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May 10, 2010

Mr. Kevin Kennedy
Assistant Executive Officer
California Air Resources Board
1001 I Street, 6th Floor
Sacramento, California 95814

Re: Impact of CARB's Preliminary Draft Regulation for A California Cap-And-Trade Program on Stanislaus County Recycling Program

Dear Mr. Kennedy:

Thank you for the opportunity to comment on the Preliminary Draft Regulation (PDR) for a California Cap-and-Trade Program. Stanislaus County is concerned that the PDR would include the county's Waste-to-Energy (WTE) facility in the cap and trade regulations and the county would have to buy compliance obligations that would take away revenues from its recycling programs.

Background

Stanislaus County has one of three WTE facilities in the state. The facility was permitted as a solid waste disposal facility in 1986 and has been in commercial operation since 1989. The primary purpose of this facility is to decrease the amount of land filling needed for waste not recycled in the MSW system. The county has a 61% solid waste recycling/diversion rate pursuant to AB 939 mandates.

Also, the facility generates electricity as part of the continuum of our MSW system. The facility processes more than 250,000 tons of solid waste per year (about 800 tons per day) into enough energy to generate approximately 130,000 megawatt hours that are sold to Pacific Gas and Electric Company ("PG&E"). The county receives 90% of the revenues from the electricity sales.

Additionally, the facility receives 50% of the revenues from the scrap metal that is recovered in the process - material that would otherwise be landfilled. Of critical importance is that electricity and scrap metal revenues are a key factor in the County's waste management program.

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Proposed Cap and Trade Regulation

The proposed Cap-and-Trade Program identifies point sources in California with at least 25,000 metric tons of GHG emissions annually as a point of regulation under a cap and trade program. The rule essentially treats each and every entity in the energy sector as a point source with greenhouse gas emissions being determined solely by stack emissions, regardless of benefits realized in other sectors.

Stanislaus County is concerned that under this framework, WTE facilities will be included in the cap and trade program and we strongly feel this should not be the case.

The current PDR does not have any mechanism to evaluate the avoided methane emissions from landfilling that this facility prevents. When viewed from a life-cycle analysis (LCA) perspective, WTE facilities actually reduce GHG emissions relative to landfilling. Inclusion in the cap and trade ignores these benefits, and it penalizes counties like Stanislaus that have been progressive in their MSW systems.

The Fink Road landfill owned by Stanislaus County is adjacent to the Stanislaus County WTE facility. While we continually strive to operate in the most environmentally responsible manner and have an excellent track record in doing so, we have an obligation to our taxpayers to keep costs down to the extent possible. If compliance obligations are needed to operate the WTE facility, we will be forced to evaluate whether to direct more waste to the Fink Road landfill because of additional costs to operate the WTE facility. This philosophy goes against our desire to be progressive in our recycling and control of emissions, but it may need to be evaluated as an unintended consequence of the regulation.

Including WTE facilities in the electrical sector in the CARB GHG inventory mischaracterizes WTE's primary role in our MSW system. The PDR treats the WTE facility more like a fossil fuel generation facility rather than a WTE facility. CARB's current categorization of WTE in the electric sector suggests that its primary function is electrical generation. WTE facilities are first and foremost solid waste disposal facilities that manage post-recycled MSW for the generation of electrical power; however, no community would build a WTE facility for only electrical power generation.

Conclusion

Based on an LCA approach, WTE is a net reducer of GHG emissions, with or without accounting for the displaced grid electricity; however, under the current proposed rule, WTE facilities are captured by the cap and subject to the requirement to purchase allowances.

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The county invested millions of dollars to build an integrated solid waste management system with a WTE facility as its cornerstone. The goal was to reduce the amount of MSW landfilled and create a steady revenue stream to support the costs of a comprehensive MSW system. We take great pride in having one of the higher recycling rates in the state. We also have a strong commitment to maintaining a solid waste program that encourages recycling and reduces waste being landfilled.

The consequence of the current cap and trade direction would potentially work against counties like Stanislaus that have been progressive and environmentally sensitive. The proposed regulations would create an economic burden that will negatively affect our MSW system and create negative incentives. This is the exact opposite of our progressive and comprehensive approach to MSW.

California is looking for low or zero carbon sources of electrical power. We have this in Stanislaus County but our facility faces tremendous pressure under the current direction of California cap and trade regulations. We hope that CARB recognizes the GHG mitigation benefits of our facility. WTE facilities, such as the one located in Stanislaus County, represent a significant source of GHG mitigation which plays a vital role in the County's waste management and energy infrastructure.

Sincerely,

A handwritten signature in dark ink, appearing to read "Richard W. Robinson". The signature is fluid and cursive, with a prominent initial "R".

Richard W. Robinson
Chief Executive Officer