



April 8th, 2010

Dear Members of the U.S. Senate:

Our organizations and companies believe in the value of U.S. forest carbon conservation as a key climate strategy, given that U.S. forests currently sequester more than 12% of U.S. greenhouse gas emissions each year – more than the total yearly emissions of all passenger cars nationwide. We believe that creating a domestic forest carbon offsets market in a cap and trade climate program will help reduce emissions, help landowners enter the low carbon economy, and provide a major cost-containment mechanism for cap and trade.¹ However, it is essential that the offset program standards are rigorously crafted, or real emissions reductions will not reliably occur and the emissions cap will be undermined. Senator Debbie Stabenow introduced an offsets bill that provides a solid foundation for a federal offsets program, and we respectfully offer a number of core priorities to help guide the final formulation of this domestic offset program as a central component of the U.S. energy and climate strategy. All references to legislation in this letter are to Senate Bill 2729, the Clean Energy Partnerships Act of 2009

I. Offsets

Priorities

1. **Roles of USDA and EPA.** S. 2729 provides welcome integration of the USDA and U.S. EPA roles into one offsets program with one advisory committee. Given the USDA's long-standing experience and relationships in the agriculture and forest sectors, this agency has an important role to play in developing suitable program methodologies and effective outreach and implementation. The U.S. EPA also has an important role to play because of its overarching regulatory mandate to ensure the integrity of the cap and trade program. While extensive

¹ The Congressional Budget Office and the U.S. EPA have both documented in detail how forest offsets will be cost effective, readily available and an important component of cap and trade affordability, particularly in the early years of the program. See, e.g., CBO Economic and Budget Issue Brief, "The Use of Offsets to Reduce Greenhouse Gases," August 3, 2009: "The cost savings to the economy generated by offsets could be substantial. CBO estimates that between 2012 and 2050 average annual savings from offsets could be about 70 percent under ACESA. Of course, the intended environmental benefit would be fully realized only if the offsets provided the full reduction in GHGs for which they were credited."

inter-agency cooperation is appropriate, Sections 105-109 must explicitly retain EPA's authority to ensure the integrity of the offset program, including primary oversight on final program methodologies (Section 105) and periodic program review (section 109) to ensure that real, additional, permanent and verifiable emissions reductions do occur.

2. **Short-term contracts: permanence and additionality.** The purpose of offsets is to provide emissions reductions equivalent to the emission reductions from covered entities for which they are substituting, most importantly by being permanent and additional. Short-term offset contracts present unique challenges in this regard. Unfortunately, Section 105(b)(3) is not clear regarding how "less than perpetual" sequestration agreements would meet the permanence standard (which we view as being defined as at least 100 years, with clear liability for reversals), and the mechanisms listed in the subsection are too vague to ensure offset integrity. In addition, the sequential short-term projects allowed by Section 105(b)(3) could result in a series of back-to-back projects, none of which is truly additional. This is of particular concern for forest projects that are normally managed over long cycles. If sequential short-term offsets are allowed, the requirements on project-length and methods for additionality must ensure the integrity and permanence of the total amount of credited offsets.
3. **Environmental safeguards.** Environmental considerations such as those in HR 2454 EH Section 741 are critical to ensure that an offsets program does not have unintended negative consequences for conservation and biodiversity. Such safeguards are entirely missing in the S. 2729 and should be reinstated.
4. **Early action programs.** Current offset programs vary in quality, and it is thus essential that the criteria for determining eligibility of programs and project types under Section 110 should meet the quality standards of the federal program. Carbon reductions that do not meet such standards should seek qualification under non-offset incentive programs such as the Carbon Conservation Program in Title II. Early action offsets should also be limited in relation to the overall size of the cap and the offset program, or there will be little economic incentive for new offset projects under cap and trade.

