



Emmett Institute on Climate Change and the Environment

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Mr. Richard W. Corey  
Executive Officer  
Air Resources Board  
1001 I Street  
Sacramento, California 95814

*via electronic submittal to*

[https://www.arb.ca.gov/lispub/comm/bcsubform.php?listname=tfs2019&comm\\_period=N](https://www.arb.ca.gov/lispub/comm/bcsubform.php?listname=tfs2019&comm_period=N)

RE: Updated California Tropical Forest Standard

Dear Mr. Corey:

The Emmett Institute on Climate Change and the Environment at UCLA School of Law respectfully submits this letter in support of the California Air Resources Board (CARB)'s proposed Updated Tropical Forest Standard ("Standard"). The Emmett Institute is a leading law school center focused on climate change and other critical environmental issues, and serves as a source of environmental legal scholarship, nonpartisan expertise, and policy analysis. In our previous letter commenting on the original proposed Standard, we concluded that approving this Standard presents an opportunity for CARB (and California) to help lead the global fight against tropical deforestation.<sup>1</sup> We reiterate our support here in light of recent updates to the proposed Standard. The revisions made on November 9, 2018 and July 3, 2019, retain the Standard's high quality as a global model for assessing jurisdiction-scale programs to reduce emissions from tropical deforestation. We also commend CARB's improvements to its criteria for social and environmental safeguards. If adopted, the Standard will send a very strong signal regarding the fundamental importance of including indigenous and local communities as true partners in the development of jurisdiction-scale programs to fight tropical deforestation. This would set a very high bar for ongoing forest protection initiatives around the world and would provide an important benchmark for any jurisdiction seeking to develop a comprehensive program to mitigate tropical deforestation that could access various pay-for-performance opportunities.

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<sup>1</sup> See generally Emmett Institute on Climate Change and the Environment, Comment Letter on Proposed California Tropical Forest Standard (October 29, 2018), <https://www.arb.ca.gov/lists/com-attach/36-tfs2018-AWJVMIE8BwtRI1Ai.pdf>.

In light of recent news coming out of the Amazon, it is more clear than ever that protecting tropical forests must be a critical part of any realistic effort to fight climate change, protect public health, preserve biodiversity, and protect and enhance the livelihoods of forest-dependent peoples. While the Standard itself does not establish any linkages with other jurisdictions, the Standard establishes a model for assessing jurisdictional programs to reduce tropical deforestation that is reliable, accountable, and transparent. If adopted, the Standard would govern any future linkages between California’s cap-and-trade program and a tropical forest jurisdiction. But even if no such linkage ever materializes, the Standard establishes best practices for other tropical forest jurisdictions around the world seeking to access various pay-for-performance opportunities. Simply put, the Standard presents an opportunity for California to set a high bar for tropical forest protection that reflects the State’s longstanding role as a global leader in the fight against climate change. This letter takes particular note of two of CARB’s recent revisions.

First, the updated Standard more clearly emphasizes the importance of incorporating public participation from indigenous peoples and local communities in any government program (what the Standard refers to as a “sector plan”) to reduce emissions from tropical deforestation. These are found in the requirements for social and environmental safeguards, which must be included in every sector plan.<sup>2</sup> The updated Standard strengthens the safeguards reporting requirements by mandating that each sector plan clearly describe how the program adheres to principles and criteria listed in three global standards: (1) the United Nations Reducing Emissions from Deforestation and Forest Degradation in Developing Countries – Social and Environmental Safeguards, Version 2 (“REDD+ SES 2012”); (2) the 2011 United Nations Framework Convention on Climate Change in Cancun (“Cancun agreements”); and (3) the *Guiding Principles for Collaboration and Partnership Between Subnational Governments Indigenous Peoples and Local Communities* (“GCF Principles for Collaboration”), which were developed jointly over several years by indigenous and local communities and the members of the Governors’ Climate and Forest Task Force.<sup>3</sup> These GCF Principles of Collaboration were formally adopted by 34 of the 38 GCF Task Force member states and provinces at the GCF Task Force annual meeting in September 2018 (held in conjunction with the Global Climate Action Summit).<sup>4</sup> They have also been endorsed by 18 indigenous peoples organizations and 17 civil society groups.<sup>5</sup>

Adhering to the combined principles and criteria in the Standard will help ensure that forest-dependent communities (used here as an umbrella term for indigenous peoples, local

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<sup>2</sup> See Cal. Air Res. Bd., Updated California Tropical Forest Standard [hereinafter “Standard”], Ch. 3(c)(3) (July 30, 2019), available at [https://ww3.arb.ca.gov/cc/ghgsectors/tropicalforests/updated\\_ca\\_tropical\\_forest\\_standard\\_english.pdf](https://ww3.arb.ca.gov/cc/ghgsectors/tropicalforests/updated_ca_tropical_forest_standard_english.pdf).

