

# Blue Ridge Environmental Defense League

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May 5, 2011

Lisa Jackson, Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460.  
GHGbiogenic@epa.gov

**RE: Docket ID No. EPA-HQ-OAR-2011-0083  
Deferral for CO2 Emissions From Bioenergy and Other Biogenic Sources Under the  
Prevention of Significant Deterioration (PSD) and Title V Programs,  
Environmental Protection Agency, 40 CFR Parts 51, 52, 70, and 71  
Federal Register, Vol. 76, No. 54, 15249, Monday, March 21, 2011**

Dear Ms. Jackson:

On behalf of the Blue Ridge Environmental Defense League, I write to request that the Environmental Protection Agency not adopt the proposed rule. Our request is two-fold: 1) We request that EPA not defer consideration of carbon dioxide emissions from biomass sources and 2) We request that EPA rescind its guidance document which concludes that the best available control technology for carbon dioxide emissions is the combustion of biogenic fuels themselves. Further, we call upon EPA to suspend all permitting activity for so-called bioenergy and biogenic sources unless and until the agency actually reduces carbon dioxide emissions from these sources. And we call for a moratorium on the permitting of incinerators using biomass fuel.

## Overview

According to the notice in the Federal Register, the proposed rule, if adopted, would:

[D]efer for a period of three (3) years the consideration of CO<sub>2</sub> emissions from bioenergy and other biogenic sources (hereinafter referred to as “biogenic CO<sub>2</sub> emissions”) when determining whether a stationary source meets the Prevention of Significant Deterioration (PSD) and Title V applicability thresholds, including those for the application of Best Available Control Technology (BACT).<sup>1</sup>

Further, during this three-year period, the proposed rule would sanction the approval of air quality permits with virtually no pollution controls. A companion guidance document which provides a basis for this action states:

This guidance provides an illustration of reasoning that a Prevention of Significant Deterioration (PSD) permitting authority may use to support the conclusion that the

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<sup>1</sup> 76 FR 15249, I.A. March 21, 2011

best available control technology (BACT) for carbon dioxide (CO<sub>2</sub>) emissions at a bioenergy facility is the combustion of biogenic fuels by itself.<sup>2</sup>

The guidance document defines a bioenergy facility as one that generates energy via the combustion of biologically-derived material other than fossil fuels, either alone or in addition to traditional fossil fuels. The biologically derived material would include wood, biosolids, agricultural products and other substances.<sup>3</sup>

According to the Federal Register notice, the air emissions sources affected by the proposed rule include: Electric utilities burning biomass fuels, wood products manufacturing and wood pellet fuel manufacturing plants, pulp and paper mills, solid waste combustors and incinerators, animal production manure management operations, sewage treatment facilities, solid waste landfills, ethanol manufacturing plants, and food and beverage processors burning agricultural biomass residues, using fermentation processes or producing or using biogas from anaerobic digestion of waste materials.<sup>4</sup>

### **Specific Comments**

#### EPA Lacks Authority to Defer Reductions in Greenhouse Gas Emissions

The EPA draws upon non-existent authority to avoid federal regulation of greenhouse gas emissions. The EPA cites a methodology employed by the Intergovernmental Panel on Climate Change designed to compare and contrast industrial nations' global warming impacts. The EPA states:

According to the IPCC Guidelines, CO<sub>2</sub> emissions from biomass combustion: should not be included in national CO<sub>2</sub> emissions from fuel combustion. If energy use, or any other factor, is causing a long term decline in the total carbon embodied in standing biomass (e.g. forests), this net release of carbon should be evident in the calculation of CO<sub>2</sub> emissions described in the Land Use Change and Forestry chapter.

Thus, at the national level, these CO<sub>2</sub> emissions are not included in the estimate of emissions from a country's Energy Sector, even though the emissions physically occur at the time and place in which useful energy is being generated (i.e., at a power plant or other stationary source). The purpose of this accounting convention is to avoid double-counting of CO<sub>2</sub> emissions from the Energy Sector and LULUCF Sector that would provide a misleading characterization of a country's contribution to global GHG.<sup>5</sup>

However, the IPCC's technique for avoiding double counting does not provide a legitimate basis for the Agency to avoid its responsibility as required by Congress in the

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<sup>2</sup> *Guidance for Determining Best Available Control Technology for Reducing Carbon Dioxide Emissions from Bioenergy Production*, United States Environmental Protection Agency Office of Air and Radiation, March 2011, Page 3

<sup>3</sup> *Id.*: Page 3, Footnote 1.