Clarifications

5. **Clarify temporary historical baselines / additionality.** Accurate baselines are vital to verifying offset additionality. Language should be clarified in section 105(a)(2) on temporary baselines for agriculture and forestry projects. All baselines must meet conservative estimates of business-as-usual behavior. In some cases, a baseline quantification may involve comparison with a static historical baseline, but this is only appropriate when this truly reflects BAU and should not be the only source of data used. Other data sources that should be included relate to management practices and land use trends in the region.

6. **Clarify accounting for reversals.** One complexity of terrestrial offsets is the potential for reversals. Clear liability (not just accounting) should be assigned to the project for addressing reversals. Section 105(b)(1)(A), line 18-19 specifies that the reversal provisions apply “for the complete term of an offset project” yet this time period is not defined. This section should clarify that “term” refers to 100 years, rather than to the crediting period, which would be too short a time period for reversal accounting.

II. Title II Carbon Conservation Program and Title IV

Priorities

The Title II Carbon Conservation Program plays a key role by providing an alternative funding stream for more flexible project approaches and project types that cannot meet key offset requirements including strict additionality and permanence. Project types that have some carbon value but cannot meet offset requirements (e.g., *see* concerns under #2, above) should be moved here and receive fair and appropriate compensation through a well-funded program.

1. **Prioritization.** While early adopters should be eligible through the supplemental program as opposed to the offset program, they should not be so heavily prioritized to the detriment of new activities. The program should have a primary focus on small landowners who cannot participate in the offset market because of transaction costs, and on paying for new behavior that increases carbon storage on the landscape. The program also appears to prioritize easements on working forestland that is part of a farm operation, and that should be clarified/expanded to include intact forestland, which has higher carbon benefits and may well be more susceptible to land conversion. We applaud the focus on permanent conservation easements as this will provide the greatest carbon benefit and return on investment dollars.
2. **Ensure duration of benefits beyond the contract length is taken into account in the payment levels.** Payment levels must be based in part on the likely duration of carbon benefits beyond the contract length, or the overall climate benefits of the program will be severely degraded. (Put another way, incentive payment levels will be too high and waste program resources.) As a practical matter, consideration of the likely duration should be applied in a similar manner in both the carbon conservation program and in the offset reserve risk assessments in Section 105(b)(2)(A)(i) and updated over time based on the program reviews.
3. **Funding for national inventory.** The current US national inventory for land use, land use change and forestry could be greatly improved by, among other things, increasing the number, frequency of monitoring, and stratification of FIA data plots, and much better incorporation of remote sensing data. This would serve

many purposes, but importantly would allow for better tracking of overall program effectiveness and provide better data to support Title I and Title II projects. As little as 5 or 10 percent of the Title IV R&D allocation would be sufficient to make very significant improvements in the inventory.

4. **Timber harvest contracts and grazing contracts.** Strategies to provide payment to private parties for desired outcomes on national forests and other federal lands, as suggested in Section 202(g) and Section 202(h), must be very carefully evaluated to ensure that scarce resources are not used to achieve public benefit that could be achieved directly through policy and regulation. Generally speaking, the Forest Service decides through the planning process what the desired outcomes are in land management. The Forest Service is just beginning to consider public policies around carbon management based on an Executive Order, draft guidance from CEQ, and the upcoming planning rule revision process. Similarly, the Bureau of Land Management is beginning to consider climate change and carbon management strategies based on Secretarial Order 3289 and draft guidance from CEQ. Inserting a loosely defined carbon incentive program at this juncture could inadvertently undermine new agency carbon policy by establishing the presumption that timber and grazing contractees will receive carbon payments in the future as opposed to revised contract terms under new public policy. We thus believe that carbon incentive programs for public lands should supplement rather than replace new public lands policy. We recommend that the Carbon Conservation Program predominantly focus on private forestland and agricultural land owners, where the majority of carbon benefits can be obtained and where there is an escalating rate of land conversion.

If public land provisions remain in the program, we recommend that funding purposes be very carefully defined and that no more than 10 percent of the Carbon Conservation Program funds be used for activities on federal lands.

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