷

Leakage The main causes of tropical forest loss are expanding cattle ranching, palm oil and soy plantations, mining, and timber production. These are all very mobile commodities: their production can move into unregulated locations as long as demand exists and other states do not restrict them. But if deforestation merely shifts (or “leaks”) deforestation away from TFS jurisdictions, then TFS credits will not represent real

² European Commission, Directorate-General for Climate Action, Emissions Trading System (EU ETS): Use of international credits, https://ec.europa.eu/clima/policies/ets/credits_en.

³ California Air Resources Board, 2016 Cap-and-Trade Regulations, Initial Statement of Reasons (August 2, 2016), <https://ww3.arb.ca.gov/regact/2016/capandtrade16/isor.pdf>.

⁴ Lisa Song and Paula Moura, An Even More Inconvenient Truth: Why Carbon Credits for Forest Preservation May Be Worse Than Nothing, ProPublica (May 22, 2019), <https://features.propublica.org/brazil-carbon-offsets/inconvenient-truth-carbon-credits-dont-work-deforestation-redd-acre-cambodia/>.

⁵ PRODES Legal Amazon Deforestation Monitoring System, Instituto Nacional de Pesquisas Espaciais, Ministério da Ciência, Tecnologia, Inovações e Comunicações, <http://www.obt.inpe.br/OBT/assuntos/programas/amazonia/prodes>.

⁶ Dom Phillips, Jair Bolsonaro launches assault on Amazon rainforest protections, The Guardian (January 2, 2019), <https://www.theguardian.com/world/2019/jan/02/brazil-jair-bolsonaro-amazon-rainforest-protections>.

⁷ Pedro Fonseca and Jake Spring, Bolsonaro says Brazilian rainforest may be opened to mining, Reuters (April 12, 2019), <https://www.reuters.com/article/us-brazil-amazon-mining/bolsonaro-says-brazil-rainforest-reserve-may-be-opened-to-mining-idUSKCN1RO29H>.

emission reductions. The TFS leakage provisions are contradictory and fall far short of best practice in leakage assessment. Even with best practice measures, leakage is hard to prevent and impossible to accurately quantify.

Additionality The main reason why the world's biggest offsetting scheme, the Kyoto Protocol's CDM, has been discredited is lack of additionality—that is, that CDM offset credits were awarded to activities that were already going to happen. The TFS addresses this problem in part by establishing a relatively strict crediting baseline, but even a strict baseline can result in large quantities of non-additional credits as a consequence of unpredictable deforestation dynamics in tropical regions.

At the heart of these problems is the fact that offset market-financed conservation is not structured to address the main causes of tropical forest loss. Nearly all forest-carbon offset projects and jurisdictional programs to date have used payments to limit forest-based livelihood activities of small-scale landholders.⁸ This is because market mechanisms are designed to seek the cheapest offsets and it is too costly to compensate lucrative export industries for reducing their forest-destroying activities; their opportunity costs are much higher than carbon market prices. The effectiveness of these payments is made even more doubtful by the political power of agribusiness, logging, and mining interests in many countries.

The focus of market-financed conservation on small-scale landholders has two critical consequences. The first is poor environmental integrity. Programs that mainly target small-scale landholders rather than the large-scale drivers of deforestation are unlikely to create permanent and deep reductions in deforestation rates. Advocates of project and jurisdictional results-based conservation programs have been unable to find evidence that these programs have delivered significant emissions reductions.⁹

Second, programs that restrict small-scale landholders' use of forests risk causing harm to indigenous and other forest communities. This poses a serious reputational risk to California. Payments for forest protection have been associated with restricted use or dispossession, violent in some cases, of farm and forest communities from the lands they depend upon.¹⁰ Many tropical forest regions have been and continue to be sites of land-grabbing and green-grabbing for "carbon farms." Decades of experience have shown that

⁸ Angelsen et al. 2018. *Transforming REDD+*. Center for International Forestry Research; Lovera-Bilderbeek. 2019. *Agents, Assumption and Motivations Behind REDD+*. Edward Elgar.