<sup>4</sup> 76 FR 15249, March 21, 2011, Table 1

<sup>5</sup> 76 FR 15249, March 21, 2011, Section II.A.2

Clean Air Act. The EPA is mixing apples and oranges. On one hand is a formula for international cooperation; on the other hand, an unavoidable statutory obligation to reduce air pollution. The U.S. Supreme Court addressed the EPA's obligation to regulate greenhouse gas emissions under the Clean Air Act in 2007:

Under the Act's clear terms, EPA can avoid promulgating regulations only if it determines that greenhouse gases do not contribute to climate change or if it provides some reasonable explanation as to why it cannot or will not exercise its discretion to determine whether they do.<sup>6</sup>

The fact that at the international level CO<sub>2</sub> emissions are counted in a certain way to estimate a given nation's greenhouse overall gas emissions provides no harbor from regulatory reductions in the United States or, for that matter, in any nation.

Moreover, the implicit international implications are that if the U.S. implements a policy which defers meaningful CO<sub>2</sub> reductions or belays them entirely via the grandfathering of hundreds of new carbon spewing biomass power plants, we will have no authority to ask other nations party to the UN Framework Convention on Climate Change to reduce their own greenhouse gas emissions.

#### EPA Rides the Gnat, Swallows the Camel

The EPA notice correctly states that it is not possible to distinguish between the radiative forcing associated with CO<sub>2</sub> from a biogenic source and from combustion of fossil fuel. However, this statement is completely at odds with subsequent ones which posit:

Biogenic CO<sub>2</sub> differs qualitatively from fossil CO<sub>2</sub> in that there is a significant difference between fossil carbon and biogenic carbon in the length of time required to replenish the reservoirs where the carbon is stored. For example, many coal deposits in North America originated during the Carboniferous Period, hundreds of millions of years ago. In contrast, the reservoirs of carbon found on the surface of Earth, in pools such as tree biomass and cropland soils, have accumulated over decades, not millennia. Because these land-based biomass carbon stocks can be replenished more quickly than fossil carbon stocks, these biogenic carbon stocks can act as a sink on a far shorter time scale than fossil carbon.<sup>7</sup>

In fact, the natural carbon cycle takes a very long time to return the carbon dioxide gas to non-gaseous carbon:

Indeed, for a given amount of CO<sub>2</sub> released today, about half will be taken up by the oceans and terrestrial vegetation over the next 30 years, a further 30 percent will be removed over a few centuries, and the remaining 20 percent will only slowly decay over time such that it will take many thousands of years to remove

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<sup>6</sup> *Massachusetts v. Environmental Protection Agency*, 549 U. S. \_\_\_\_ (2007) Slip op.

<sup>7</sup> 76 FR 15249, March 21, 2011, Section II.A.4

from the atmosphere.<sup>8</sup>

The consequences of increased carbon dioxide emissions in the 21<sup>st</sup> Century will not be reduced by carbon sinks of the 22<sup>nd</sup> Century or the 32<sup>nd</sup> Century. All carbon dioxide sources—biogenic and anthropogenic—cause global warming. The unjustified assumption that biomass CO<sub>2</sub> is “qualitatively” different—that it is carbon neutral—foreshortens systematic comparisons with fossil fuels. The analogy of the Carboniferous Period coal and present day biomass carbon stocks is inverted logic, requiring one to “ride the gnat and swallow the camel.” Doing so courts disruption of agricultural economies, ecological damage, deforestation, negative public health impacts, toxic air pollution, technological dead ends and more destructive global warming.

### Combustion is Not a Best Available Control Technology

If approved, the EPA’s greenhouse gas rule would label biomass burning as the best available control technology, carving a giant loophole in the Clean Air Act. The EPA is leaving the door open to hundreds of new sources of greenhouse gas pollution. In three years the damage would be done.

