



October 29, 2018

Chair Mary Nichols

California Air Resources Board
1001 I Street
Sacramento, California

Re: Draft California Tropical Forest Standard

Dear Chair Mary Nichols and California Air Resources Board:

Amazon Watch is a California-based nonprofit organization founded in 1996 to protect the rainforest and advance the rights of indigenous peoples in the Amazon Basin. We partner with indigenous and environmental organizations in campaigns for human rights, corporate accountability, and the preservation of the Amazon's ecological systems.

We are writing to express our opposition to the Tropical Forest Standard (TFS) proposed by the California Air Resources Board.

Tropical forests, like the Amazon Basin, play an essential role in regulating our global climate and mitigating climate change impacts. They are home to half of all living plant and animal species, more than 20% of the world's freshwater, and are the ancestral and titled territories of numerous indigenous peoples.

¹ Protecting these areas and guaranteeing the full exercise of rights by the indigenous peoples who call them home is vital for an equitable and healthy planet. Given that tropical forests like the Amazon have crossed a dangerous tipping point from serving as a net sink of atmospheric carbon dioxide to net source, keeping these forests standing and stopping deforestation is an essential part of the climate solution.²

The draft TFS purports to advance tropical forest protection by establishing “criteria to assess jurisdictional sector-based offset crediting programs that reduce emissions from tropical deforestation for immediate use by jurisdictions across the globe.” As proposed, the TFS will serve as a jurisdictional linking mechanism and lay the groundwork for offsets program such as Reduced Emissions from Deforestation and Degradation (REDD) to be included within California's Cap-and-Trade Program, linking California to various jurisdictions around the world under the auspices of forest protection.

¹ Rainforest Conservation Fund. “How Much Biodiversity is Found in Tropical Forests.” 2018. <http://www.rainforestconservation.org/rainforest-primer/2-biodiversity/b-how-much-biodiversity-is-found-in-tropical-rain-forests/>

² A. Baccini et al. “Tropical forests are a net carbon source based on aboveground measurements of gain and loss.” Science (13 Oct 2017): Vol. 358, Issue 6360, pp. 230-234. DOI: 10.1126/science.aam5962.

Yet as drafted the TFS will do little to stop the key drivers of deforestation in tropical countries and will discourage policies for a managed decline of fossil fuel production and the prevention of emissions at the source. For the reasons articulated below, **we believe the TFS is a misguided answer to the climate crisis and forest protection and that it will exacerbate the threats to the rights of indigenous peoples in tropical forest countries and California communities.**

Carbon Offsets Perpetuate Pollution

According to the recent Intergovernmental Panel on Climate Change report, urgent and dramatic action is needed over the next twelve years to limit climate change catastrophe. This must begin with policies that encourage keeping fossil fuels in the ground and cap emissions, not policies that allow industry to avoid reducing emissions.

At best, offsets create zero emissions reductions. At worst, offsets allow big polluters such as refineries to release more greenhouse gases (GHGs).³ And in fact a new study has shown that, under California's carbon trading system, offsets are actually enabling an increase in industrial emissions by a far greater amount than would otherwise be allowed by AB32, California's landmark climate change law.⁴ When refineries and other facilities are allowed to continue emitting greenhouse gases, they also emit noxious co-pollutants, like particulate matter, nitrogen oxide, and other carcinogens. This has significant health impacts for fence-line communities in California – the majority of whom are people of color – who live near major GHG emitters.⁵ Thus, carbon offsets perpetuate pollution hotspots and environmental racism.

This increase in GHG emissions from industrial sources is quantifiable and permanent, yet offset programs use them in exchange for uncertain carbon sequestration in tropical forests that may ultimately be temporary due to noncompliance with the project, natural disasters, or competing pressures from extractive industry on participating areas.

Problematic Examples from the Amazon

Ecuador's Pastaza Protected Area

One such program that could seek to utilize the TFS in the future would be the *Área Ecológica de Desarrollo Sostenible Provincial del Pastaza* (Ecological Area For Sustainable Development of the Pastaza Province) in the Ecuadorian Amazon.⁶ The *Área Ecológica* comprises 2.5 million hectares and covers 90% of Pastaza province, the vast majority of which is held in title by indigenous nationalities. This project was recently approved by the Climate and Forests Team of the United Nations Development Program under the Governors' Climate and Forests Task Force (GCF) to support jurisdictional REDD+

³ Parish, Will. "Stopping a Climate Change and Pollution Nightmare in the East Bay." *East Bay Express*, (26 June 2016): <https://www.eastbayexpress.com/oakland/stopping-a-climate-change-and-pollution-nightmare-in-the-east-bay/Content?oid=4861759>

⁴ Cushing, L. et al.. *Carbon trading, co-pollutants, and environmental equity: Evidence from California's cap and trade program (2011-2015)*, 15 PLoS Med e1002604 (2018).

