WASHINGTON ENVIRONMENTAL COUNCIL

The Nature Conservancy Washington

January 26, 2022

Dear Mr. Garbe,

Thank you for the opportunity to provide informal public comment on Chapter 173-446 WAC. We appreciate the Department of Ecology's leadership of this process and public engagement efforts. As statewide environmental organizations closely engaged in policy and projects related to forestry and climate change in Washington state, Washington Environmental Council (WEC) and The Nature Conservancy (TNC) Washington are invested in robust implementation of the Climate Commitment Act. We are invested in the success of the carbon offset program of the CCA due to its implications for several shared organizational priorities: natural climate solutions, sustainable forest management, and environmental justice.

WEC has independently submitted general comments on aspects of Chapter 173-446 WAC. Please consider this letter to be complementary to those general comments submitted by WEC. WEC and TNC's joint comments in this letter focus specifically on the section of the draft rule entitled "Procedures and protocols for establishing offset projects," consisting of WAC 173-446-500 through WAC 173-446-595.

Our comments in this letter are organized into two sections:

I) Input on language directly included in Chapter 173-446 WAC
II) Evaluation and development of offset protocols

I. Input on language directly included in Chapter 173-446 WAC

Verification and Monitoring

Several overarching themes appear within the draft WAC that we believe merit revision and clarification. The first of these is verification and monitoring. The proposed WAC contains a number of different standards for verification frequency and ability to defer verification, notably in WAC 173-446-525, WAC 173-446-530, and WAC 173-446-535. We would like to better understand the anticipated impacts of these different standards for verification and monitoring, guided by an interest in maintaining a balance of credibility and cost of offset projects. We appreciate that some of these measures may be intended to reduce costs and therefore barriers to entry, especially for smaller projects.

There are numerous exceptions provided for urban forestry projects, including those related to verification and non-compliance. It would be valuable to understand the rationale behind these changes. If exceptions are intended to reduce barriers to entry for urban forestry projects, we would welcome a broader, more comprehensive discussion of mechanisms to improve accessibility and achievability of urban forestry offset rules for local government and non-profit entities.

Additionally, the draft WAC applies different rules for invalidation of credits to different project types. The rules lack clarity on how invalidation influences credits issued and how regulatory non-compliance impacts credits issued. One of the distinctions for different projects types is "non-sequestration offset projects" vs. "sequestration offset projects." These terms are not defined, though having a shared, clear understanding is important. We recommend defining these terms and clarifying how they interact with the different offset protocols.

Lastly, strategies should be incorporated into the WAC to establish mechanisms for transparency and accountability. Processes for verification and monitoring should include requirements to adhere to nationally accepted, peer-reviewed methods; maintaining records for the duration of the carbon project; interim data collection; and making records accessible to the public. Alternate methods should only be adopted by Ecology if the method is nationally recognized. Since changing methodology frequently can impact the quality and quantity of offsets generated from a project, it is advisable to evaluate the new method critically before implementing.

Defining Direct Environmental Benefits

The current definition of direct environmental benefits, including only reduction or avoidance of pollutants, feels limited. There is an opportunity to expand the definition to include additional environmental benefits as well as cultural and social benefits, such as habitat improvement, flood risk reduction, heat island reduction, improved food security, species protection, and removing climate burden from indigenous and other overburdened communities.

Maximizing Economic Benefits in Washington State

Several components of the draft rules could be improved to encourage all stages of offset projects to be completed in Washington State, thereby supporting local economies. We would especially like to see greater investment in Washington by prioritizing and creating incentives for offsets produced by Tribal and small landowners. As currently written, the draft rules create barriers for new, Washington-based offset verifiers. Locally-based registries are likely to have more on-the-ground knowledge about local constraints. An additional modification that would make these rules more locally responsive would be to look to local context for actual offset carbon stocks based on local tree species rather than a flat 10% improvement in carbon stocks in the final crediting period as specified in WAC 173-446-530, Section 3.

II. Evaluation and development of offset protocols

Rule development for the Climate Commitment Act offers a timely and vital opportunity to evaluate potential improvements to California Air Resources Board (CARB) offset protocols, as well as potential additional protocols to support achievement of the CCA's goals. Noting that the draft WAC proposes adoption of CARB Compliance Offset Protocols for Livestock, Urban Forestry Projects, and US Forest Projects as the instruments to determine greenhouse gas reductions and removal enhancements resulting from offset projects, we would like to highlight opportunities and principles for strengthening offset protocols moving forward. We hope to see Ecology develop a strategy to: 1) Pursue opportunities to strengthen existing CARB offset protocols, and 2) Identify additional offset protocols that should be developed or adopted to support the goals of the CCA in Washington.

Evaluation of Offset Protocol Adjustments and Additions

Existing CARB Compliance Offset Protocols provide a good basis for initial CCA implementation, given that they were designed for offset projects across the United States, and are informed by significant multi-stakeholder engagement and expertise. In light of the expeditious timeline for CCA rulemaking, we are supportive of Ecology adopting existing CARB protocols for the short-term.

However, we request that Ecology simultaneously initiate a process to evaluate potential improvements to CARB offset protocols and the adoption of additional offset protocols beyond Urban Forests, US Forests, and Livestock. Examples of additional offset protocols that may more fully harness the potential of natural and working lands to sequester carbon include protocols addressing blue carbon, soil, carbon, rangelands, orchards, or wetlands.

We suggest setting a target of approximately 2025 for completing such an evaluation and adopting or adjusting new offset protocols as deemed necessary. A 2025 deadline allows for any changes to offset protocols to contribute to 2030 and 2040 greenhouse gas emissions limits. Such an evaluation should involve a range of stakeholders with forestry and environmental expertise, technical experience in offset implementation, Tribal Nations, representatives of environmental justice organizations and overburdened communities, and small forest landowners.

