

June 3, 2011

Climate Action Reserve
Attention: Policy Team
Suite 428, 523 West 6 St
Los Angeles, CA 90014

Re: Public Comments on Draft Version 4.0 of the Landfill Project Protocol

Dear Policy Team:

We appreciate the opportunity to submit public comments in response to the proposed changes incorporated into Version 4.0 of the Climate Action Reserve (CAR) Landfill Project Protocol (the "draft protocol") released May 5, 2011 for public comments.

We would like to support a number of the proposed revisions to the Landfill Project Protocol including:

- The revised definition of the project start date in Section 3.2 to include an optional a 45 day start-up period. The current project start date definition is inflexible and may also be questionable based on the date of initial operation of the destruction device;
- The opportunity for a second 10-year crediting period as outlined in Section 3.3. This option extends the viability of projects at closed landfills that will never be subject to NSPS or at Tier 2 landfills that will never reach the NSPS threshold; and
- The amendments to Section 6.2 to remove the requirement that flowmeters and gas analyzers be cleaned and inspected on a quarterly basis. This option provides additional flexibility and puts the onus on project developers to define the frequency of field checks required to minimize meter and analyzer inaccuracies.

We believe that these changes will reduce the administrative burden on Project Operators and provide additional flexibility to Project Developers, without sacrificing the accuracy or conservativeness of the protocol's approach.

We would also like to provide feedback regarding the updated "Size threshold (LFGTE projects only)" and "Renewable Energy Certificate / Green Power Exclusion (LFGTE projects only)" components of the Performance Standard Test included in the draft protocol, which are focused on confirming the eligibility of landfill gas to energy (LFGE) projects. These requirements will impact many LFGE projects that would not have been developed in the absence of carbon credit revenues and will be prohibitive to the development of future LFGE projects, and should therefore not be adopted.

In our experience, landfill gas (LFG) projects are commonly developed using a phased approach; Phase one (1) includes the voluntary development of a LFG collection and destruction system and is used to assess the quality and composition of LFG recovered from a given landfill. If LFG flow rates are sufficient and energy market conditions warrant further investment then development of the LFGE project will be pursued as Phase two (2). Simple destruction projects do not generate any revenue for the project developer, therefore the investment in Phase one (1) is only justified by the anticipated revenue from the sale of Verified Emission Reductions (VERs).

LFGE projects produce modest returns as in most states energy prices are low and it is the additional revenue from the environmental benefits that make these projects feasible. That said, the additional value from Renewable Energy Credit and Green Pricing Programs without the VER revenue is not sufficient to make these projects economically viable. REC prices are currently at an all time low due to over-supplied markets, soft targets at the state level, and absence of federal legislation. Further, the majority of projects that have been developed over the last year or are under development were modeled against VER pricing in 2009, which were significantly higher due to the anticipation of a Federal Cap and Trade Program and at today's pricing these projects would not have been developed.

The analysis completed by the Reserve in the development of the proposed Performance Standard Test suggests that landfills over a certain size threshold do not need the revenues generated by the sale of VERs to make the development of a LFGE project feasible. Effectively, the size threshold penalizes landfills for being good candidates for LFG collection from a technical standpoint without ensuring that they will be good candidates for LFGE project development from an economical standpoint. Based on our experience, there are no LFGE projects that would be economically viable at the proposed size thresholds. Furthermore, the Reserve's assumption that a project would choose to forego one revenue stream (i.e. VERs), simply because it has another (i.e. RECs) does not reflect the actual economics related to such projects. Project economics are often complicated by lower than expected gas flows, variable operation and maintenance costs, regulatory burdens, and fluctuating energy costs and the simple existence of a LFGE project does not demonstrate its economic viability.

We encourage the Reserve to look past the proposed one size fits all approach to determining LFGTE project eligibility for the following reasons:

- The information used to develop the revised Performance Standard Test, based on the US EPA's LMOP database, does not provide all of the information required to complete an accurate analysis of project economics and additionality. For example, the Reserve concluded that all non NSPS landfills with flares were required by state or local regulations and should be excluded. This assumption is incorrect; LFG projects are often developed using a phased approach beginning with the development of a voluntary LFG collection and flaring project and in many cases a phase two (2) project is never developed;
- Energy rates and REC prices vary significantly by region and project economics should be assessed on a regional and potentially even a site-specific basis. For example, a project that is economical in California, where base power prices are robust may not even come close to being economical in the Southeastern US;
- Landfill size does matter, especially for LFGE projects, and restricting project eligibility to landfill with less than 715,000 tonnes of waste in place in wet regions would effectively halt future project development due to the size limitation (less than 1 MW) imposed by the waste in place limit; and
- For many projects the dual revenue stream achieved from VER and REC sales is required to warrant project investment. The Reserve assumed that because few projects are claiming both VERs and RECs, both revenue streams are not required to warrant project investment. This is not the case. It is more likely that projects are either not claiming both VERs and RECs because they are not eligible to do so, they are located in a state that does not have a Renewable Portfolio Standard thus making RECS an unobtainable commodity, the rights to the RECs are being transferred to the energy project developer or bundled with the sale of the power, etc.

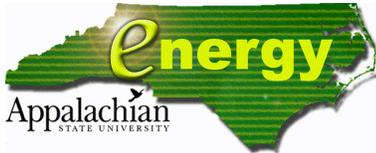
If project eligibility and additionality are to be based on project economics, as outlined in the proposed size threshold and Renewable Energy Certificate / Green Power Exclusion components of the Performance Standard Test, a more stringent review of the actual conditions and factors influencing LFG projects is required. In particular, actual project economics should be considered. We recommend that the Reserve develop a random sample set of landfills that is representative of a range of project types/locations to assess project economics

and the various assumptions made during the development of the Performance Standard Test. Analysis may include phone or written interviews with the project owners, site managers, and state regulators and a review of project economics for representative projects across the US. We believe that this more detailed analysis will demonstrate that many of the assumptions used to develop the revised Performance Standard Test are incorrect. In fact, such analysis would likely demonstrate that CAR's existing Performance Standard is sufficiently stringent and that these projects would not exist without the project being able to access all available sources of revenue.

The Reserve assumes that many landfill projects in existence would have been implemented in the absence of VER revenues, and that this justifies adopting more stringent additionality rules. However, this analysis is based on incomplete data from the LMOP database. If additionality rules are made more stringent the number of landfills voluntarily installing phase one (1) LFG collection systems and phase two (2) LFGTE projects will decline and if the proposed rules were in effect today, many projects would not even have been constructed. This is especially true given the current uncertainty regarding the future of the carbon market, current carbon pricing, the state of the economy in general, and the status of future regulations regarding greenhouse gases. As such, we urge the Reserve to reconsider the revised Performance Standard requirements.

The following companies are signing on in support of this letter:





CE2 Capital Partners



Verdeo Partners

A Sindicatum Carbon Capital Company

C2I Methane Partners



GREEN ENERGY ADVANTAGE, LLC

Turning Waste into Energy