Federal stimulus funding and state and local subsidies have attracted inexperienced start-up companies to get into the waste burning business. These companies often disguise their incinerators as waste gasification, plasma arc or myriad other labels; what they lack in veracity they make up for in political savvy.

For example, in Charlotte, North Carolina ReVenture Park Investments plans to fuel a new power plant with yard waste and municipal solid waste. ReVenture would take yard waste which is now collected at the county’s composting center, diverting waste from an existing recycling facility with no benefit to the public or the environment. Another example: in Sampson County in eastern North Carolina a poultry waste incinerator is proposed. Burning poultry litter robs farmers of a valuable fertilizer, raises food prices for consumers and puts nitrogen where it does the most harm: in the air.

In fact, the North Carolina Division of Air Quality compared emissions of wood and poultry litter to coal with respect to electrical output at new units and found little air quality benefit and no greenhouse gas reductions.<sup>9</sup> The table below presents the state findings and, for many pollutants, the biomass fuel is dirtier than coal.

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<sup>8</sup> 74. Fed Reg.18886, page 18899, April 24, 2009, *Proposed Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act*

<sup>9</sup> “Comparison of Emissions from Controlled Coal and Biomass Combustion,” North Carolina Environmental Management Commission, Renewable Energy Committee, July 9, 2008, Brock M. Nicholson, P.E., Deputy Director, Division of Air Quality

Emissions Based on Power Production

Pollutant	Emission Factor, lb/mw-hr				
	New Wood	New Coal**	Existing coal*	Existing biomass** (55.8 mW)	Poultry litter** (57 mW)
CO	4.550	1.10	0.27	5.88	3.38
PM	0.325	0.11	0.63	0.26	0.28
NO <sub>x</sub>	2.600	0.62	3.71	3.00	2.26
SO <sub>2</sub>	0.325	1.16	16.6	0.13	0.99
CO <sub>2</sub>	2,715	1,830	2,620	2,730	3,040

\* test data

\*\* permitted

The public health impacts of air pollution are well known. The prospect of more biogenic emissions prompted this analysis by the NC Academy of Family Physicians:

Biomass burning of poultry litter and wood wastes creates emissions of particulate matter that research has shown increase the risk of premature death, asthma, chronic bronchitis, and heart disease. This burning process also creates numerous byproducts, including nitrogen oxides and volatile organic compounds that increase smog and ozone, which are known to increase lung disease and mortality; sulfur dioxides which also contribute to respiratory disease; arsenic which can increase the risk of cancer; mercury which can increase the risk of brain and kidney disease and affect the developing fetus; and dioxins which may increase the risk of cancer, heart disease, diabetes mellitus, developmental delays in children, neurotoxicity, and thyroid disease. These health effects would increase disability and death in all age groups, but particularly in the most vulnerable—developing fetuses, newborns, children, those with chronic illness, and the elderly. As a result of this increased disability and disease, medical costs in the state will increase.<sup>10</sup>

Among the most insidious burning proposals are incinerators which would burn forest residues and even contaminated wood products. When state governments have done assessments of potential health impacts from these incinerators, they have frequently used EPA's human exposure model which calculates only inhalation exposure. The burning of wood products is a huge source of dioxin the major danger of which is ingestion not inhalation.

### Biomass Energy is Not Carbon Neutral

The natural carbon cycle is a virtual circle between living and non-living things. Plants depend on carbon dioxide in the air as humans and other animal life forms rely on oxygen. This plant-animal carbon cycle can rightly be called "natural." However, the combustion of organic materials in industrial processes is anything but natural and should

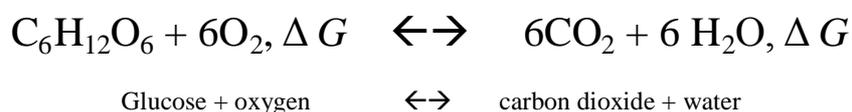
<sup>10</sup> R. W. Watkins, MD, MPH, President, NC Academy of Family Physicians, Letter to D. Freeman, Secretary NC DENR, April 19, 2010

not be considered so.