An evaluation of potential adjustments and additions to offset protocols should be guided by the requirements for carbon offsets in the CCA: provision of direct environmental benefits, and real, permanent, quantifiable, verifiable, enforceable, and additional greenhouse gas reductions. Additionally, we urge an evaluation to seek to increase applicability and credibility of offset protocols to Tribal Nations and small forest landowners, benefit overburdened communities, support environmental justice goals, and uphold Tribal Sovereignty. We hope an evaluation would draw on learnings from the experience of implementing carbon offsets in California's cap and trade program the last 10+ years, as well as explore new models and programs for offsets protocols that are most relevant to achieving greenhouse gas reduction and environmental justice goals in Washington State.

We are also interested to understand how Ecology plans to engage in CARB's review and update process for offset protocols. Review of CARB offset protocols last occurred 7 and 11 years ago for US Forest Projects and Urban Forestry Projects, respectively. We recommend that Ecology consider engaging with CARB to understand plans for review of CARB offset protocols, and identify priority issues to guide Ecology's engagement in a CARB offset protocol review. We hope these priority elements are informed by stakeholder input on CCA rulemaking, including ensuring scientific credibility of offsets, ensuring accessibility of offsets to Tribal Nations and small forest landowners in Washington, and incentivizing removal of greenhouse gases over reduction.

Developing an Urban Forestry Offset Protocol

Development of an effective urban forestry offset program is a significant opportunity for Ecology to demonstrate leadership. An equitable urban forestry offset program focused on increasing tree cover in overburdened communities has the potential to deliver benefits to climate, people, and nature.

The CCA establishes a clear intent to reduce environmental burdens in overburdened communities and provide meaningful benefit to vulnerable populations. A functional urban forestry offset protocol holds the potential to deliver significant co-benefits to overburdened populations alongside carbon dioxide removals, and is thereby a critical component to achieving the CCA's environmental justice goals. A

carefully designed and stakeholder-informed urban forestry offset program can achieve GHG removals and increase carbon stocks while achieving additionality and permanence, and increasing buffer pools. Beyond carbon sequestration impacts, urban forestry projects provide significant co-benefits for overburdened communities: reducing urban heat island effects, reducing energy use during the summer, reducing health care cost, and increasing green infrastructure in dense neighborhoods.

The existing CARB Urban Forest Project offset protocol has not been successful in motivating carbon offset projects in urban environments. This protocol has not been used a single time since its adoption over a decade ago due to a high cost and degree of complexity that is prohibitive for local governments and small non-profits. It is critical that Ecology develop a cost-effective urban forestry protocol that facilitates uptake in Washington's urban areas and rural population centers. An effective urban forestry protocol should recognize the differences in capacity, function, and expertise of organizations and stakeholders involved in urban forestry as compared to larger-scale forestry. Voluntary urban forestry protocols offer a valuable model to shape a future urban forestry protocol. For example, City Forest Credits offers an established, Washington-based protocol that may merit consideration.

Enhancing Participation of Tribal Nations and Small Forest Landowners

We urge Ecology to explore strategies and protocols to promote aggregation and robust participation of landowners with smaller landholdings, particularly with regards to the CARB US Forest Offset Protocol. To date, costs associated with carbon offsets have made participation in the Compliance market challenging or impossible for owners with smaller landholdings. This is particularly limiting for small forest landowners, who own 15% of Washington's forestland, and Tribal Nations, which own approximately 7% of Washington's forestland. For the Climate Commitment Act to achieve its goals, it will be vital to promote and increase the participation of these two landowner groups.

Measures to facilitate participation of Tribal Nations and small forest landowners must be different in response to the unique goals and constraints faced by each group, and should be informed by engagement and consultation with representatives of each. We recommend exploring strategies for aggregation of smaller landholdings into larger carbon offset projects, identifying opportunities to credibly reduce project costs and find efficiencies in monitoring and verification, and exploring approaches tailored to small forest landowners of different sizes. For example, TNC's Working Woodlands Program is targeted towards landowners on the smaller end of the spectrum, and the TNC and American Forest Foundation's Family Forest Program is targeted towards small forest landowners on the larger end of the spectrum. In light of TNC's experience in developing these programs, TNC is willing to serve as a resource to partner on development of similar, state-wide programs directed towards different land owners. DNR's Small Forest Landowner Office also has valuable expertise to contribute.

To facilitate robust tribal participation and support Tribal Sovereignty, we encourage Ecology to explore with Tribal Nations the possibility of an Indigenous-led carbon offset program. This is an opportunity for Ecology to establish a partnership with Tribal Nations that sets an example for rest of the country. Additionally, such a partnership would help meet the full potential of the carbon offset credit allocation specifically designated by the CCA for projects on federally recognized tribal lands.

Lastly, we recommend that Ecology explore jurisdictional approaches to carbon offset protocols. A jurisdictional approach would enable larger-scale programs of activities which aggregate together similar, small projects or coordinated efforts across entire jurisdictions. Not only could a jurisdictional approach decrease monitoring and verification costs, but it would also reduce risk of leakage.

Rulemaking for carbon offsets is critically important, but it is only one component of a broader approach to carbon sequestration and storage with the state. We urge Ecology, together with other relevant agencies and the Governor's Office, to pursue creation of a state-wide natural and working lands carbon sequestration strategy. Such a strategy would incorporate carbon offset projects as one tool among a range of tools to promote climate change mitigation on both natural lands and resource lands.

Thank you very much for your consideration, and we look forward to continuing dialogue on the carbon offsets mechanism of the CCA.

Sincerely,

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