

June 3, 2011

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

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

Dear Policy Team,

Thank you for the opportunity to provide feedback regarding the proposed changes in Version 4.0 of CAR's Landfill Project Protocol. After reviewing the draft protocol and participating in the public webinar, we respectfully provide the following comments for consideration.

1. **Revised Start Date Definition (45 Day Window)** – We support such a revision as our experience has proved that there will be project start up issues. The 45 day window in determining a project start date will allow the project developer/operator to ensure the equipment and monitoring devices are fully tested out and operating as they should before GHG offsets are claimed.
2. **Second 10-Year Crediting Period** – Including a second 10-year crediting period makes sense as there are registered projects at landfills that will never fall under NSPS guidelines and therefore should continue to qualify under CAR's Landfill Project Protocol in order to ensure the continuing collection and destruction of harmful greenhouse gases.
3. **Simplified Instrument QA/QC Requirements** – We support CAR's proposal to simplify the QA/QC procedures around the monitoring equipment. The current "quarterly cleaning and inspecting" requirement is fraught with confusion and ambiguity as we have witnessed firsthand with verifiers during our project verifications.
4. **New Performance Standard (Size Threshold)** – We do not understand the logic or analysis, and therefore do not support, the proposed waste-in-place (WIP) thresholds being proposed. As pointed out by CAR in the public webinar, the amount of WIP and moisture in the landfill both have an impact on the potential gas production of a landfill. What is not clear is why CAR would impose additional size restrictions on landfills eligible for inclusion in its Landfill Project Protocol beyond what is currently in place.

Currently CAR's eligibility criteria is centered around the voluntary collection and destruction of harmful landfill gas. To be eligible, a landfill cannot be subject to regulations or other legal requirements that would require the landfill to collect and destroy the landfill gas. By imposing a further landfill size restriction above its current threshold, CAR would be excluding landfills that

would still otherwise not be subject to regulations or requirements to collect and destroy landfill gas from eligibility. This will lead to sub-NSPS landfills being ineligible under the CAR Landfill Project Protocol, but still not legally required to collect and destroy landfill gas. Is it not the goal of CAR to encourage such voluntary collection and destruction of harmful greenhouse gases that would otherwise vent directly to the atmosphere? We encourage CAR to rethink its logic and not impose additional eligibility criteria solely pertaining to landfill size.

5. **New Performance Standard (REC Exclusion)** – We do not support the proposed language that excludes a landfill project that claims both CRTs as well as RECs. We understand CAR’s concern about registering only “additional” projects that would not have occurred in the absence of a carbon offset market. However, we feel that CAR does not fully understand the relationship between the carbon offset market, the REC market and the economics around a viable landfill gas to energy (LFGTE) project.

As currently written, the CAR Landfill Project Protocol does not attempt to assess “financial additionality” in determining project eligibility. This statement was reaffirmed by CAR during its public webinar when it was asked if the different REC and carbon offset market fundamentals (i.e. pricing) were evaluated when creating this proposed new standard. Yet, by stating that if a project is generating RECs that it does not need CRTs, CAR is absolutely making a financial additionality requirement, because of its underlying assumption that the value solely from RECs is sufficient for an economically viable LFGTE project.

In our experience, there are a couple flawed assumptions in CAR’s proposal regarding the REC exclusion. The first involves the process or phases of how a landfill gas project is developed. Using our Davidson County Landfill Gas Destruction Project as an example, we would like to walk you through our development logic and process.

The Davidson Landfill is a sub-NSPS landfill that did not have a landfill gas collection system in place. As such, the volume and composition of the landfill gas was not known. As a project developer we were not willing to invest the several million of dollars required for an electric power generation project when it was not known whether the landfill gas volume and composition could support such an endeavor. So the first step was to install a landfill gas collection system that would allow us to collect and destroy the landfill gas via a flare. We could then determine if the volume and composition of the landfill gas could support an energy project. The cost of the landfill gas collection system (the initial investment as well as the continued replacement and expansion) is financed entirely by the proceeds from the sale of CRTs.

Only after the collection system was installed and the volume/composition of landfill gas was proved out did we initiate the renewable energy portion of the project. At that time, the incremental REC and energy sale proceeds were developed in order to cover the incremental cost of the power plant. In summary, it was the availability of both the CRT and the REC/energy proceeds that allowed the Davidson project to be completed.

The other flawed assumption made by CAR in regards to its proposed REC exclusion standard, is that a project can be economically viable with RECs only, without any analysis or thought around the actual value of the RECs themselves. How can one make that economic assumption without any insight into REC values? The renewable energy market varies by geographic region and as such, the economic viability of landfill gas projects will also vary by region. The current renewable energy market is volatile and dependent on many market factors including individual state RPS goals, the ever changing outlook on a national energy policy, and the availability of tax credits or grants. All of these variables are an integral part of what makes a landfill gas project economically viable. With the current renewable energy market quite depressed, it is critical that both the CRT and REC value streams are available for landfill gas projects. Without both revenue streams, we believe the majority of small landfill gas projects at sub-NSPS landfills would not be developed. It is too broad a brush and too simplistic to suggest that all landfill gas projects are viable with only either CRT or REC proceeds.

If CAR is determined to assess project eligibility on financial additionality (which as stated above would be a marked change from CAR methodologies), we would suggest a financial additionality test that is project specific (similar to what is done under the VCS protocol). This would allow CAR (or its designee) to see and determine for itself whether a LFGTE project would occur in the absence of a carbon offset market. This could be done during the project's application for registration for listing by CAR. The financial additionality test could be administered by CAR itself, or perhaps by CAR accredited verification firms.

Landfill gas to energy projects are unique in the renewable energy industry as they can both destroy harmful GHGs that would otherwise vent directly to the atmosphere (thereby generating CRTs) as well as offset fossil fuel based energy (thereby generating RECs). It would be unfortunate if such a beneficial project type would not be developed at sub-NSPS landfills because of an overreaching assumption around CRT and REC market fundamentals.