The natural carbon cycle is the result of millions of years of evolution. It is a complex process which relies on the sun's energy and photosynthesis. Green plants take up carbon dioxide and dispose of oxygen. Animals breathe in oxygen and exhale carbon dioxide. The natural carbon cycle is based on:

1. Respiration: glycolysis (breakdown) of glucose, hydrolysis of adenosine triphosphate releasing energy, synthesis of water and carbon dioxide (carbon and hydrogen from glucose plus inspired oxygen) and
2. Photosynthesis: photophosphorylation (splitting) of water and reduction of carbon dioxide to join hydrogen with carbon to make glucose and oxygen.

The stoichiometric chemical equation for respiration-photosynthesis looks like this:  
[KIMBALL]

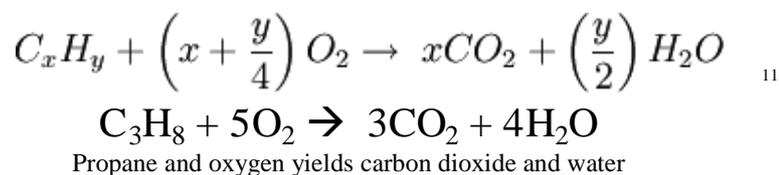


(Where  $\text{C}_6\text{H}_{12}\text{O}_6$  is glucose,  $\Delta G$  is energy)

From left to right, the equation represents respiration, the process by which animal life uses glucose and oxygen to release energy. From right to left, the equation represents plant photosynthesis, driven by the energy from the sun. This equation does not represent any kind of combustion. The dual arrows symbolize the fact that the chemical process is reversible; that is, it works both ways. Autotrophs—plants—make their own food with the energy of the Sun. Heterotrophs—animals—utilize organic carbon in the form of plant sugars for growth.

On the other hand, oxidation is a reaction in which oxygen combines chemically with another substance. (Chemically, the term also extends to the loss of electrons by an atom without combining with oxygen.) These burning oxidation paths amount to virtual short circuits of the natural carbon cycle and lack a corresponding short-term process akin to photosynthesis to return the carbon released to the biological loop.

Generally, the stoichiometric chemical equation for burning hydrocarbons is:



So for example, the combustion of wood or paper, largely the carbohydrate cellulose, and oxygen:

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<sup>11</sup> <http://en.wikipedia.org/wiki/Combustion>



Wood + oxygen → carbon dioxide + water

The hydrocarbon and wood combustion-oxidation equations are not reversible.. Biomass energy plants cannot be considered carbon neutral.

Biomass power plants rely on a series of assumptions which would balance their intrinsic pollution with offsets and credits in order to reduce their carbon footprint. Without such bases, the claims of biomass power fail the carbon neutral test. One of these assumptions is that electric power produced by the combustion of biomass *displaces* electric power produced by coal-fired or nuclear power plants and, therefore, that the biomass plant's electric power emissions count as a credit against the emissions from the biomass fuel production. For example, a waste-to-energy engineering paper states: "WTE is the most effective GHE-reducing option because the recovered energy offsets the generation of electricity from fossil fuels."<sup>12</sup>

However, if the emissions of the biomass system are as large as or larger than those from a fossil-fueled plant, where is the benefit? Further, why are identical compounds considered benign/positive in one case and malignant/negative in another?

A report by Argonne Labs states the biomass pollution problem: "Most studies conducted so far have concluded that producing biofuel will double total NOx emission compared to conventional petroleum-based fuels." And: "The limitation of the proposed options is an increase in total VOC emissions for almost all options"<sup>13</sup> Here we see that air pollution from biomass fuel production is high compared even to emissions from conventional oil wells and refineries.

In order to offset such high levels, the analysis resorts to the assumption that biomass electric energy displaces conventional electric power plant pollution; i.e., biomass pollution is good, coal-oil-natural gas pollution is bad.

