Citizens' Environmental Coalition

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June 15, 2012

Hon. Jaclyn A. Brilling
Secretary to the Commission
New York State Public Service Commission
Agency Building 3
Albany, NY 12223-1350

Re: Case No. 12-E-0149 / 03-E-0188 Verified Petition of Niagara Generation, LLC for Rulemaking to allow for up to ten Percent Glued wood within Clean MRF Fuel to be Eligible for Use as Biomass Fuel in The Renewable Portfolio Program

Dear Secretary Brilling,

Citizens' Environmental Coalition is a statewide environmental organization representing the interests of many local civic and environmental groups as well as individual members. We are writing in opposition to the petition by Niagara Generation, LLC for rulemaking to allow for up to 10% glued wood within their use of "supposedly" clean MRF Fuel. We also oppose the notion that the current biomass fuel can be called "clean MRF fuel."

In addition, we are objecting to the earlier approval of the use of Construction and Demolition debris materials as qualifying under the Renewable Portfolio Standard as eligible biomass and the subsequent revision of the Biomass guidebook. We urge the PSC to revisit this important issue and make provision for more extensive public input.

Background

The petitioner claims in its petition that it has been authorized to use unadulterated wood from clean MRF fuel and calls this "CDD". More appropriately in this context CDD applies to construction and demolition debris. The petition states that the feedstock process involves visual identification and sorting of materials and is labor intensive. What it fails to mention is the impossibility of actually identifying treated wood visually after it has aged and weathered. Wood treatments can involve very toxic organic compounds such as pentachlorophenol and compounds that also contain toxic heavy metals, particularly arsenic and chromium.

The petitioner claims that by allowing ten percent glued wood to be included in the feedstock, along with appropriate testing, reporting requirements and performance standards, the goals of the RPS Program and the viability of Ni Gen's operations..... would be preserved. (p.2-3)

We appreciate the reference to appropriate testing, reporting requirements and performance standards and note the complete absence in the petition of any such information concerning existing operations at this facility. The petition does not tell us total throughput at this combustion facility, the amount of coal, the amount of petroleum coke, the amount of "supposedly" clean wood, and the amount of tire-derived fuel on a daily basis. If this fuel is in varying amounts, a discussion should have been included reflecting this. Nor were we provided detailed testing information for feedstock, air emissions stack tests and ash sent for disposal. Two exhibits A & B were provided that contain little text describing what they represent. Exhibit A appears to represent some attempt to tally visual observations of the amount of glued wood in the CDD. Exhibit B appears to be testing of the content of a bag marked 9% manufactured wood. At p. 9 of the petition, it states that Exhibit B represents the CDD (clean MRF fuel) received by NiGen. However, no testing was conducted for any of the organic hazardous substances that glued wood contains, substances that when combusted result in emissions of hazardous air pollutants like benzene, formaldehyde and PAHs (polycyclic aromatic hydrocarbons). Further, it is clear that NiGen does not sort wood on premises but receives wood from other parties. However, this page should have better labeling and discussion of the details about the source of this sample, its representativeness and the frequency of testing. Only two pages provided have any information regarding testing, reporting or performance for this facility.

The results of the testing of 9% manufactured wood are a concern with a finding of significant concentrations of heavy metals. There is no indication of what NiGen means by manufactured wood (is this a reference to the glued wood that is the reason for this petition?) or what kind of material comprises the other 91%. If high levels of heavy metals were found in a bag containing 9% manufactured wood, what would the metals levels be in a bag that was 100% manufactured wood? If NiGen is trying to show there is no impact of glued wood on the CDD mix, then more comprehensive testing that includes organic compounds should have been completed as well as a comparison of 100% glued wood to 100% clean wood from forest feedstock.

This petition relates to the biomass portion of the feedstock, however this facility is also burning tires, coal and petroleum coke, all of which have toxic emissions. We are providing a factsheet discussing the findings of emissions testing of a tire burning facility in California. This petition is asking for additional weakening of the applicable standards for clean fuel without detailing actual current performance with the mix of fuels it uses.

