

FRIENDS OF THE EARTH – GREENPEACE - OXFAM
ASIAN INDIGENOUS WOMEN'S NETWORK - AUSTRALIAN CLIMATE JUSTICE PROGRAM
AUSTRALIAN ORANGUTAN PROJECT - CENTER FOR INTERNATIONAL ENVIRONMENTAL LAW
CIVIL SOCIETY FORUM ON CLIMATE JUSTICE – CLIENTEARTH- EARTH DAY NETWORK
FERN - FORUM POUR LA GOUVERNANCE ET LES DROITS DE L'HOMME
INDONESIAN CENTER FOR ENVIRONMENTAL LAW - INTERNATIONAL FORUM ON GLOBALIZATION
RAINFOREST FOUNDATION, US - RAINFOREST FOUNDATION, UK
RAINFOREST FOUNDATION, NORWAY - TEBTEBBA

December 12, 2010

Mary D. Nichols Chair,
California Air Resources Board
1001 "I" Street
P.O. Box 2815
Sacramento, CA 95812

RE: Protection of Indigenous Peoples' and Local Communities' Rights in Cap and Trade Regulation

Dear Ms. Nichols,

We appreciate the efforts of the California Air Resources Board (CARB) to develop a package of policies necessary to implement California Global Warming Solutions Act of 2006 (AB 32) and to address deforestation in developing countries. Policies aimed at reducing emissions from deforestation and degradation in developing countries can play a critical role in global efforts to fight climate change. However, we are writing to express our concern that international forest programs in the proposed regulation to establish a California cap on greenhouse gas emissions and market-based compliance mechanisms could affect the rights of some of the world's most vulnerable peoples if appropriate guidelines and safeguards are not included in the regulations.

The proposed regulation establishes a program to generate offset credits from reduced deforestation and degradation but does not include language to ensure the rights of indigenous peoples and local communities. California must ensure that the development and implementation of REDD crediting programs do not lead to negative social and environmental consequences. It is therefore vital to include clear guidance requiring the full protection of the rights of indigenous peoples and local communities. *We strongly recommend that "Section 95994: Requirements for Sector-Based Offset Crediting Programs" of the cap and trade regulation be amended to include the following provision: "Rights of Indigenous Peoples and Local Communities. The program has requirements to ensure that the rights of indigenous peoples and local communities, including their rights to lands, territories and resources, are fully respected."*

As the proposed regulation is currently written, California risks undermining high standards for REDD policy making currently underway in other fora. The World Bank, UN-

REDD¹ and the UN Framework Convention on Climate Change have all recognized the rights of indigenous peoples and local communities in REDD (Reduced Emissions from Deforestation and Degradation) policies. As an early mover in REDD policy making, California must build on these efforts rather than risk undermining them.

If the rights and participation of indigenous peoples and forest dependent communities are not guaranteed in California's regulation to establish a REDD crediting program, governments are likely to view avoiding adverse social impacts and respecting rights as merely an extra implementation cost, rather than as a contribution to and prerequisite for REDD effectiveness.

Far from being a burden, however, respecting and promoting the rights and traditional knowledge of indigenous peoples and other forest-dependent local communities is an asset to any national or international effort to protect forests and biodiversity while mitigating climate change. For example, Instituto Socioambiental (ISA) has shown that Indigenous territories in the Brazilian Amazon are virtually free from deforestation. In these territories, deforestation is only 1%, compared to an average of 2% in all protected areas, 8% in state level sustainable use protected areas, and 19% outside the protected areas. Ensuring these indigenous and forest-dependent local communities' rights to land, territories and resources are vital to the long-term efficacy of REDD efforts. Therefore, we urge the Air Resources Board to include clear guidance the requiring the full protection of the rights of indigenous peoples and local communities.

We thank you very much for your consideration and look forward to working with you as the regulations for implementation of AB 32 are further developed.

Sincerely,

Asian Indigenous Women's Network
Australian Climate Justice Program
Australian Orangutan Project
Center for International Environmental Law
Civil Society Forum on Climate Justice, Indonesia
ClientEarth
Earth Day Network
FERN
Forum pour la Gouvernance et les Droits de l'Homme (FGDH), Congo Brazzaville
Friends of the Earth
Greenpeace
Indonesian Center for Environmental Law
International Forum on Globalization
Oxfam

¹UN-REDD is a collaborative initiative of the Food and Agriculture Organization of the United Nations (FAO), the United Nations Development Programme (UNDP) and the United Nations Environment Programme (UNEP) to address Reduce Emissions of Deforestation on Reducing Emissions from Deforestation and Forest Degradation (REDD) in developing countries.

Rainforest Foundation, US
Rainforest Foundation, UK
Rainforest Foundation, Norway
Tebtebba - Indigenous Peoples' International Centre for Policy Research and Education

CC:

Daniel Sperling, ARB Board Member
Ken Yeager, ARB Board Member
Dorene D'Adamo, ARB Board Member
Barbara Riordan, ARB Board Member
John R. Balmes, M.D., ARB Board Member
Lydia H. Kennard, ARB Board Member
Sandra Berg, ARB Board Member
Ron Roberts, ARB Board Member
John G. Telles, M.D., ARB Board Member
Ronald O. Loveridge, ARB Board Member
James Goldstene, Executive Officer, ARB
Kevin Kennedy, Assistant Executive Officer, Office of Climate Change, ARB