Biomass proponents often rely on the misleading analogies to the carbon cycle to explain how their energy facilities mimic natural processes. For example, a guide for wood-fueled power plants defines burning as part of the carbon cycle:

Carbon cycle: The process of transporting and transforming carbon throughout the natural life cycle of a plant from the removal of CO<sub>2</sub> from the atmosphere to the accumulation of carbon in the plant as it grows, and the release of CO<sub>2</sub> back

<sup>12</sup> "Use of Life-Cycle Analysis To Support Solid Waste Management Planning for Delaware," Kaplan et al, *Environmental Science & Technology*, Vol. 43, No. 5, 2009, p. 1267, Department of Civil, Construction, and Environmental Engineering, North Carolina State University

<sup>13</sup> May Wu, Ye Wu, and Michael Wang, *Mobility Chains Analysis of Technologies for Passenger Cars and Light-Duty Vehicles Fueled with Biofuels: Application of the GREET Model to the Role of Biomass in America's Energy Future (RBAEF) Project*, Argonne National Laboratory-Energy Systems Division, ANL/ESD/07-11 (May 2005) pages 33 and 37.

into the atmosphere when the plant naturally decays or is burned.<sup>14</sup>

An International Energy Agency study claims carbon emissions from biomass fuels are only 5% to 10% those of fossil fuel:

Net carbon emissions from generation of a unit of electricity from bioenergy are 10 to 20 times lower than emissions from fossil fuel-based electricity generation (Boman and Turnbull, 1997; Mann and Spath, 2000; Elsayed et al., 2003).<sup>15</sup>

Following the chain of authorities in the study's references to Elsayed *et al* regarding carbon neutrality, we learn how the 90–95% emission reduction was arrived at:

A major indicator of emissions is the carbon requirement which is the total CO<sub>2</sub> emissions from a biofuel technology, excluding those captured by the cultivation of the original source of biomass, divided by its specified energy output, measured in kg CO<sub>2</sub>/MJ.<sup>16</sup> (emphasis added)

Further on in the same paper, the fundamental assumption is stated clearly:

It should be noted that comparison of total carbon dioxide outputs is possible because of the combustion of liquid biofuels is, in effect, treat as "carbon neutral" in terms of the carbon dioxide emitted and subsequently absorbed by growing biomass.<sup>17</sup> (emphasis added)

In other words, getting the net carbon emissions from generation of a unit of electricity from bioenergy to be 10 to 20 times lower than emissions from fossil fuel-based electricity generation is accomplished by *not counting them*; i.e., *treating* them as carbon neutral.

Another example: A device employed to further the illusion of biomass as a clean, carbon neutral fuel is the GREET Model, a computer model developed by Argonne National Laboratory. GREET—Greenhouse Gases, Regulated Emissions, and Energy Use in Transportation—is a “well-to-wheel” model spreadsheet which is useful in comparing production and use of various vehicle fuels: ethanol, biodiesel, gasoline, natural gas, etc. An analysis of the model states:

<sup>14</sup> Wood to Energy Glossary, Centers for Urban and Interface Forestry PO Box 110806 / Bldg. 164, Mowry Rd., Gainesville, FL 32611-0806 The InterfaceSouth Web site ([www.interfacesouth.org](http://www.interfacesouth.org)) was developed by and is maintained through a partnership between the USDA Forest Service Southern Research Station and the University of Florida, School of Forest and Resource Conservation.

[http://www.interfacesouth.org/woodybiomass/resource\\_appendix/Glossary.pdf](http://www.interfacesouth.org/woodybiomass/resource_appendix/Glossary.pdf)

<sup>15</sup> IEA Bioenergy Task 38 Greenhouse Gas Balances of Biomass and Bioenergy Systems, Matthews and Robertson, Second edition, “Answers to ten frequently asked questions about bioenergy, carbon sinks and their role in global climate change: 1. What is the difference between CO<sub>2</sub> emissions from bioenergy and from fossil fuels?” page 2, <http://ieabioenergy-task38.org/publications/faq/>, accessed 5 March 2010

<sup>16</sup> Carbon and Energy Balances for a Range of Biofuels Options, Elsayed, MA et al, Project No. B/B6/00784/REP, URN 03/836, Sheffield Hallam University Resources Research Unit, March 2003, page 19 [http://www.forestresearch.gov.uk/pdf/fr\\_ceb\\_0303.pdf/\\$FILE/fr\\_ceb\\_0303.pdf](http://www.forestresearch.gov.uk/pdf/fr_ceb_0303.pdf/$FILE/fr_ceb_0303.pdf), accessed 5 March 2010