⁹ Angelsen et al. 2018. *Transforming REDD+*. Center for International Forestry Research.

¹⁰ Sarmiento Barletti, J.P. & Larson, A.M. 2017. *Rights Abuse Allegations in the Context of REDD+ Readiness and Implementation: A Preliminary Review and Proposal for Moving Forward*. Center for International Forestry Research; Bayrak, M.M. & Marafa, L.M. 2016. Ten Years of REDD+: A Critical Review of the Impact of REDD+ on Forest-Dependent Communities, *Sustainability* 8(7); Benjaminsen, T. & Svarstad, H. 2018. *Norwegian climate policy affects the poorest*, <https://greenmentality.org/2018/06/11/norwegian-climate-policy-affects-the-poorest/>; Godden, L. & Tehan, M. 2016. REDD+: climate justice and indigenous and local community rights in an era of climate disruption. *Journal of Energy & Natural Resources Law*, 34(1); Kansanga, M.M. & Luginaah, I. 2019. Agrarian livelihoods under siege: Carbon forestry, tenure constraints and the rise of capitalist forest enclosures in Ghana. *World Development*, 113: 131-142.

safeguard requirements meant to prevent harm can be met on paper while violated in practice.¹¹

A standard like the TFS that necessarily relies on human discretion—particularly the judgments of individuals paid through carbon offsets—will be vulnerable to conflicts of interest and subjective, lenient interpretations on the ground.

We are also concerned about the potential governance problems that would arise if the Board approves the TFS and then subsequently proposes to integrate the TFS with the state’s cap-and-trade program. In a 2015 white paper, Board staff suggested a TFS-like program could be linked to California’s cap-and-trade program¹² and then announced the goal of ensuring such a link by the end of 2020 in a formal rulemaking.¹³ While the Board has since taken pains to suggest the TFS is not currently being evaluated for inclusion in the cap-and-trade program, those assurances carry no legal meaning. Should the Board change its mind, not only would there be no process for engaging the Legislature, but the Board’s linking findings under SB 1018 are not judicially reviewable¹⁴ and therefore members of the public would have no opportunity to ensure their voices are truly heard.

Meanwhile, there is no shortage of additional investments that California can make at home to lead the way on climate change mitigation and improve the lives of all Californians, particularly the lives of those, like many of our constituents, who bear the high health burdens of our fossil fuel dependence. California can also take steps to ensure that the products and commodities it imports do not cause tropical deforestation.

But by endorsing the TFS, California would put our state’s reputation and support behind a controversial climate policy approach that risks weakening global climate agreements and being associated with human rights abuses and other social harms.

¹¹ Bayrak, M.M. & Marafa, L.M. 2016. Ten Years of REDD+: A Critical Review of the Impact of REDD+ on Forest-Dependent Communities, *Sustainability*, 8(7); Krause, T. & Nielsen, T.D. 2014. The Legitimacy of Incentive-Based Conservation and a Critical Account of Social Safeguards. *Environmental Science & Policy*, 41 (August): 44–51.

¹² California Air Resources Board, Scoping Next Steps for Evaluating the Potential Role of Sector-Based Offset Credits Under the California Cap-and-Trade Program, Including from Jurisdictional “Reducing Emissions from Deforestation and Forest Degradation” Programs (October 19, 2015), <https://ww3.arb.ca.gov/cc/capandtrade/sectorbasedoffsets/sectorbasedoffsets.htm>.

¹³ California Air Resources Board, 2016 Cap-and-Trade Regulations, Initial Statement of Reasons (August 2, 2016), <https://ww3.arb.ca.gov/regact/2016/capandtrade16/isor.pdf>.

¹⁴ California Government Code § 12894(g).

Let us work together to pursue real, lasting, and just solutions to tropical deforestation.
Leaving the TFS behind is a necessary step in this process.

Sincerely,

Robert A. Wieckowski

Senator Bob Wieckowski
California Senate District 10