The difficulty of actually separating contaminated wood from clean wood visually is demonstrated by Exhibit B. Based on Exhibit B it appears that NiGen is burning contaminated biomass, not clean MRF fuel, and likely to be a significant source of hazardous air pollutants and should have full and comprehensive stack testing including dioxins and furans, PAHs, halogenated organics, acrolein, formaldehyde, and fine particulate. In discussion with a DEC representative I learned that this facility has not had stack testing since using biomass as part of the mix of fuels permitted. Emissions controls would likely reduce air emissions quantities, however these results tell us how contaminated this wood waste stream really is and point to potentially significant air impacts from metals and other organic compounds. These findings also indicate that it is likely that boiler blowdown and water discharges are likely very contaminated and should be monitored.

The economic necessity of adding glued feedstock rings hollow when the petitioner tells us that NiGen is a subsidiary of one of the largest private equity firms focused exclusively on renewables- US Renewables Group- and that it has mobilized $750 million in capital since 2003.

The original 2004 RPS order specifically excluded waste and waste materials. There were extensive public comments regarding the standard and objecting to the inclusion of waste. At the time of the NiGen Order in 2010, other state policy was coming to the forefront. The State DEC's new *Beyond Waste* Plan was being finalized, which detailed the preference for waste reduction, reuse, recycling and remanufacturing over combustion and quantified the environmental, climate change and jobs benefits of these 4 Rs, which were much greater than the benefits from combustion. Empire State Development representatives participated in the development of the *Beyond Waste* Plan and advanced support for C& D recycling facilities, and deconstruction policies which preserve materials. ESD also partly funded the economic study of the recycling industry in NY. In other words given the clear preference for recycling over landfilling or combustion there was no legitimate purpose for the PSC to allow the use of a construction and demolition debris stream as clean fuel by by NiGen.

The Biomass Guidebook was amended in September of 2011. As a result so-called clean MRF fuel can now be derived from C& D debris streams or mixed waste streams. While NiGen claims to have complied with requirements, there is no evidence of that in the petition. Thus at this point in time there is no way of knowing the extent of contaminated feedstock, what air emissions, particularly of toxins are and what testing of ash for disposal has revealed. We understand from the DEC that NiGen is permitted to burn a mixture of coal, petroleum coke and biomass for 60% of its energy and the other 40% of its energy is supplied by tires. Such a mixture does not in our view define a facility that should be any part of a renewable portfolio standard.

The Biomass Guidebook specifically calls for sampling and screening analysis that is intended to determine if any precursor compounds are present in the adulterated feedstock in levels that might lead to emissions of the air pollutants of concern at levels greater than those produced by unadulterated biomass. Thus, if **any** precursor elements or compounds are found in greater concentration than in the unadulterated biomass, a comparative air emissions test will be required for the air pollutant associated with that precursor. If NiGen and the state are indeed using the Biomass Guidebook as a reference, why would NiGen petition the PSC to increase the use of glued wood as a first step, before providing any comparison testing documentation?

NiGen offers that allowing the use of glued wood is in the public interest-- increasing the amount of eligible biomass and renewable energy. In contrast, we believe this dirty energy source, that is already burning coal, petroleum coke, contaminated biomass and tires, should not be claiming to be providing renewable energy and public benefits. NiGen and the PSC have required ratepayers to fund this polluting project and NiGen is now returning to ask for more ratepayer subsidies so it can burn more contaminated feedstock.

At p. 9, NiGen claims to recognize the Commission's interest in environmental compliance with DEC regulations, but fails to provide any supporting documentation other than reference to a DEC Title V permit. As stated earlier no comprehensive stack testing has been done. NiGen has also filed a second petition regarding its RPS contract, however that petition has supplied no information for the public to review because NiGen is claiming proprietary or trade secret information.

There is also no discussion in this petition of the option of reclaiming the glued wood materials for reuse and remanufacture into new wood or other products. Not only would this be a more environmentally sound option, but it might provide financial benefits as well for NiGen.

Petition Claims Insufficient Supply of Woody Biomass

The NiGen petition provides a critically important rationale for the use of 10% glued wood. At page 10, the petition states "Sources of eligible and economic wood biomass has been scarce and NiGen has been unable to operate at full capacity." "NiGen's supply would be significantly increased, with concurrent increased generation capacity, if up to ten percent of Glued Wood in CDD is allowed for use as RPS-eligible fuel."

The Ni-Gen petition fails to provide any evidence of its scarcity of supply or of it current costs for wood biomass. Thus Ni-Gen's principal rationale has no documented support in the petition.

