



The Carbon Operations Company

September 3, 2009

Climate Action Reserve
523 W. Sixth Street #428
CA 90014, Los Angeles

RE: Public Comment to Draft Protocol
Organic Waste Digestion

Dear Madam and Sir,

Over the past weeks we have analyzed the 'Draft Protocol Organic Waste Digestion' and are very impressed with the in-depth research that was undertaken as well as the conclusions and recommendations derived from that research. We would also like to take this opportunity to commend the Climate Action Reserve for your excellent information policy, especially the ease of access to your staff and their responsiveness as you're your numerous webinars which are very informative and helpful.

At the same time we have a few points of concern where we see a need for deeper differentiation or a broader approach.

We fully subscribe to the underlying principle that offsets must always be better than business-as-usual practices, subject to penalties for non-compliance and have ever-lasting benefits to the environment.

When it comes to *the definition of business-as-usual practices* however, in the case of the 'Draft Protocol Organic Waste Digestion' called the 'Performance Standard Options', we see a need for further differentiation.

For Yard Waste the Draft Protocol quotes an estimate by the EPA that in the entire US a share of 64.1% of yard waste was diverted from landfills for composting and mulching in 2007. This estimated average is then used to conclude that the diversion of yard waste from landfills for composting and mulching is the predominant practice in the entire US. While this may be a reasonable approximation for the situation in the entire US, the situation throughout the country is much more diverse. Composting and mulching is over-proportionally high in some more advanced states and counties, but there is a large number of states and especially counties where the share of yard waste that is diverted to composting and mulching is disproportionately small (in some cases like well below 10%). If the predominant practice in a county or state is clearly the land filling of yard waste then the diversion of yard waste in that county or state should be regarded as above the business-as-usual practices and therefore be eligible for the registration of offsets. According to the EPA Environmental Fact Sheet EPA/530-SW-91-009 only 12 states have banned yard waste from landfills.

Due to the fact that waste management and waste disposal is mainly organized, regulated and executed by counties we therefore propose to establish the Performance Standard based on the ***predominant practice within the counties or at least within the states***. In our opinion the application of an estimated average for the entire USA does not correctly reflect the actual situation in large parts of the very diverse country.

Furthermore we recommend ***including agricultural waste*** (as defined in the *Federal Incinerator Regulation*¹: vegetative agricultural materials such as nut and grain hulls and chaff, biogases, orchard pruning, corn stalks, coffee bean hulls and grounds, and other vegetative waste materials generated as a result of agricultural operations) ***in the 'Eligible Organic Waste Streams'***. We also suggest applying the above-mentioned principle of county-/state-level predominant practices to disposal of agricultural waste.

As a matter of consistency we finally recommend ***adapting the Regulatory Test in the 'Draft Protocol - Organic Waste Digestion' to the Regulatory Test in the CAR Livestock Project Reporting Protocol***, where "all projects that pass this test are eligible to register reductions within the Climate Registry for the lifetime of the project-crediting period (ten years), even if the regulatory agency with authority over a livestock operation passes a rule obligating the installation of a biogas control system during mid-period."² In the current 'Draft Protocol - Organic Waste Digestion' however "the Regulatory Test must be applied for each verification period" which is materially conflicting with CAR's Livestock Reporting Protocol.

We look forward to working with CAR during the development of this protocol. If you have any additional questions, please don't hesitate to contact me at (305) 962-1008.

Sincerely,

ClimeCo America Corporation



William E. Flederbach, Jr.
Executive Vice President

Cc: Markus Althausen - ClimeCo
Yuda Saydun - ClimeCo

¹ NSPS 40 CFR 60.51 (b)

² CCARLivestockProjectReportingProtocol2.1, p.4