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Activists Eye Suit To Block Forestry From California GHG Offsets Protocol

Environmentalists are signaling they will sue California regulators if they adopt for use under a forthcoming cap-and-trade program a revised forestry greenhouse gas (GHG)-offset protocol crafted by a voluntary carbon registry. The activists charge the voluntary registry was influenced by the timber industry and fails to ensure that forestry-related GHG reductions are “additional” and meet other conditions under AB 32, the state’s 2006 global warming solutions law.

Any legal challenges against California GHG offset protocols are likely to draw widespread attention and could complicate industry compliance with the state’s proposed GHG cap-and-trade program. The GHG offset protocols scheduled to be adopted by California regulators are also considered models for use under other state, regional or federal cap-and-trade programs. Forestry offsets, in particular, are expected to be heavily sought out by regulated industries to help them comply with California’s GHG rules over the next decade.

At issue is a revised forestry GHG-offset protocol adopted Aug. 31 by the Climate Action Reserve (CAR), a voluntary national GHG offset registry. The revised protocol attempted to address a number of controversial issues that arose since the last version of the protocol was adopted by the California Air Resources Board (CARB) in 2009, including objections by environmental groups that the

standards improperly reward credit to industry “clear-cutting” of forests. As a result of these objections, CARB earlier this year rescinded its adoption of the protocol, in part to allow its staff to conduct a review of the standards under the California Environmental Quality Act (CEQA) and to allow CAR time to revise the protocol.

The Center for Biological Diversity (CBD) was the lead organization that pressed CARB to rescind adoption of the protocol. CBD attorneys say they were initially optimistic that CAR would address a number of provisions in the forestry protocol that the activists challenged, but the latest CAR protocol fails to resolve key disputes, says a source with the group.

One of CBD’s chief complaints is that the protocol improperly awards GHG emission-reduction credits to forest management projects that “clear-cut” trees from certain plots. CBD challenges the protocol’s assumption that more carbon sequestration will occur over 100 years from the growth of new trees planted to replace the clear-cut than would have been sequestered if the previous stand of trees was not cut down, and the roots and soil beneath not disturbed.

CBD argues that this provision, as well as several other parts of the protocol, violate AB 32’s requirement that GHG emission reductions be “additional” to what would have occurred under business-as-usual scenarios. Further, state regulators must seek out environmental “co-benefits” when implementing the

state’s cap-and-trade program, CBD adds. Clear-cutting does not provide any co-benefits and actually degrades air and water quality, according to the group. CBD signals future litigation against CARB if it adopts the new CAR protocol, in an Aug. 30 letter to CAR. “If the proposed revision is adopted by [CAR], we believe [CARB] would be legally bound to reject the Forest Project Protocol version 3.2 and would be forced to revise the protocol to ensure additionality as required by AB 32,” the letter says. The documents are available at CarbonControlNews.com.

CARB officials have said they want to adopt the forest protocol and three other CAR offset protocols by the end of the year, to help allow regulated entities to begin planning for compliance under the cap-and-trade program, which is scheduled to launch in 2012.

Linda Adams, the secretary of the California Environmental Protection Agency and the chair of the CAR board of directors, expressed concern during CAR’s Aug. 31 meeting that the CBD objections could threaten the timely CARB adoption of the forestry protocol. “We want to get this in shape to move to” CARB, she said.

CAR’s Forest Project Protocol version 3.2 lays out all the conditions, requirements and standards that offset project developers must meet to be granted GHG-reduction credit. The protocol covers three areas: reforestation, which involves restoring tree cover on land that is “not at optimal stocking levels and has minimal short-term commercial opportunities;” improved forest management, which involves activities that maintain or increase carbon stocks on forested land relative to baseline levels of carbon stocks; and avoided conversion, which involves prevention of the conversion of forestland to non-forestland use by dedicating the land to continuous forest cover through a conservation easement or transfer to public ownership.