Subsidizing Biomass Burning Distort Wood Product Markets and Favors the Least Favorable Option for this material.

Significant changes have occurred in the use of wood and the generation of wood waste in recent years. At the federal level, support for homeowners was provided for wood-burning stoves. Similar subsidies have been provided to commercial and industrial entities to reduce their use of fossil fuels by burning biomass. See attached report, Sheehan, et.al., *Biomass Electricity: Clean Energy Subsidies for a Dirty Industry* for a detailed discussion of these subsidies.

It is important for New York State to have an understanding of Markets when permitting boilers and other kinds of combustion facilities to burn wood. There are plentiful markets for clean wood, and good prices paid. Even small wood scrap pieces can be used in oriented strand board, particle board, wood pellets for stoves, garden mulch, etc. This reality was operative 20 years ago. Today such markets for wood products have only expanded. Municipalities have noted a shortage of wood chips for composting operations and those in the nursery and landscape business have also noted a shortage of this material and increased costs. (Discussed in solid waste advisory group meetings with the DEC in developing the *Beyond Waste* state plan. The author of these comments was a member of this advisory group.) Unfortunately no comprehensive study of the wood products industry has been done recently in the state.
By permitting biomass burning facilities and providing additional subsidies without a full understanding of existing markets for biomass materials, the state is distorting the market at the expense of other market participants. Distortion has already been occurring in the market from federal subsidies, such as the Biomass Crop Assistance Program. The composite panel industry has expressed concerns about increasing competition for a limited supply of forest products in connection with these subsidies. According to John Bradfield of the Composite Panel Association, "BCAP would redirect wood from the manufacture of valuable wood products that supports 350,000 American jobs to an industry that supports a fraction of the number of jobs to burn it." (http://www.stopspewingcarbon.org/stuff/newsletter/BiomassBusters-January2011.pdf)
Reuse, recycling and remanufacture provide a multiple of at least 10 times the number of jobs in combustion or landfilling. The Packaging Corporation of America, which runs a paper mill, provided testimony to the PSC of Wisconsin that a biomass electricity project would adversely

impact the availability and cost of woody biomass needed for its operations. (Sheehan et.al., p. 24)

New York produced a recent solid waste plan, 2010, titled *Beyond Waste*, which emphasized better materials management, by preserving materials, reusing, recycling and remanufacturing them as well as avoiding wasting in the first place. The Public Service Commission's original decision which excluded waste from the definition of renewable energy was a better match to the goals in the *Beyond Waste* Plan, which, in addition to materials, covered energy and climate change, as well as the job potential associated with material reuse and recycling.

If the PSC considered the preservation of materials, the energy and climate change benefits of reuse, recycling and remanufacturing, as well as the job benefits, the renewable portfolio standard might reflect sustainability. Instead the standard ignores pollution, fails to preserve materials and save energy and reduce greenhouse gases via recycling. It also fails to consider the social objective of job creation. The PSC should not set policy in a vacuum but based on the best information available, including the work of other state agencies, not NYSERDA alone.

New York State definitely needs a better understanding of the Current State of Markets for Wood products in the State. We recommend that a comprehensive study be undertaken to address this issue.

Hazardous Air Pollutant emissions (HAPs) are associated with Burning Contaminated Wood, which are too often unregulated because of the renewable energy designation.

Applicants proposing to actually burn clean waste wood, incur costs to pay for this material. On the other hand, there are few markets for treated, painted or otherwise contaminated wood-- except when we allow it to be burned. This is the material that any facility will seek to burn, particularly in the face of shortages and higher costs for clean wood materials.
This was the case for the former Proctor and Gamble facility on Staten Island when it was permitted to burn clean waste wood generated from logging operations or land clearing. Recognizable tree stumps and logs were supposed to arrive on site for chipping prior to burning. In violation of these permit conditions, P & G found a new source of wood-- painted and treated wood that arrived already chipped. The violation was not discovered until high lead levels showed up at the local sewage treatment plant. The company was found to be a major air emitter of lead -- over 6 tons annually. Other pollutants were also of concern, since they were found in treated and painted wood-- arsenic, chromium, lead-- or generated from combustion of this wood-- dioxins and furans, PAHs, acrolein. A company proposing to assume P & G's permit even calculated the dioxin emissions for their permit applications. The emissions exceeded the dioxin emissions expected from the proposed Brooklyn Navy Yard Incinerator for solid waste.

