

9 April 2009

The Secretary
Senate Select Committee on Climate Policy
PO Box 6100
Parliament House
CANBERRA ACT 2600



By email: climate.sen@aph.gov.au

Dear Sir or Madam

SUBMISSION ON CARBON POLLUTION REDUCTION SCHEME DRAFT LEGISLATION

1 Introduction

Lawyers for Forests Inc (“**LFF**”) is opposed to the passage of the Carbon Pollution Reduction Scheme Bill 2009 (“**CPRS Bill**”) through the Australian Federal Senate.

The CPRS Bill offers very little recognition of the vitally important role of Australia’s native forests in acting as “carbon sinks,” and affords no protection for these assets. Indeed, LFF is concerned that the CPRS Bill encourages deforestation and land-clearing activities under certain market conditions.

2 Consumption of Biofuels and Biomass for Energy

LFF is concerned that the CPRS Bill proposes to “zero-rate” emissions arising from combustion of biofuels and biomass for energy.

Under the current draft of the CPRS Bill, the burning of native forests will fall within the ambit of this exemption, so that substantive emissions released by the burning of forests will not be covered by the controlling provisions of the Bill. When this is combined with the incentive under the scheme to create new plantations and receive Australian Emission Unit (“**AEU**”) credits by “opting-in” to the CPRS, the CPRS Bill potentially creates a significant market incentive to burn native forests, including old-growth forest and plant new plantations.

Given recent research which establishes that Australia’s native old-growth forests are extraordinarily effective carbon sinks¹, LFF believes that the incentives created under the opt-in procedure for Kyoto-compliant plantations are highly likely to create the perverse outcome of operators being rewarded

¹ *Green Carbon – The Role of Natural Forests in Carbon Storage* led by Professor Brendan Mackey of the Australian National University (released 6 August 2008)

under the scheme for undertaking land-clearing and plantation activities which result in a *net emissions increase* rather than a reduction.

There are further environmental problems with large-scale plantations, particularly those established on cleared land. In an existing stand of native old-growth forest, localised eco-systems typically develop over thousands of years in which a stable hydrological cycle means that inflow and outflow of water is relatively consistent. Clearing of native forests and their replacement with plantations results in an immediate and significant loss of biodiversity and soil quality.

Furthermore, young trees use a great deal more water than established trees, meaning that a large-scale monocultural plantation may have major and unpredictable effects on the quality and quantity of water flowing into local catchments².

3 Exemption of Deforestation Activities under the CPRS Bill

Given that under the proposed CPRS Bill, operators are in effect encouraged to invest in new plantations on cleared land, is especially troubling that there is no disincentive under the CPRS Bill to prevent the burning of old-growth native forests. The Victorian government and the logging industry are already advocating the burning of native forests for electricity³ and the proposed CPRS scheme will only increase these calls.

Deforestation currently accounts at least 11% of Australia's carbon emissions, yet deforestation activities are explicitly exempted from the CPRS regime. This is true in the sense that "avoided deforestation" does not result in the issue of AEU's, and also in the sense that actual instances of deforestation do not require permits.

When combined with the land clearing incentives discussed above, it will almost always be a better commercial decision under the CPRS for an operator to cut down a stand of native forest, replace it with a new plantation and then opt-in to the CPRS scheme by registering their plantation as an 'eligible reforestation project' than it would be to encourage the growth of an existing stand or to leave it as pristine native forests.

This is an undesirable outcome, and significantly undermines the credibility and effectiveness of the CPRS.

LFF also believes that the combined effects of incentives and exemptions discussed above will lead, under certain market conditions, to further logging of native forests for timber. Ironically, the more effective the CPRS is at encouraging plantation ownership for carbon sequestration and the

² *Report No 5 – "National Water Commission Waterlines: Approaches to, and challenges of, managing interception"* (February 2008).

³ <http://www.theage.com.au/national/proposal-to-burn-native-forest-wood-for-power-20090408-a0tu.html>

accumulation of AEU's, the greater demand there will be for native forest timber as a commodity due to a reduction in the supply of plantation timber.

Other Significant Issues

LFF has a number of other major concerns with the CPRS which relate more broadly to the environmental and societal impacts of the CPRS Bill. These include:

- Inadequacy of the CPRS' stated goal of 5% reductions by 2020;
- Major misallocation of resources under the scheme towards compensating polluting industries (who have been aware for years that their work practices would need to change but have failed to invest their profits into making the necessary changes) rather than investing sustainable technologies;
- Overriding more effective nascent state schemes with an inadequate federal scheme; and
- Imposing a "floor" on emissions targets which renders nugatory the efforts of individuals to voluntarily lower emissions through installing rooftop PV systems and the like.

4 Conclusion

LFF believes that the CPRS Bill is a deeply flawed scheme which, due to major policy omissions in relation to deforestation and a total lack of recognition and protection of old-growth native forests, has the potential to actually increase net carbon emissions, reward perpetrators of such increases, and facilitate increased land clearing which in turn will lead to soil degradation and loss of biodiversity.

Aside from issues which directly affect native forests, the inadequate reduction targets, misallocation of resources and stifling of alternative measures to combat climate change, mean that the CPRS Bill is fundamentally flawed and incapable of meaningful amendment.

Consequently, LFF calls upon the Senate to reject the CPRS Bill in its entirety.

Failing this, LFF submits that the CPRS Bill should be amended to:

- 1) explicitly define the burning of biomass as a source of emissions under the CPRS;
- 2) offer real incentives to protect existing stands of forest, and to restore forests damaged by logging; and

- 3) recognise deforestation as a significant source of carbon emissions, and to make these emissions subject to the CPRS.

Please contact me if you have any queries in relation to this submission.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'IB' followed by a flourish and 'per.'.

Isabelle Border
President
Lawyers for Forests Inc
On behalf of the executive committee of LFF