<sup>3</sup> See generally Standard, Ch. 10, preface.

<sup>4</sup> See Governors’ Climate & Forests Task Force Secretariat, *Key Outcomes of the 2018 GCF Task Force Annual Meeting*, (Sept 12, 2018), <https://www.gcftf.org/post/key-outcomes-of-the-2018-gcf-task-force-annual-meeting>.

<sup>5</sup> See Governors’ Climate & Forests Task Force Secretariat, *GCF Unveils Guiding Principles of Collaboration and Partnership*, (Sept. 11, 2018), <https://www.gcftf.org/post/gcf-unveils-guiding-principles-of-collaboration-and-partnership>.

communities, and other forest-dependent communities) are fully integrated into the design and governance of any jurisdictional program for reducing tropical forest deforestation.<sup>6</sup> The GCF Principles for Collaboration include an explicit recognition of the contributions, traditional knowledge, and dependence on forest management that forest-dependent communities provide.<sup>7</sup> They also guarantee that representatives of forest-dependent communities help co-design and share benefits with local jurisdictions developing programs to reduce deforestation.<sup>8</sup> The REDD+ SES 2012 principles and criteria contain similar principles for including forest-dependent communities as stakeholders, and also focus on equity for women and vulnerable populations within the indigenous and forest-dependent populations.<sup>9</sup> These principles are also combined with specific criteria to which every sector plan must conform, providing more specificity for sector plans while limiting chances for the sector plan to incorporate processes that *de facto* exclude indigenous peoples and local communities.<sup>10</sup> Finally, both the GCF Principles for Collaboration and the Cancun agreements reiterate the importance of incorporating the free, prior and informed consent of indigenous peoples and local communities, a principle first outlined by the United Nations Declaration on the Rights of Indigenous Peoples.<sup>11</sup> Alignment with these universally recognized principles and criteria will help California and any other implementing jurisdiction achieve the highest standards for including forest-dependent communities in the design and governance of a tropical forest jurisdiction's sector plan.

Second, the updated Standard makes clear that it applies broadly beyond offset crediting programs. Any jurisdiction, national or subnational, can use the Standard to develop a comprehensive approach for reducing emissions from deforestation.<sup>12</sup> The Standard's criteria describe how a program should shape annual reporting mandates, conduct biomass mapping, establish reference levels, establish baselines, establish buffer pools, assess leakage risks, and assess permanence and reversal risks, all while ensuring high-quality transparency, monitoring, verifiability, and social and environmental safeguards standards. With this Standard, CARB has developed a set of criteria that could be used for designing *any* plans aspiring to establish equitable social justice standards for mitigating deforestation and degradation, even beyond those related to cap-and-trade programs.

In sum, this Standard has retained its high-quality criteria, defined strict social and environmental safeguards, and highlighted its broad replicability for any type of jurisdictional low-emissions development and tropical deforestation program. Its approval would establish a very high bar for climate, environmental, and social justice issues in this sector. For these reasons, the Emmett Institute supports action by CARB to approve the Updated Tropical Forest Standard. The changes made in the updated Standard retain and expand the opportunity for

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<sup>6</sup> See Standard, Ch. 1.1(a) (definition of "forest-dependent communities").

<sup>7</sup> See *Guiding Principles for Collaboration and Partnership Between Subnational Governments, Indigenous Peoples and Local Communities*, Governors' Climate and Forest task force, at Principles 1-4 (2018).

<sup>8</sup> See *id.* at Principles 6-11.

<sup>9</sup> See *Principles and Criteria*, REDD+ Social and Environmental Standards, Version 2, at principles 1-2 (2011).

<sup>10</sup> See *generally id.*

<sup>11</sup> See *id.* at Principle 9; see also Cancun agreements, Appendix I(2)(d).

<sup>12</sup> See Standard, Ch. 2 (preface).

CARB and California to help lead the global fight to protect and conserve tropical forests, which has the potential to yield immense public health, social justice, and environmental benefits.

Respectfully submitted,



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