Clean Biomass cannot be visually sorted from C & D materials. It is well recognized that various wood treatments cannot be identified after aging and weathering.

Removing biomass that has been treated with various preservatives is an impossible task. As a result contaminated biomass has been allowed to be burned in various facilities throughout New York State. The air quality impacts are likely unknown unless appropriate emissions testing is done for likely wood contaminants.

The original provision that authorized Construction and Demolition debris materials to be handled via a process sorting line was a slippery slope that should never have been authorized. Now Ni-Gen would like the state to move further down the slope by also allowing glued wood to be burned.

We believe it is time for the PSC and NYSERDA to act with more scientific vigor in relation to evaluating and monitoring Biomass burning in the state. Regular representative sampling of the feedstock being burned for the presence of heavy metals, formaldehyde, and halogenated organics is essential. Frequent air emissions testing for arsenic, chromium, lead, PAHs, pentachlorophenol, formaldehyde, acrolein, dioxins and furans should also be done.

There is a societal purpose for renewable portfolio standards, which consumers support financially.

Renewable Portfolio Standards are currently New York's method of supporting or subsidizing renewable energy. Electric ratepayers pay a monthly amount on their bills into a fund that is used to support meeting New York's renewable energy goals—currently 30% by 2030.
A number of questions arise. What do we mean by the term "Renewable"? Most people now believe renewable means clean energy, like solar and wind. Which types of energy should be subsidized and therefore included in the RPS? For a particular energy source do the benefits significantly outweigh the costs? Benefits and costs should be considered in 3 spheres of sustainability—economic, environmental and social. Next it is important to look at time periods-short and longer term. Are the benefits and costs different in the longer term than in the short term? The goals of society should also be considered and clearly delineated including ethical considerations. A key question is -Who benefits from the RPS? A select group or a particular industry or are the benefits broadly shared by the public? Similarly, who is harmed by a particular RPS? The harms or costs should not be extensive, nor should the harms accrue to a particular demographic group. The report *Biomass Electricity: Clean Energy Subsidies for a Dirty Industry* documents that these kinds of facilities are often sited in minority communities, so there are environmental justice considerations as well.

Finally, there is frequently a wide chasm between societal goals and the goals of a particular industry. In general, industry or particular corporations are seeking to maximize their profits. They can devote personnel and financial resources to obtaining a market advantage such as a subsidy. The public's goals for society are vastly different and include their values—health, education, good jobs, a clean environment and a sound future for their children. Who arbitrates over this wide chasm? Our country set up a democracy and the government has been designated to fulfill this critically important role. A problem lies in the simple fact that industry has the resources to push its agenda, and despite the overwhelming numbers of people that could be affected, the public is unlikely to even know a particular proceeding is taking place. Government is the institution assigned to arbitrate this inequality.

The Department of Public Service and the Public Service Commission are designated to fulfill the government's balancing role in this case. The public will not be pleased to know that dirty energy that produces toxic air pollution, ash or water discharges is not only allowed in NYS, but is subsidized by monthly fees we pay on our electric bills. The problem is exacerbated by the fact

that subsidies for dirty energy simultaneously reduce the funding available for clean renewables which have strong public and bipartisan support.

We believe that the choice to designate Biomass as a renewable resource must be done with scientific rigor to prevent adverse environmental and public health impacts. Then it must consider New York's societal goals for the RPS and whether Biomass burning should be further subsidized.

Some relevant Societal Goals:

Protect Public Health: Fine particulate emissions, NOx, SOx, and other respiratory irritants as well as hazardous air pollutants impair public health.

Protect the Environment:

- Climate change tops the list of environmental concerns.
- Preserve, reuse and recycle materials rather than destroying them by burning. Follow the maxim of highest and best use for material management.
- Large quantities of water are used for cool down and not necessarily returned to the water body involved. It could evaporate to the air. Water discharges of toxic materials from boiler blowdowns and impact waterways and wildlife.