⁵ Faust, John et al. CalEnviroScreen 3.0. CalEPA and OEHHA (January 2017): <https://oehha.ca.gov/media/downloads/calenviroscreen/report/ces3report.pdf>

⁶ Ortiz, Joaquín. "Amazonía ecuatoriana: conoce la nueva área de conservación en Pastaza." *Mongabay*, (14 March 2017): <https://es.mongabay.com/2017/03/amazonia-ecuatoriana-conoce-la-nueva-area-conservacion-pastaza/>

strategies and investment plans during the GCF Annual Meeting on September 11, 2018 in San Francisco, California.⁷

Although the GCF approved Guiding Principles for Collaboration at that Annual Meeting that purportedly include protections for indigenous rights, the *Área Ecológica* project was approved without a Free, Prior, Informed Consent (FPIC) process with the indigenous peoples whose ancestral territories lie within the province.⁸ For this reason the project has been denounced by CONFENIAE, the Confederation of Indigenous Nationalities of Ecuador's Amazon. Indigenous peoples in the province have filed a legal complaint with the *Defensoría Del Pueblo* (Ombudsman's Office) to investigate possible violations of collective rights including self determination and lack of FPIC under Ordinance #92, which established the *Área Ecológica*.⁹ Opposition to the *Área* led to a major protest outside the GCF during the Global Climate Action Summit in September.

Ecuador's Forest Partners Program (Socio Bosque)

Another possible program that could seek to use the TFS in the future is Ecuador's Forest Partners Program (*Socio Bosque*). Underway since 2008, this forest conservation program is based on payment for environmental services administered by Ecuador's Ministry of the Environment and is being harmonized with REDD+.

This program – which could be validated by future adherence to the TPS – has a contract structure that is onerous and undermines indigenous collective land rights by treating individual participants and indigenous peoples with collective title as the same. There exist well-documented examples of perverse incentives and punitive conduct by the Ecuadorian government against program participants who have publicly critiqued the extractive industry or the program itself.¹⁰

Industrial expansion and deforestation

Notably, in both of the above mentioned examples neither the *Área Ecológica* nor forests within the *Socio Bosque* program exclude extractive industry development – the main driver of deforestation in Ecuador. There are sixteen oil concessions either under contract, operation, and or slated for future tender in Pastaza province – and thus the *Área Ecológica* – that all overlap titled indigenous territories, as well as dozens of mining concessions.

While the TFS includes aspirational language on minimizing extractive threats inside the jurisdiction, there is nothing exclusionary nor binding in the standard that would incentivize or require a change to

⁷ GCF. "Ecological Area of Sustainable Provincial Development of Pastaza." (2018): <http://www.gcftaskforce-database.org/Partnerships/ecuador.pastaza>

⁸ GCF. "Guiding Principles for Collaboration and Partnership Between Subnational Governments, Indigenous Peoples and Local Communities." (2018): https://static1.squarespace.com/static/5896200f414fb57d26f3d600/t/5b915dc2f950b735d57ee294/1536253379182/Principles_ENGL_V8.pdf

⁹ Government of Pastaza. Resolution No 063-GADPPz-2017. (2 March 2017): http://www.pastaza.gob.ec/leytransparencia/2017/abril/s/ordenanza_area_ecologica_desarrollo_sostenible_pastaza.pdf.

¹⁰ Ramos, Ivonne. "Atrapando los territorios, el agua, la biodiversidad y los pueblos en REDDes de privatización." Third World Ecology Institute. (<http://www.estudiosecologistas.org/documentos/material/1-7-ivonne-ramos-alerta-verde.pdf>)

these contradictory host country policies, which will exacerbate leakage and non-permanence risk common with offset programs. Many tropical countries like Ecuador lack the political will and/or capacity to properly implement FPIC and do not have the necessary governance structures ensure land tenure or provide guarantees against rights violations.

The Climate Crisis Requires Solutions that Protect Forests and Communities

We cannot offset our way out of the climate crisis. Tropical forest offset programs threaten the rights of indigenous peoples in the Amazon and beyond, placing forest peoples at risk of displacement and of loss control over their territories, their cultures, and their ways of life. To make matters worse, these offset programs have a poor track record of actually succeeding in stopping deforestation, and they allow big oil to keep polluting in low-income communities of color.

California's Tropical Forest Standard will set a dangerous standard that will take climate action and the need for forest protection down the wrong path. As the largest importer of crude from Ecuador, California should consider policies that reduce its crude consumption – policies that directly address what drives deforestation in tropical forests and ends up in its refineries, polluting local communities – and commit to managed decline of domestic production.¹¹

Because of the reasons stated above, **we strongly urge the ARB to reject the Tropical Forest Standard (TFS) and any attempts to accept international forest offset credits into California's carbon trading system.** If California wants to be a real climate leader, it must do better than “offsetting” pollution; it must address the primary cause of climate change: fossil fuel extraction and combustion.

Regulators and policymakers around the world must heed the calls of indigenous leaders and climate scientists: keep oil and gas in the ground and invest in a clean energy economy and just transition that works for all.

Sincerely,



Leila Salazar-López
Executive Director

¹¹ From Well to Wheel: The The Social, Environmental, and Climate Costs of Amazon Crude. Amazon Watch. 2016. <https://amazonwatch.org/news/2016/0928-from-well-to-wheel>