

**Western States Petroleum Association**

**Credible Solutions • Responsive Service • Since 1907**

**Michael D. Wang**

Director, Legal, CA Climate Policy & State Air Issues

June 4, 2015

Clerk of the Board

Air Resources Board

1001 I Street

Sacramento, CA 95814

Subject: Western States Petroleum Association comments on ARB’s proposed changes to the Compliance Offset Protocol for U.S. Forest Projects.

To whom it may concern:

The Western States Petroleum Association (WSPA) appreciates the opportunity to comment on the California Air Resources Board’s (ARB) proposed 15-day changes to the Compliance Offset Protocol for U.S. Forest Projects. WSPA is a non-profit trade association representing twenty-five companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in California and four other western states. WSPA members have significant operations in California and are participants in the Cap and Trade (C/T) program. As WSPA has stated in the past, we have a significant interest in the offset program because of the important role offsets play in a well-structured market-based program.

Economists and market experts have observed that cost containment measures will become increasingly important as California’s C/T program matures, given uncertainty about future technology and market developments and especially as emission targets become more stringent in a post-2020 program environment. As the cap continues to decline and localized emission reduction opportunities diminish, stimulating emission reductions from sources outside the cap becomes increasingly important. In this context, the current and future viability of offset protocols will be critical to the success of California’s climate emission reduction programs.

ARB’s original offset market design, while overly cautious in terms of geographic and use limitations, provided a reasonable framework for development of an offsets market. However, the proposed changes would undermine the technical integrity of this framework and erode investor confidence in the offset market. We are disappointed that ARB appears to be staying the course it charted in the Fall of 2014, despite valid stakeholder objections to proposed protocol changes and ARB’s decision in October to defer Board action in the interest of better understanding the potential impact of those changes on future offset opportunities from forestry projects. Changing protocols in ways that devalue projects already under development will create an atmosphere of uncertainty, chilling the market and negatively impacting participation by project developers and buyers of forward contracts.

Implications of ARB’s Proposed Changes on Forestry Offset Supply and Recommended Solutions

With respect to ARB’s proposed changes to the Compliance Offset Protocol for U.S. Forest Projects we are concerned first and foremost that a technically incorrect baseline will further diminish the supply of offsets obtained from qualifying forestry projects. Economic forecasts from reputable sources such as Finite Carbon, Bloomberg New Energy Finance and forest project developers indicate a 40-60% reduction in offset supply through 2020 resulting from ARB’s proposed new Common Practice (CP) values and eligibility requirements for private Improved Forest Management (IFM) projects.

WSPA shares the concerns of other C/T stakeholders that ARB’s proposed CP values, used to determine baseline timber stocking levels against which carbon removals are measured for individual projects, are based on data from an excessively narrow window in time that corresponds with the nation’s unprecedented economic recession. During this period (2007-2012), housing starts and associated timber demand fell to historic lows. The new CP values generate baseline timber stocking levels that are artificially high (due to a temporary market fluctuation in the demand for timber), resulting in significantly lower volumes of ARB offset credits (ARBOCs) being issued for many forestry projects and rendering other projects completely unviable.

The even-aged management provisions would also disadvantage out-of-state forestry projects relative to in-state projects. They are inconsistent with accepted silvicultural practices in many areas of the nation by virtue of incorporating a new requirement derived from in-state forest management practices—a 50 square foot minimum basal area (BA) retention limit – which is not representative of forest management practices in other regions.[[1]](#footnote-1) Though the latest Protocol draft includes a point-based alternative to the 50 BA retention limit, vagaries in the definitions associated with the point-based analysis and in the technical heralds related to the process for carrying out such an analysis make the point-based system an inadequate alternative. We are concerned that this change will promote greater market uncertainty concerning the value of offsets generated from out-of-state forestry projects, discouraging investment in these projects and further limiting the size of the offset pool.

To mitigate such presumably unintended outcomes, WSPA recommends that ARB adjust its proposed CP values based on average timber stocking levels over an extended time horizon. Timber stocking averaged over a 25 year period would more accurately account for fluctuations in the timber market. This adjustment would also minimize disincentives for offset projects during times when the motivation to harvest is highest. We also recommend that ARB remove the proposed BA retention limit to accommodate necessary regional variation in forest management practices and stimulate market interest in both in-state and out-of-state forestry projects.

