

From: Erin Craig [<mailto:erin@terrapass.com>]  
Sent: Tuesday, November 13, 2007 6:13 PM  
To: Derek Markolf  
Subject: Fwd: Landfill Project Protocol Comments

Thank you for the opportunity to comment on the Draft Landfill Project protocols. TerraPass supports the development of robust project protocols suitable for the voluntary and pre-compliance marketplace,

TerraPass prefers protocols which can be adopted across multiple regimes. For this reason, we commend your thorough benchmarking of other protocols already in place, and your transparent process in the development of these documents so they may be acceptable to other protocol

Comments and Recommendations

1. Crediting Period and the Regulatory Test.

We have two recommendations regarding the regulatory test for additionality; the first relates to the interaction between the regulatory test and the crediting period. The draft as written specifies a 10-year crediting period which will be cut short if regulations come into effect which require the project's implementation, at which point the project would fail the annual regulatory additionality test. At the public meeting, an alternative approach was discussed whereby the crediting period would be cut to 7 years with a possible 5-year re-up, but the annual regulatory test would not be applied.

We recognize that this latter approach provides project developers with certainty regarding the longevity of the carbon revenue stream and thus makes project financial viability decisions more straightforward. Nonetheless, we support the protocol draft as written, with a 10-year crediting period subject to an annual regulatory additionality test. TerraPass customers, like all voluntary carbon offset buyers, fully expect their purchases to benefit projects which would not otherwise be in place. It would be quite difficult to explain to a customer why their purchase is benefitting a regulated entity at any time, and unimaginable if that regulation had already been effective for 2, 3, 5 or more years.

The risk that the carbon revenue stream will be prematurely curtailed may well be financially material when the project developer is a different party

than the regulated entity, since in this case the carbon revenue is the only incentive the developer has (before and after the regulation) to proceed with the project. However, this risk can and should be addressed through contractual terms between the developer and the project owner. It is inappropriate to pass this financial burden to voluntary market buyers.

## 2. Breadth of the Regulatory Test

The protocol defines the regulatory test as federal, state, and local regulations, ordinances, and permitting requirements pertaining to air quality, water quality, explosive gas, or local nuisance. We recommend expanding this definition to include public and private settlements of legal actions. In our independent due diligence on projects across the country, we have encountered situations where a project would pass the regulatory additionality test as defined in the protocol, and yet the project developer had strong, clear incentives to install the project as a means to avoid violation notices ("we will not issue a notice of violation, but we expect action to be taken to address these issues...") or to curtail litigation in the permitting or ongoing operations of the facility. Since settlement agreements are not always public, this information may not materialize in an ordinary regulatory review, and the verifiers will need to ask questions specific to settlements which explicitly or implicitly require the operator to install the methane capture and combustion system, to uncover such requirements.

Thank you again for the opportunity to comment on the protocol. If you have any questions, please feel free to contact me.

Sincerely,

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About TerraPass

TerraPass is a leading carbon offset retailer, with a strong focus on serving consumers. Over 80,000 individual TerraPasses have not been sold to

offset emissions from driving, flying, and home energy use. We believe that we and other industry participants can build a market of millions of consumers who use high-quality offsets to complement their own energy conservation efforts.

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