

March 5, 2010

Senator Maria Cantwell
717 Hart Senate Office Building
Washington, DC 20510

Dear Senator Cantwell:

We, the members of the Coalition for Emission Reduction Projects (CERP), are writing to express concerns with the “Carbon Limits and Energy for America’s Renewal Act” (CLEAR Act). CERP is a coalition of companies focused on climate change legislation – and, in particular, approaches for promoting emission reduction projects outside the capped sector, also known as offset projects. More information about CERP is available at www.uscERP.org.

Offset projects – including projects at farms, forests, landfills, coal mines, oil and natural gas systems, and tropical forests – can achieve substantial reductions of greenhouse gas emissions at very low cost, and therefore are a critical element of any climate change program. Many offset projects can be implemented with existing technologies, serving as a bridge to the time when low-carbon technologies will be available for use in the capped sectors of the economy.

Every analysis of climate change legislation by the Environmental Protection Agency, the Energy Information Administration, and the Congressional Budget Office has reinforced the importance of offset projects in dramatically lowering the cost of climate change mitigation. In order to ensure the environmental integrity of an offsets program, CERP has insisted that any legislation include rigorous environmental standards for projects.

We appreciate your commitment to climate change legislation. The CLEAR Act is a significant contribution to the debate. However, we believe the current structure of the CLEAR Act has very significant flaws. For this reason, we cannot support the CLEAR Act in its current form.

Unlike every major climate change legislative proposal offered to date, the CLEAR Act does not use a market-based approach under which regulated entities can invest in offset projects to lower their costs, and the costs ultimately borne by consumers. Without an offset program, the CLEAR Act cannot put a price on carbon throughout the economy and cannot use the market to find and finance the most cost-effective emission reduction opportunities. As a result, the CLEAR Act in its current form will be both less efficient and less environmentally effective than other designs.

Under the CLEAR Act, the “first sellers” (i.e., coal mines and producers of oil and natural gas) are *not* able to use investments in offset projects to lower the number of carbon shares they have to acquire from the government. This means that the costs borne by first sellers – and, therefore, the costs passed through to electricity ratepayers, residential natural gas users, and other consumers – will be higher than necessary. This design further implies that the



carbon share price is much more likely to reach the “safety valve” level, which will curb the bill’s environmental effectiveness.

Even though “first sellers” cannot use offset projects, supporting documents released with the CLEAR Act have estimated that offset projects account for over two-thirds of the reductions achieved by the program in 2020. However, instead of relying on the private sector to finance these projects, the CLEAR Act would establish a new government fund – the Clean Energy Reinvestment Trust Fund (the CERT Fund) – to select and finance emission reduction projects. Yet, the CLEAR Act assigns more than a dozen other purposes to the CERT Fund, and the fund is subject to an annual appropriations process. We have three major concerns with this framework.

First, the bill contains no mechanism to ensure that the needed quantity of emission reduction projects will receive funding. Second, we are concerned that the reliance on an appropriations schedule creates prohibitive uncertainty for investment in offset projects. If no one is willing to invest in developing offset projects, large volumes of cost-effective emission reductions will be lost. American farmers and foresters will lose a new source of sustainable income, uncapped industrial sources will not be rewarded for efforts to reduce fugitive emissions, and American families and businesses will pay needlessly higher costs for emission reductions.

Finally, the bill does not establish – as has been advocated consistently by CERP – a framework under which agencies with technical expertise evaluate projects based on science-based standards for environmental integrity. The reliance on the annual appropriations process could have the unintended consequence of projects being selected, not for environmental reasons, but rather because of political influence. CERP fundamentally opposes such an approach.

In addressing a challenge of this magnitude, we cannot afford to ignore the most efficient and effective policy tools at our disposal. We are concerned that the current CLEAR Act fails to use market mechanisms to achieve its environmental goals – and will therefore have higher costs, or fail to achieve its emission reduction goals, or both.

For these reasons, CERP cannot support the CLEAR Act in its present form. Nonetheless, if we can be helpful to you as you continue to shape your legislation, we would be glad to do so. Again, we appreciate your commitment to passing effective climate change legislation.

Sincerely,

The Coalition for Emission Reduction Projects (www.uscerp.org)

Cc: U.S. Senators

For more information, please contact:

Kyle Danish, Counsel for the Coalition for Emission Reduction Projects

Van Ness Feldman, P.C.

Phone: 202-298-1876; Email: kwd@vnf.com