<sup>17</sup> Ibid

Considering variations in output product(s) and their relative energy share, especially given the large portion of electric power generated as a co-product in some cases, we recognize that an energy and emission comparison would not be complete if fuels are the only products examined. Comparison of all the output products (fuel, electricity, and chemicals) for each option would provide more insight into the benefits of biomass. GREET results were thus further analyzed for each production option on a per-ton-of-biomass-feed basis. Energy consumption and emissions associated with production of conventional fuels, electric power (U.S. mix), and chemical (soy protein) were assumed to be displaced by biofuels, bio-power export, and protein from switchgrass. All six biofuel options provide net petroleum and fossil fuel displacements and reductions in GHGs, CO<sub>2</sub>, and SO<sub>x</sub>.<sup>18</sup> (emphasis added)

Here again the intrinsic assumptions which give biomass an apparent advantage over conventional fuels are articulated. Energy consumption and air emissions resulting from conventional sources are *offset* by those from bio-fuels. In other words, subtracting rather than adding biomass impacts into the global warming equation is the sole basis for the reduction.

The effect of these assumptions is borne out in the environmental impact statement for a cellulosic ethanol refinery: “The reductions in greenhouse gas emissions are due largely to the emissions credit for the electricity being exported to the grid.”<sup>19</sup> The *sine qua non* of biomass carbon neutrality is the credit-debit flip, tantamount to a butcher’s finger on the scale.

A global warming researcher said that assuming from the outset that biomass combustion is carbon neutral means that a forest would have the same carbon footprint whether it is standing or cut down. [JOHNSON] Plainly, the trees are more beneficial standing for ecological reasons. Less obvious is the impact of the unjustified assumption in carbon footprint life-cycle assessments. He states:

Most guidance for carbon footprinting, and most published carbon footprints or LCAs [life-cycle assessments], presume that biomass heating fuels are carbon neutral. However, it is recognised increasingly that this is incorrect: biomass fuels are not always carbon neutral. Indeed, they can in some cases be far more carbon positive than fossil fuels.<sup>20</sup>

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<sup>18</sup> May Wu, Ye Wu, and Michael Wang, *Mobility Chains Analysis of Technologies for Passenger Cars and Light-Duty Vehicles Fueled with Biofuels: Application of the GREET Model to the Role of Biomass in America’s Energy Future (RBAEF) Project*, Argonne National Laboratory-Energy Systems Division, ANL/ESD/07-11 (May 2005), page 37, (citations omitted).

<sup>19</sup> *Draft Environmental Impact Statement for the Proposed Abengoa Biorefinery Project near Hugoton, Stevens County, Kansas*, US Department of Energy, Golden Field Office, Office of Energy Efficiency and Renewable Energy, DOE/EIS-0407D, September 2009, page F-25

<sup>20</sup> Johnson E, “Goodbye to carbon neutral: Getting biomass footprints right,” *Environ Impact Asses Rev* (2008), doi:10.1016/j.eiar.2008.11.002

In fact, the natural carbon cycle takes a very long time to return the carbon dioxide gas to non-gaseous carbon.

### **Conclusion**

With our state governments having caught deregulation fever and hanging out 'open for business' signs, the Obama Administration's EPA should be our best line of defense against ill health, environmental pollution and degraded quality of life. Our communities deserve better.

Please find attached to these comments a letter from the Executive Director of the Blue Ridge Environmental Defense League which requests a response. Also, I attach a detailed report on biomass, bio-energy and global warming.

Thank you for your attention to these remarks.

Sincerely,

A handwritten signature in black ink that reads "Louis A. Zeller". The signature is written in a cursive style and is followed by a horizontal line.