Create Jobs in the US:

- More jobs are created by reuse, recycling and remanufacturing.
- NY's Empire State Development Agency supported a study of economic potential and jobs in the Northeast in reuse, recycling and remanufacturing. (Northeast Recycling Council Economic Study for the Northeast, Sept. 2009).
- The DEC estimates that the NEW State Solid Waste Plan, *Beyond Waste*, would create more than 67,000 new jobs as the result of DEC's proposed major expansion of material recovery efforts.

Use Consumer Funds wisely:

Electric ratepayers subsidize support for energy efficiency and renewable energy in the state. Fees are collected on monthly electric bills and the state decides how best to allocate this money. There is widespread support for clean energy by the public as demonstrated by recent polls on the subject.

All of the Societal Goals listed above reflect considerations that relate to Long Term Sustainability.

Public Health

"The pollution from Biomass power facilities has been termed a danger to public health by major organizations such as the American Health Association and American Lung Association." (Sheehan et.al, p. 4).

EPA has evaluated the health benefits of air quality standards and found that these standards deliver quantifiable monetary benefits many times over the costs of pollution controls. Every dollar spent cleaning up or preventing air pollution provides $30 dollars in health benefits. Total benefits of the Clean Air Act in 2010 were $1 trillion compared to total costs of $53 billion. (Sheehan, et.al., p. 8) Deliberately choosing to support dirty polluting facilities, therefore impacts public health and increases the costs associated with illnesses, lost work, death and medical costs associated with treatment. These costs are borne largely by the public in pain and suffering but also impact government health care costs such as Medicaid programs.

The area surrounding the NiGen facility is already a highly impacted area for air toxics concentrations. EPA's 2006 National Air Toxics Assessment (NATA) reveals that ambient concentrations of certain key pollutants already exceed health levels in the area. EPA NATA data estimate that for the census tract where Niagara Generation is located, acetaldehyde levels are 292% of NYSDEC's annual health standard (Air Guide 1) ; arsenic concentrations are 261% of the standard, benzene concentrations are 1138% of the standard, and formaldehyde is 2690% of the standard. (Opposition Letter to NiGen proposal, Booth, Mary, June 2012. DEC standards are designed to protect the general population from adverse acute and chronic inhalation exposure. Not surprising NATA indicates an increased Cancer risk in this area. Three of the cited pollutants are carcinogens and are also likely emissions from NiGen's facilities, which would increase if the amount of adulterated wood were allowed to increase.

The state has an Environmental Justice program and this area has also been identified by DEC as a potential environmental justice community, one which is in need of special attention when conducting environmental reviews, permitting, oversight and other environmental programming.

The Environment:

Climate change is a severe problem for which there is substantial evidence that the rate of change is accelerating. Many scientists believe we have passed the tipping point, where runaway warming cannot be controlled. In New York State we have done some planning for 80% reduction in greenhouse gas emissions by 2050. Reaching this goal is going to be very difficult and subsidies for biomass burning are antithetical to achieving this goal.

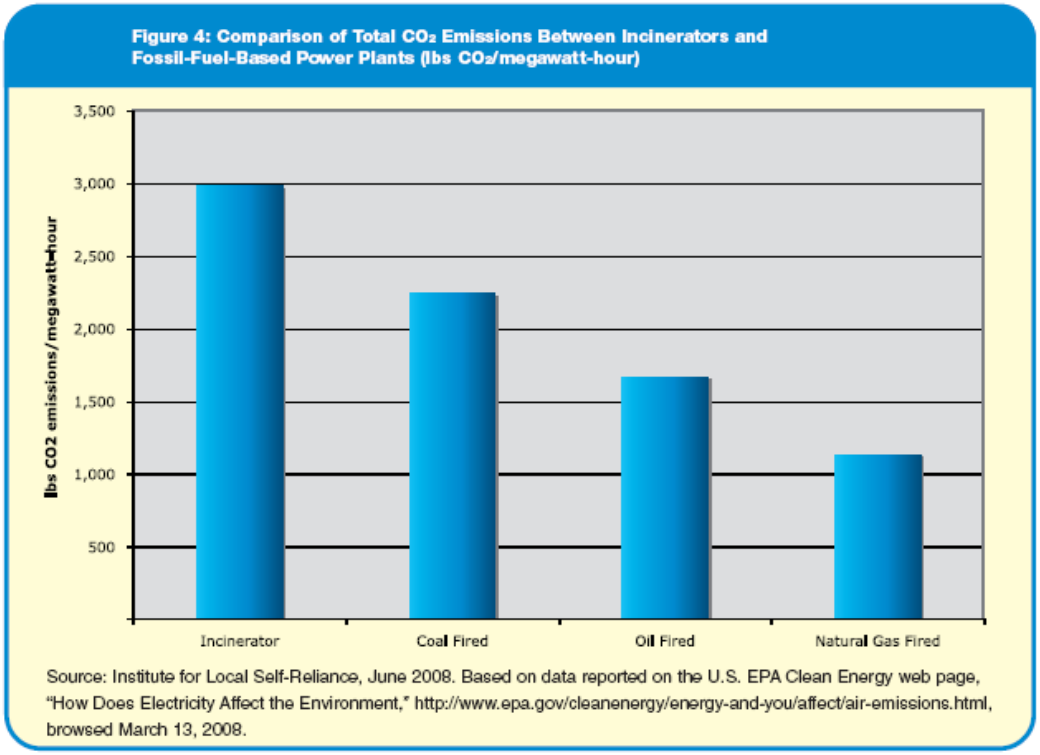
Estimates calculated from the US DOE Energy Information Administration data on fuel consumption show that biomass combustion is responsible for 87 million tons of carbon dioxide, equivalent to the total power sector emissions from 11 states. (Sheehan, et.al., p. 9)

