The Nature Conservancy
Protecting nature. Preserving life.™

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September 19, 2016

Via electronic submittal

California Air Resources Board
Attn: Mary Nichols, Chair
1001 I Street
Sacramento, CA 95812

Re: Comments on the August 2, 2016 Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation

Dear Chair Nichols and CARB board members:

The Nature Conservancy (The Conservancy) appreciates the opportunity to provide comments on the *Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-based Compliance Mechanisms Regulation* issued by the California Air Resources Board (CARB) staff on August 2, 2016. Overall, we support the proposed cap and trade regulations and believe that CARB has thoughtfully developed a program that will reduce greenhouse gas emissions to help meet California's 2020 and 2030 reduction targets alongside the other measures adopted by CARB. We offer the following constructive comments on the draft amendments, with a particular emphasis on the proposed cap decline, linkages, and offset provisions.

The Conservancy supports the continued use of the regulatory cap and trade program as a mechanism to achieve the state's 2030 reduction goals

The Conservancy supports the regulatory cap and trade program among a suite of measures being implemented to achieve California's 2020 and 2030 GHG reduction goals. While the majority of emission reductions in the state are being achieved through other programs, the cap and trade program remains a critical part of the state's climate strategy as it provides the declining cap on economy-wide emissions, ensuring that absolute GHG reductions are achieved. This attribute is distinct from the other programs designed to reduce emissions. The flexibility to trade emissions permits and invest in offsets, achieves overall GHG reductions at the lowest cost, reducing potential impacts to the economy and California consumers. The program has successfully kept the state on track to meet 2020 GHG reduction goals, and likewise, will help the state meet its 2030 goals.

While the program is not intended to generate revenue, the auction proceeds from the program have provided additional GHG reduction benefits, as well as many critical public and environmental co-benefits for California communities around the state. Community investments

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range from urban forestry, to low-income weatherization, affordable transit-oriented development, forest health, low carbon transit, and wetland restoration, among others.[1]

The proposed decline in the cap to reach the 2030 target is reasonable

The Conservancy supports CARB staff's proposed decline in the GHG emissions cap between 2021 and 2031 at a linear rate of approximately 3.5% annually. A steady decline in the cap at this rate will provide capped entities with some stability and consistency to plan for long-term investments to reduce emissions.

TNC supports continued program linkages with other jurisdictions

The Conservancy strongly supports continued and expanded linkages of the cap and trade program with other jurisdictions, such as Quebec and Ontario. As acknowledged in the Initial Statement of Reasons (ISOR) on page 9, "climate change is a global problem that California cannot solve on its own; regional and global partners are needed." The ability to link with other jurisdictional programs provides the opportunity to leverage additional GHG reductions at reduced costs, which in turn, encourages other jurisdictions to develop programs to reduce emissions – as it serves to counter arguments that GHG reductions come at the expense of economic development. California has successfully linked with the province of Quebec and it should continue to link with other governmental jurisdictions like Ontario and others.

TNC supports the inclusion of sector-based offset credits from avoided tropical deforestation at the earliest date possible

For many of the same reasons that the Conservancy supports linkages between California and other jurisdictions, like Ontario and Quebec, the Conservancy supports linkages with tropical forest jurisdictions to reduce emissions from deforestation and forest degradation and promote low carbon development. Forest loss and degradation are responsible for roughly 12% of global anthropogenic emissions,[2] so we are pleased that California recognizes the critical importance of addressing this problem and providing this leadership. Through linkages with other jurisdictions to reduce emissions from forest loss and degradation, California can be a catalyst for greater action around the globe to reduce emissions from this resource, while advancing low carbon development in resource dependent communities.

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[1] *See* https://arb.ca.gov/cc/capandtrade/auctionproceeds/auctionproceedsmap.htm

[2] G. R. van der Werf,D. C. Morton, R. S. DeFries, J. G. J. Olivier, P. S. Kasibhatla, R. B. Jackson, G. J. Collatz and J. T. Randerson, *Commentary: CO2 Emissions from Forest Loss*, Nature Geoscience, Volume 2, November 2009; *See also* http://bofdata.fire.ca.gov/regulations/proposed_rule_packages/working_forest_management_plan/attachment_3_vanderwerf_co2_emissions_from_forest_loss.pdf

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Significant interest and support is coming from several tropical forest states that are members of the Governors' Climate and Forest taskforce and who are signatories to the Under 2 MOU including Acre, Brazil and others in Mexico, Brazil and Peru. Linking with these jurisdictions in some form could help these states meet their emission reduction pledges in the Under 2 MOU, reduce GHG emissions, alleviate poverty, and help indigenous communities preserve their cultural heritage and protect biodiversity.

CARB has invested significant time researching and vetting the issue of linking with tropical forest jurisdictions and the inclusion of sector-based credits. The inclusion of tropical forest credits is specifically referenced and contemplated in the existing regulations for the cap and trade program.[3] The rationale for including sector-based credits is described well in the CARB staff white paper on sector-based offset credits[4] and referenced in the ISOR for this proposed regulatory amendment in several places (*see* Chapter 2, b,4; Chapter IX; and Appendix F). As stated by CARB, adding sector-based credits to the cap and trade program would have many benefits to California. "CARB staff has presented information about how linkage with a state-of-the-art, jurisdictional sector-based offset program can provide significant benefits to California's Cap-and-Trade Program by assuring an adequate supply of high-quality compliance offsets to keep the cost of compliance within reasonable bounds, up to the quantitative usage limit for sector-based offsets. Linkage would also support California's broad climate goals, as well as global biodiversity and tropical forest communities."[5] We encourage CARB to continue this process by following up on its commitment to hold additional informal public meetings outside of this rulemaking starting in the fall of 2016.[6]

The proposed changes to the forest offset regulations, in general, provide reasonable clarifications for project implementation. However, more certainty should be provided for the circumstances under which a project would be deemed "non-compliant."

[3] § 95992. Procedures for Approval of Sector-Based Crediting Programs. The Board may approve a sector-based crediting program in an eligible jurisdiction after public notice and opportunity for public comment in accordance with the Administrative Procedure Act (Government Code section 11340 et seq.). Provisions set forth in this article shall specify which compliance instruments issued by an approved sector-based crediting program may be used to meet a compliance obligation under this Article. NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570 and 39600, Health and Safety Code. § 95993: Sources for Sector-Based Offset Credits. Sector-based credits may be generated from: (a) Reducing Emissions from Deforestation and Forest Degradation (REDD) Plans.

[4] California Air Resources Board Staff White Paper: *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,* https://www.arb.ca.gov/cc/capandtrade/sectorbasedoffsets/ARB%20Staff%20White%20Paper%20Sector-Based%20Offset%20Credits.pdf

[5] *Id.* at p. 22

[6] *Id.* at p. 21

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While the Conservancy supports the overall goal to make sure that offset projects are in regulatory compliance in order to receive credits, the current language of Section 95973(b) is very broad and unclear regarding the circumstances under which a project may be deemed noncompliant. This vagueness could discourage landowners from implementing offset projects given the uncertainty and related risk. We recommend that CARB staff provide additional guidance and regulatory language that describe how material the noncompliance must be and the circumstances whereby noncompliance may be identified.

Once again, TNC appreciates the tremendous work and leadership of CARB and California. We offer our assistance to work on the adjustments we recommend above and look forward to the successful implementation of the cap and trade program. If you have any questions, please contact Michelle Passero at MPassero@tnc.org.