Process Concerns with Offset Protocol Changes and Recommended Solutions

WSPA is also concerned with institutional flaws in ARB’s processes for refinement of offset protocols. Protocol reviews must be predictable and transparent with reasonable timelines between reviews and updates. ARB should avoid changes on short notice or within compliance periods, as these actions tend to disrupt the offset supply-demand balance and undermine market confidence in offsets generated pursuant to implicated protocols. Unfortunately, ARB’s recent actions on the US Forestry Offsets Protocol do nothing to inspire new projects or overall market confidence.

Of particular concern is ARB’s decision to make changes without a full public review and comment period. ARB has defended this decision by reference to its authority under the Cap and Trade regulation to make “quantitative” changes to offset protocols without soliciting public comments. Yet in the absence of input from forestry experts and a thorough assessment of potential impacts on project developers and offset purchasers, it is reasonable to expect negative consequences for long term offset supply. Market knowledge that ARB is making decisions on the basis of limited information will serve to further undermine investor confidence and likely diminish investment in forestry offset projects.

To address these concerns, WSPA recommends that ARB adhere to the public participation process it typically employs for rulemakings. ARB should engage stakeholders in a meaningful period of informal dialogue and development of amendments, specify a timetable for issuance of a formal proposal, allow for a full 45-day public comment period on that proposal and present a complete final rulemaking package to the Board for consideration and formal adoption. Also, as noted above, substantive changes to offset protocols should not take effect until the start of the next compliance period. Adhering to this public participation process would maintain the confidence of developers and investors and help increase the pool of offsets available to achieve emission reductions in a cost-effective manner.

Market Receptivity to Current and Future Protocols will Influence Long Term Program Success

WSPA shares ARB’s previously stated concerns about the potential for a shortfall in offsets supply. We maintain that the success of California’s C/T program, and of the broader effort to meet long term GHG emission reduction targets, depends in significant part on ARB collaborating with the private sector and other regulatory jurisdictions on creative, flexible strategies to increase offsets supply. In addition to expediting development of new offset protocols, ARB must also ensure that existing protocols such as the US Forestry Offsets Protocol are implemented in a manner that will encourage participation by the intended project developers and in turn maximize the supply of environmentally sustainable offsets.

If you have any questions, please contact me.

Sincerely

970 W. 190th Street, Suite 304, Torrance, California 90502

(310) 808-2149 ⦁ Fax: (310) 324-9063 ⦁ Cell: (626) 590-4905 ⦁ mike@wspa.org ⦁ www.wspa.org

970 W. 190th Street, Suite 304, Torrance, California 90502

(310) 808-2149 ⦁ Fax: (310) 324-9063 ⦁ Cell: (626) 590-4905 ⦁ mike@wspa.org ⦁ www.wspa.org



**970 W. 190th Street, Suite 304, Torrance, California 90502**

**(310) 808-2149 ⦁ Fax: (310) 324-9063 ⦁ Cell: (626) 590-4905 ⦁ mike@wspa.org ⦁ www.wspa.org**

970 W. 190th Street, Suite 304, Torrance, California 90502

(310) 808-2149 ⦁ Fax: (310) 324-9063 ⦁ Cell: (626) 590-4905 ⦁ mike@wspa.org ⦁ www.wspa.org

1. Larger scale regeneration cuts are necessary for promoting healthy forest regeneration in areas outside of California. The 50 square foot minimum BA retention limit appears to be based on California Forest Practice Rules which are not an appropriate metric by which to assess forests in other regions of the nation. This creates unfair advantage for California forests. Hardwood forests throughout the east and the Great Lakes states often utilize management techniques reliant on smaller harvests below 50 sq. ft. BA/acre to adequately promote regeneration. In these systems, it is necessary to remove a significant portion of the overstory to establish a robust new cohort of trees and encourage optimal forest structure. Restricting this type of management could also have negative effects on wildlife as the multi-tiered forest ecosystems they foster provide valuable early successional habitat and generally promote greater biodiversity. [↑](#footnote-ref-1)