



February 12, 2019

The Oregon Joint Committee on Carbon Reduction

CC: Co-Chair Senator Michael Dembrow, Co-Chair Representative Karin Power, and Representative Ken Helm

**Subject: Comments on House Bill 2020**

The Climate Trust appreciates the opportunity to provide comments on the proposed Clean Energy Jobs Bill, as set forth in House Bill 2020. The Climate Trust is an Oregon-based 501(c)3 nonprofit organization that was established in 1997 as the qualified organization eligible to receive monetary compliance pathway payments under the Oregon Energy Facility Siting Council Oregon Carbon Dioxide Standard. We are one of the longest operating organizations that support the development and funding of carbon offset projects in the United States. Our experiences in the marketplace have helped shape offset policy design in the voluntary and California compliance market and the development of several offset protocols. To date, we have committed nearly \$11 million dollars towards 24 Oregon offset projects. We expect these projects to remove over 2 million metric tons of carbon dioxide equivalent emissions from these projects; the majority of which are in rural counties such as Tillamook, Morrow and Willowa.

The Trust's continued support of the bill is based on the adoption of the following provisions and modifications to the bill.

1. **The maintenance of the 8% offset usage limit in Section 19.2(a).** HB 2020 is a major step forward in terms of capping Oregon's greenhouse gas emissions. The 8% usage limit provides a key source of cost containment for compliance entities, while creating revenue earning opportunities for sectors that are not subject to cap; most of which operate in rural Oregon. The Climate Trust opposes any effort to lower this limit due to the increase in compliance costs it would create and the reduction in opportunity for Oregon's agriculture sector and forestland owners to earn revenues from the production of offset credits.
2. **The modification of Section 19.3(e) establishing clear provisions for the Carbon Policy Office (CPO) to invalidate offset credits.** The Climate Trust is supportive of withholding 3% of offset credits issued from each project and depositing them in an Environmental Integrity Account. We are opposed to referring the provisions to rules because of the:
  - uncertainty this creates for early adopters of potential offset projects;
  - risk that these rules impede or make impossible the objective of Section 19.3(A) to encourage offset project aggregation; and
  - potential that these rules could impede the objective of Section 24 on linking Oregon with the Western Climate Initiative jurisdictions of California and Quebec.



For example, The Climate Trust is developing at least three avoided grasslands conversion projects in Wallowa County. We intend to develop additional projects in this County as well and hope that they can be a source of offset credits for Oregon compliance entities. Additionally, there has been a several year effort to aggregate small forestland owners in western Oregon to generate offsets and income. The uncertainty over invalidation mechanics impedes and could potentially prevent early adopters such as eastern Oregon ranchers and small western Oregon forestland owners from participating in Oregon's offset market.

This uncertainty could be avoided by adopting invalidation provisions similar to those Ontario adopted in its cap and trade legislation. Although Ontario is no longer part of the Western Climate Initiative, California endorsed Ontario's improved approach; in preparing for linkage, the Governor's Transmittal Response to CARB on Findings under SB 1018 wrote "While Ontario uses a different mechanism to correct any failure or invalidation of an offset, the approach is equally effective...both protect the program in the event that an offset is invalidated."<sup>1</sup> Adopting this improved invalidation framework removes the majority of the price risk of invalidation from the market and provides greater incentive to both produce and purchase offsets while at the same time protecting the integrity of the program. This approach to invalidation is also important for encouraging offset project aggregation as per Section 19.3 (A). This is because it creates clarity that the CPO will not adopt a rule that incorporates California's approach to invalidation. The California approach to invalidation acts as a barrier to aggregation because one project owner cannot and shouldn't be held liable for the violations of another.

Therefore, our support for HB 2020 is contingent on the legislature directing the CPO to cancel offset credits from the Environmental Integrity Account if it determines offsets should be invalidated pursuant to the rules established under Section 19.4(d) as a result of:

- a) regulatory nonconformance such as an environmental, healthy, and safety violation attributed directly to the offset project;
  - b) a material mis-statement of offsets were previously issued defined as overstating the amount of GHG reductions or GHG removal enhancements by more than 5.00 percent; and
  - c) double selling of offsets provided that the CPO is at first unable to enforce an action where the seller itself is directly required to supply replacement offsets for offsets that the CPO invalidates due to double selling.
3. **The maintenance of Sections 54-60.** The Climate Trust is supportive of repealing the ongoing Energy Facility Siting Council Carbon Dioxide Standard for site certificate holders. We are also supportive of the provisions that clarify our ongoing role and responsibilities to the Energy Facility Siting Council as a qualified organization. The Climate Trust still has funds received under this Standard that is obligated to spend on offsets. The provisions in the introduced version of HB 2020 enable us to continue to use these funds to support innovative voluntary

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<sup>1</sup> [https://www.arb.ca.gov/cc/capandtrade/linkage/response\\_to\\_sb\\_1018\\_request.pdf](https://www.arb.ca.gov/cc/capandtrade/linkage/response_to_sb_1018_request.pdf)



projects that could be considered for future adoption should Oregon implement a cap and invest program.

4. **The modification of Section 75(2).** The Climate Trust is supportive of the concept of a 10-year review of the implementation and operation of Section 19 (Offset projects) of HB 2020. As a nascent market, we feel strongly that the bill provide certainty to key offset regulation concepts such as the usage limit, direct environmental benefits, and invalidation. We are, however, concerned that Section 75(2) as introduced prevents the ability of CPO to adjust and/or adopt new protocols prior to the issuance of the report. While providing certainty in offset protocol requirements is something we support, it is important to also provide the CPO with the flexibility to make updates to protocols. In our experience, new offset protocols are revised following the implementation and initial verification as the actual piloting of these protocols helps to identify best practices. Additionally, it is important to be able to incorporate new science into protocols such as any updates in Global Warming Potentials as determined by the Intergovernmental Panel on Climate Change. We propose Section 75(2) strike the references to the word “protocols.”

Thank you for the opportunity to share our perspectives on House Bill 2020.

Sincerely,

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The Climate Trust