

October 23, 2013

Ms. Mary Nichols  
Chairman, California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

RE: Ruby Canyon Engineering Support for the Adoption of the proposed Compliance Offset Protocol Mine Methane Capture Projects, dated August 19, 2013 ("Protocol")

Dear Madam Chair:

Ruby Canyon Engineering Inc. ("RCE") hereby respectfully submits these comments to the Board in support of the above-referenced Protocol. RCE, which is headquartered in Grand Junction, Colorado, is a national leader in providing validation and verification services for greenhouse gas ("GHG") emission reduction projects, and has served as a member of the Board's informal technical working group in developing the Protocol. The founders of RCE, Michael Coté and Ronald Collings, are internationally-recognized coal mine methane (CMM) experts who have been working to advance economically viable CMM projects on behalf of the U.S. EPA's Coalbed Methane Outreach Program since 1998.

In short, we believe the Protocol represents another major step forward in California's and the Board's successful efforts to develop the first GHG cap-and-trade compliance offset market in the U.S. We urge the Board to adopt the Protocol in its current form.

As drafted, the Protocol provides effective market-based compliance mechanisms and monetary incentives to promote the capture and destruction of anthropogenic methane emissions from active or intermittent surface and underground coal and trona mines and abandoned coal mines in the United States ("MMC Projects"). Specifically, in furtherance of the stated objective of AB 32, the California Global Warming Solutions Act of 2006, the Protocol seeks to achieve the maximum technologically feasible and cost-effective mine methane emission reductions for these industries in order to mitigate the adverse environmental impacts of climate change in California. Without the Protocol the status quo will continue; coal and trona mine GHG emissions will be released and contribute to climate change. The Protocol offers a direct incentive to capture and destroy these emissions now.

In crafting the Protocol's performance standard, the Board staff considered complicated project-based additionality arguments and other performance metrics in earlier voluntary market mine methane protocols. In doing so, the Board staff has charted a course in which the Protocol establishes a comprehensive and well-conceived program that:

- Includes in its "eligibility criteria" a wide range of MMC Projects and rewards certain early action methodologies for mine methane capture, but excludes the "business-as-usual" coalbed methane development for interstate pipeline sales that occurs at several underground coal mines in the eastern U.S.
- Contains clear and straightforward additionality tests, quantification methodologies, and technologically feasible cost-effective end use options that should promote maximizing the volume of permanent and verifiable emissions reductions in furtherance of AB 32's mandated objective to reduce GHG emissions.

- Focuses on maximizing the base of available offset credits, to lower compliance costs, and improve overall GHG market efficiency.

RCE would also like to address certain areas of concern raised by other interested parties relating to:

- The exclusion from the Protocol of all mine methane emissions (both regulated and unregulated) at new mines and major modifications at existing active underground mines that are or may be subject to EPA and state regulation under the Clean Air Act's Prevention of Significant Deterioration ("PSD") and Best Available Control Technology ("BACT") programs; and
- The impact of MMC Project offset credit sales on the highly improbable event of making unprofitable coal mines economic, thereby arguably promoting increased coal production and associated leakage emissions.

By its terms the Protocol successfully navigates through the concerns around PSD and BACT by requiring as a condition precedent a legal standard that all qualifying emission reduction activities must be both "voluntary" and "outside the requirements of federal or state laws, regulations, or mandates." ARB's Compliance Offset Program and the Protocol are unequivocally clear that emission reductions within regulated thresholds are not additional and do not qualify for allowances or offsets. Moreover, as proposed the Protocol will not undermine implementation of the Clean Air Act or any other environmental laws concerning the regulation of specific volumes of mine methane emissions. In fact, RCE believes quite the opposite – MMC projects developed as a part of AB 32 could accelerate the development of new technologies that will help establish eventual BACT for underground coal mines. Furthermore, methane emissions from surface mines and abandoned mines are considered fugitive emissions and not regulated under the Clean Air Act.

In addition to the comments noted above, as ANSI-certified GHG offset validators and verifiers, RCE can speak to the fact that procedurally the verification of real, permanent and additional mine methane emission reductions under the Protocol will involve the netting of all legally required emission reductions. Emission reductions required by law would not pass the Protocol's Legal Requirement Test and therefore could not be verified, removing the risk that these non-additional offsets would be created. Thus all unregulated mine methane emissions, such as emissions either: (a) under applicable PSD and state thresholds for new mines or major modifications of existing underground mines, or (b) in excess of emission reductions accomplished by BACT, should fall within the scope of the Protocol. Simply to ignore "known, quantifiable, and real" unregulated mine methane emissions would be contrary to the Board's clear goals and objectives in developing both the Protocol and California's GHG offset market.

Regarding revenues from MMC projects and their impacts on coal mines, RCE strongly believes that the Protocol as drafted will not further incentivize coal production nor make unprofitable coal mines economic. Due to the very nature of surface and abandoned mines, capturing methane from these mines would not alter coal production whatsoever. Safety concerns related to methane is not an issue at surface mines; therefore pre-draining methane from the mined coal does not influence coal production. Abandoned mines are not actively producing coal, and thus cannot impact coal production. With regards to active underground mines - methane gas can indeed limit coal mining activities, and is thus vented from the mine for safety reasons. The purpose of the Protocol is to utilize the already vented methane and would not incentivize additional methane to be vented. Additionally, it is important to note that in most cases a significant portion of the revenues from any MMC project would go to 3<sup>rd</sup> parties involved in the development and management of these projects and not the mine itself. These 3<sup>rd</sup> parties are often small

companies involved in the GHG market such as GHG offset project developers, equipment vendors, and technical consultants. The idea that all revenues generated from MMC projects would go to large coal companies is false. These revenues would also support small companies whose focus is the successful development of projects that reduce GHG emissions.

Finally, we want to acknowledge that during the course of numerous public hearings, technical working group meetings, and preparation of the draft Protocol, the Board has gone to great efforts to thoroughly investigate and develop a well-informed economic, scientific, and technical understanding of the physical nature of mine methane emissions, MMC Project economic and operational issues, and the scope of the existing regulatory environment. The comprehensive nature of the draft Protocol reflects the considerable time, energy, and analysis invested by the Board and its staff on behalf of the people of California.

We appreciate the opportunity to work with the Board on this important matter. We believe the Protocol as proposed will be an important tool in reducing GHG emissions and facilitating an efficient and well-supplied GHG offset trading market. We look forward to continuing to work with the Board on the Protocol and future efforts to reduce GHG emissions.

Sincerely,



Michael M Coté  
President  
Ruby Canyon Engineering, Inc.