

THE CONSERVATION FUND

May 10, 2024

Ms. Rajinder Sahota Deputy Executive Officer, Climate Change & Research
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Comments regarding initial concepts for updates to California Air Resources Board Cap-and-Trade Regulation

The Conservation Fund (TCF) appreciates the opportunity to provide comments on the April 23, 2024 workshop on updates to the California Cap-and-Trade Program (Regulation). TCF applauds CARB's work to strengthen the Regulation and appreciates the opportunity to participate in this first step of a robust and transparent rulemaking process.

TCF is a national environmental nonprofit with a dual charter mission of environmental protection and economic development that has delivered conservation solutions that are good for people and the planet for 39 years. We have protected nearly 9 million acres of land across America, including over one million acres of forestlands.

In Mendocino and Sonoma Counties, TCF owns nearly 74,000 acres and has four Improved Forest Management projects. As an early owner and developer of forest carbon projects, TCF witnesses the rigor of the program and the benefits of the market. Forest carbon offset revenue has gone to protect additional forestland and accelerate critical watershed and forest restoration projects.

TCF generally supports the intention of the initial concepts for updates to the Cap-and-Trade Program to improve, clarify, and streamline requirements, but also highlights the need to balance these aspirations with the practicality of project implementation and maintenance which can be constrained by the market, physical limitations, and other landowner constraints.

The workshop raised potential regulatory amendments around definitions of terms, and TCF suggests additional areas for updates:

Refine the definition of Forest Owner

The current definition of Forest Owner in the Regulation is overly broad and creates joint and several liability for project compliance and intentional reversals for all entities (potentially including conservation easement holders, road easement holder, water right holders, and preceding owners), in addition to the current fee title owner and timber rights holders. Additionally, whereas other provisions of the Regulation distinguish between a successor Forest Owner and a preceding Forest Owner, § 95983(c)(4) makes no such distinction. This ambiguity leaves open the possibility that a preceding Forest Owner could be subject to enforcement action on account of the failures of a successor owner, notwithstanding the language elsewhere in the Regulation to the effect that a successor Forest Owner is liable for all the obligations of a

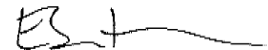
predecessor Forest Owner.¹ The Regulation should more clearly define and use the term Forest Owner so that responsibility and liability for offset projects is clearly assigned to parties that have current, direct title to, or control of property, its forest and land management, as it relates to a forest carbon offset project and its integrity.

Allow for project area changes:

There is currently no provision to allow any amount of forest area to be added or subtracted from a project once a project is registered. However, over the course of a 100+ year project life, situations are inevitably going to arise that require either 1) removing small portions from a carbon project without terminating the entire project (e.g. because of eminent domain, new rights-of-way, or encroachment), or 2) adding area to a carbon project, either from another existing carbon project, or from nearby parcels (e.g. through land acquisition of inholdings). The Regulation should allow for sensible, modest addition and subtraction of land to carbon projects.

TCF appreciates CARB's consideration of these suggestions and its ongoing work to update and improve this important program. TCF looks forward to continued participation in the rulemaking process, including dialog with CARB staff and other stakeholders. Please do not hesitate to contact the undersigned, or Lauren Fety, TCF's Forest and Climate Project Manager at 541-727-2094 or lfety@conservationfund.org if you have questions regarding these comments.

Sincerely,



Evan Smith

Senior Vice President, Conservation Ventures

Cc: Lauren Fety, Forest and Climate Project Manager
Steve Hobbs, California Director

¹ See § 95983(e).