June 4, 2015

California Air Resources Board Member and Staff
Air Resources Board, California Environmental Protection Agency
1001 I Street
Sacramento, CA 95812

RE: Comments on Proposed Revisions to Compliance Offset Protocol for U.S. Forest Projects

Dear Members of the California Air Resources Board,

The American Carbon Registry (ACR), an approved Offset Project Registry (OPR) for the California Cap-and-Trade program, respectfully submits comments herein on the California Air Resources Board's proposed 15-day draft of the Regulatory Review Update of the Compliance Offset Protocol for U.S. Forest Projects dated May 20, 2015.

We recommend ARB adopt the proposed 15 day package version of the forest offset protocol *without* the proposed amendments related to even-aged management requirements and minimum baseline requirements for projects with stocks above common practice. As described in the Appendix of this letter, these proposed amendments will have significant impacts on the market. Delayed approval of these two sections will allow sufficient time for the current pipeline of projects to enter the market.

As an OPR, ACR shares ARB's commitment to offset protocols that reflect the best possible science, ensuring the environmental integrity of California's landmark Cap-and-Trade Program. ACR is also dedicated to the demonstration of a robust offset program as the most efficient means to achieve cost-effective emissions reductions and stimulate emissions reduction actions in non-capped sectors.

ACR has been active in carbon markets for two decades and our team brings a wealth of knowledge in forestry, agriculture and land use carbon accounting. Since the launch of the California Cap-and-Trade program, ACR has been the responsible OPR for 4.3 million of 8.9 million total Registry Offset Credits converted by ARB to ARB Offset Credits (ARBOCs), representing 48% of all ARBOCs issued by projects using the ARB compliance offset protocols. ACR has been the responsible OPR for five (5) or the seven (7) total forestry offset projects that have received ARBOCs since the start of the program and currently has an additional 16 forestry projects submitted, listed, in verification or in ARBOC review.

ACR's Compliance Offset Supply Analysis published in September 2012 (and which has been highly accurate through the first compliance period) forecast a significant offset shortage by 2020. Further, the study highlighted the importance of forest carbon offsets -- forecast as at least 60 million tons through 2020 -- as the largest potential single offset source to fill the supply gap, underscoring the importance of this offset type for keeping costs in check.

Following the program launch in January 2013, ACR staff has worked closely with ARB and forest carbon offset project developers to understand and clarify ongoing technical issues related to the implementation of the existing protocol. Review of the weekly OPR meetings with ARB shows the number of questions that have been raised and answered concerning the forestry protocol. We appreciate the considerable effort that ARB staff has invested in clarifying interpretations of the regulations and believe this investment of time has directly led to improved forestry offset projects with less uncertainty. And while we agree that periodic offset protocol updates are important to improve clarity, consistency and workability, we believe that updates beyond technical clarifications and guidance should be conducted on a regular, approved, fully public and predictable schedule consistent with the phases of the Cap-and-Trade program. In this case, substantive technical changes to the forestry offset protocol are being proposed by staff only two and a half years into the program, when forest landowners, project developers and investors are still gaining foundational knowledge, experience and confidence.

It is important to note that since the launch of the program in January 2013 only seven (7) compliance forestry offset projects have received ARBOCs. This is due to the uniquely time consuming nature of forest carbon offset project origination, contracting, development, registration and verification. The steps required to develop a pipeline of qualified projects under a particular offset protocol require significant resources and time. Project developers often spend over a year negotiating with forest owners before project development begins, which often means two to three years elapse between initial discussions and the issuance of ARBOCs. Substantial investments are made during this time - even before the project can be listed – including the costs to conduct feasibility assessments (under the published version of the protocol), legal fees for contracting with landowners, and costs for land appraisals and preparation of a forest inventory.

We are in daily contact with Forest Offset Project Operators, Authorized Project Designees, technical consultants, investors, offset buyers and other key stakeholders who have expressed significant concerns about the large-scale impacts of the proposed forestry protocol updates on project pipelines, offset volume, market participation and market confidence. Should the current forest protocol amendments be approved, offset project developers and forestland owners have informed us that 50% of the pipeline of forest projects in which they have invested will no longer be technically or economically feasible. In throttling much of the supply that was developing, the changes would convey to landowners that investing time and effort in project development is itself high risk, increasing the risk premium investors will attach to future investments in the offset market and thereby increasing the cost of future offsets. The resulting impact on program participants' confidence extends more broadly than the forestry sector, signaling the future possibility for unplanned intervention by ARB and discouraging investment in the offset program on a whole - further risking future offset supply and cost containment.

Given the nascent state of the California Program, we encourage ARB to continue its efforts to assure that the rules underpinning the ARB offset system are stable and will not be subjected to frequent and unpredictable modification. To avoid both a loss of program confidence and a significant decline in supply in an offset program that is already anticipated to be short, we propose that ARB delay adoption of the two sections that are described in this letter (see Appendix). We believe that the protocol currently contains sufficient stringencies and safeguards to ensure sustainable and natural forest management and encourage enhanced stewardship of forestlands across the country.