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BREDL@skybest.com

CC: Carole Cook, U.S. EPA Office of Atmospheric Programs, Climate Change Division

**Stimulus Dollars Should Not Create Sacrifice Zones: A Letter to EPA**

Lisa Jackson, Administrator  
Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator Jackson:

As director of a grassroots environmental organization serving seven southeastern states, I write to request your direct oversight of the adverse impacts which federal stimulus funding is having on our communities. Throughout our region we are seeing a rush to site and permit dangerous facilities. Laws are being changed, local governments are being railroaded and public concerns are being ignored. Specifically, I request that you create a special task force to ensure that federal dollars will not endanger public health and sacrifice community well-being.

Federal funding and Obama Administration energy policies are encouraging speculative investments in power plants fueled by a variety of industrial, agricultural and forestry waste products. As you know, waste combustion causes air pollution, creates toxic wastes and consumes excessive amounts of water, a resource already threatened in our region. Burning biomass will increase fine particle pollution and ozone, two pollutants connected with the nation's asthma epidemic. Air toxics will increase the risk of cancer and birth defects. Carbon dioxide emissions from biomass, which new research demonstrates is not "carbon neutral" (as claimed by industry and government)<sup>21</sup> will accelerate global warming. As the Environmental Protection Agency found in issuing its endangerment rule on greenhouse gases, new carbon dioxide emissions, regardless of the source, will remain in the atmosphere for decades.<sup>22</sup>

Rural and minority communities are particularly threatened by this pollution. It is a cruel irony that while the government struggles to make healthcare more available to everyone, it is exacerbating the causes of disease among those most likely to lack access to adequate healthcare.

For example, Fibrowatt LLC—a Pennsylvania company, proposes to build three poultry waste incinerators in North Carolina. In December 2009 testimony before the North Carolina Utilities Commission, Fibrowatt claimed that delaying a state requirement to generate electricity from poultry waste would mean that the company "will not be able to take advantage of stimulus grants available from the Federal government."<sup>23</sup> This statement was a reference to Section 1603 of the American Recovery and Reinvestment Act that authorizes the Treasury Department to provide grants for up to 30 percent of the

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<sup>21</sup> Science, 325:529, October 23, 2009.

<sup>22</sup> [http://epa.gov/climatechange/endangerment/downloads/Federal\\_Register-EPA-HQ-OAR-2009-0171-Dec.15-09.pdf](http://epa.gov/climatechange/endangerment/downloads/Federal_Register-EPA-HQ-OAR-2009-0171-Dec.15-09.pdf)

<sup>23</sup> Carl Strickler's testimony to the NC Utilities Commission Docket E-100, Sub 113

construction costs of new plants begun before December 31, 2010. For this one company, that would mean tens of millions of dollars, money that could go to good jobs and investments in energy conservation and clean energy alternatives such as wind and solar.

Proposed incinerators which would burn municipal solid waste are cropping up like mushrooms throughout the Southeast. For example, Covanta Energy has targeted Chester County, South Carolina for a 1600 ton per day waste incinerator. Local government approval processes have been quick and dirty. Covanta has inspired a bill in the SC legislature which would remove the cap on daily tonnage burned. A study conducted by our organization concluded that arsenic, cadmium and chromium would be deposited six miles from the site. Further, the incinerator would emit 1,200 pounds of mercury and 1.1 billion pounds of carbon dioxide annually. Covanta also plans to meet the December 31<sup>st</sup> deadline for stimulus funding in Elbert County, Georgia. These solid waste incinerators have the added disadvantage of undermining our communities' fledgling waste reduction and recycling programs.

Not only does the federal stimulus program put our communities at risk, it may create a loophole in the National Environmental Policy Act. The US Treasury Department maintains that, "A Section 1603 payment with respect to specified energy property does not make the property subject to the requirements of NEPA and similar laws."<sup>24</sup> Our people need the Environmental Impact Statement process as a counterbalance to the rush to approve and permit polluting projects. Thus, we need a new, dedicated EPA task force to evaluate the effects of stimulus funding on public health, environmental quality and social justice.

I look forward to hearing from you. Thank you for your consideration of our request.

Sincerely,

Janet Marsh  
Executive Director  
Blue Ridge Environmental Defense League

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<sup>24</sup> Payments for Specified Energy Property in Lieu of Tax Credits under the American Recovery and Reinvestment Act of 2009, page 20