ACR acknowledges that offset protocol updates will be necessary as the ARB program matures, however, we opine that the significant amendment of protocols be conducted on a published and predictable timeframe aligned with the phases of the program and in a transparent and participatory process so that market participants can plan their investments, better manage risk, and deliver high quality offsets at a lower cost. We suggest ARB establish a predictable schedule with adequate time for review and comment by market participants. In the attached Appendix, we have highlighted two concerns in the current proposed amendments that should be delayed until ARB can benefit from additional stakeholder input and technical guidance.

Further, we suggest that the items highlighted in the Appendix go into effect only after a sufficient period of time has passed to realize the substantial investments that were made in projects under the program and protocol rules that were in effect at the time the investment was made. This would imply that stakeholders have at least two years notice from Board approval to when protocol changes go into effect or within a minimum time period from any previous substantial protocol updates.

We hope that the Board will consider our recommendation to delay the adoption of the two proposed amendment described below, to allow for sufficient time for the current pipeline of projects to enter the market.

Thank you for the opportunity to provide our comments to ARB.

Respectfully,

John Kadyszewski

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Appendix:

Items from the proposed updates to the forestry protocol where ACR staff believes the goals of the offset program would be better advanced with broader stakeholder participation and discussion.

1. **Even-aged Management Requirements (Section 3.1(a)(4)(A) – (D)**

The proposed requirements for projects that use even-aged silviculture impose requirements that will eliminate incentives for improved management with increased carbon stocks across broad acreages where actions might otherwise be taken with clear climate benefits. ACR believes these requirements should only apply to even-aged regeneration harvests, which remove the pre-harvest existing stand. All other even-aged harvesting should be exempt from this requirement. We believe the proposed threshold of 50 square feet/acre is unnecessarily high, and will disqualify many even-aged systems, including systems with clear climate benefits that keep residual retention above 25 square feet after all harvest steps. In addition, the current buffer requirement for both length *and* area adds complexity, and will be difficult to implement and costly to verify. Further, the current language is not clear, and could be interpreted to mean that existing trees cannot be counted to meet the stocking requirements. This could effectively disallow thinning, which would make it impractical for ANY forest owner that uses even-aged management, regardless of retention, to enter the program. We recommend lowering the threshold and allowing existing trees to count towards the stocking requirements, removing the buffer area requirement (keeping only the length requirement), and allowing for more flexible and less costly verification procedures. Finally, the verification requirements outlined in Section 8.1(b)(2)(E) to ensure that each harvest unit and each adjacent stand meet the proposed requirements will not provide additional confidence in the quantification of offsets and seems to be a more expensive approach than necessary to assure project eligibility. Further, verification guidance is only provided for projects that select the point count option, while no guidance is provided to verify meeting the basal area retention requirement. We believe that ARB would benefit from broader stakeholder engagement on these issues before making final decisions.

2. **Modification to minimum baseline calculation for IFM projects (5.2.1(d))**

The proposed language requires projects that are above common practice to compare project area carbon stocks to a "Logical Management Unit" (LMU), now defined as all land owned within the same assessment area (note that the definition continues to be unclear). We believe that this adds unnecessary cost and complication to verification services without adding any beneficial stringency or conservatism to the protocol and will remove the incentive for large land owners to commit portions of their forest land to management practices that will clearly benefit the climate, resulting in non-participation in the offset program.

The proposed protocol defines additionality on the basis of whether carbon stock levels within the project area are a result of legal requirements, and also how they compare to regional stocking averages. ACR staff believes it is not relevant how a project area compares to the surrounding forested land; forest owners should be applauded for committing their high stocked forest areas to 100+ years of maintaining, monitoring and verifying carbon stocks. It is also important to note that project owners often have specific reasons for selecting a portion of their land for an offset project. Many owners simply may not want to commit all of their land to the requirements of the offset program for 100+ years.

Verification requirements are unclear. Implementing this requirement, as currently written, requires either a project to have a full inventory on *all* land within an assessment area (which can be thousands of acres), or to use values from a table provided in the protocol as a proxy. Both options have significant problems. Requiring an inventory on the land outside of the project is financially impossible for most land owners. Further, even if an inventory does exist, it is unclear how this this would need to be verified, and if the same requirements for the project area inventory would apply. The additional cost of verification makes this requirement prohibitive to implement, eliminating a class of projects with clear climate benefits. In cases where there is no inventory in place the protocol offers an alternative approach for estimating stocks outside of the project area (stratified vegetation sampling), however, these values are unlikely to result in accurate estimates, and have been, to date, un-tested. We recommend including additional flexibility in the definition of Logical Management Unit to allow project owners to define project areas based on numerous attributes.