Facilities designated as providing renewable energy are expected to provide energy that offers substantial benefits over fossil fuels related to greenhouse gas emissions. Some illustrative examples taken from Sheehan, et.al., p. 10 are listed below:

The Florida Gainesville Biomass burning project (under construction in 2010). Comparison to the adjacent coal plant that had recently installed new pollution controls shows the biomass combustion plant will emit per MWh- 67% more CO_2, 367% more particulate matter and 62% more NOx.

Also in Florida are two coal plants-- Crystal River emits 2197 lbs of CO_2 per MWh and Long Leaf emits 1315 lbs of CO_2 per MWh. In April 2011, Florida issues an air permit for a biomass combustion plant in Port St. Joe that will emit 3,325 lbs. of CO_2 per MWh.

In Wisconsin, the We Energies Biomass project will emit 3050 lbs. per MWh, while a nearby Weston boiler using supercritical pulverized coal will emit just 1853 lbs. of CO_2 per MWh.



This Graph is taken from the excellent *Stop Trashing the Climate* Report, ILSR, 2008. Factsheet from this report attached to these comments.

The reality is that industry has spread a myth that burning biomass is carbon neutral. Carbon neutrality is based on an error in carbon accounting used by the industry. This error or loophole has enabled biomass combustion to receive unfair economic advantage in relation to fossil fuels. Government officials have assumed that replacing fossil fuels is the primary objective, without carefully considering the facts and the background information related to this accounting error. Extensive information on the carbon neutrality issue has been compiled by the Partnership for Policy Integrity and can be found at www.pfpi.net See also, Searchinger, Timothy D. et al. "Fixing a critical climate accounting error." *Science*, 23 Oct., 2009, http://www.energyjustice.net/files/biomass/searchinger.pdf and

Smoke and Mirrors, Section 2.1, Debunking Carbon Neutrality,
http://www.bredl.org/pdf3/biomass_report-smoke_andmirrors.pdf

Massachusetts is the first state to take a serious look at CO2 emissions from biomass burning and to propose regulations to limit these emissions.

Recycling

Zero waste strategies-waste reduction, reuse, recycling, and composting-- are the fastest, cheapest and most cost effective strategies to protect the climate and the environment. All are associated with greenhouse gas reductions, in addition to many other benefits. Using zero waste strategies and significantly decreasing disposal in landfills and incinerators can reduce GHGs the equivalent of closing 1/5 of all US coal-fired power plants. (See www.stoptrashingtheclimate.org for this excellent report.)

Waste reduction and material recovery strategies are ESSENTIAL to putting us on a path to stabilize the climate by 2050. Greenhouse gas reductions of 80% are needed and we cannot accomplish this goal without adequately addressing waste. Combustion puts out 36% more CO_2 than coal-fired power plants. Recycling should qualify as renewable energy since it saves 4-5 times more energy than combustion recovers.

There are higher and better uses for all materials to be burned in an incinerator and any alternative processing costs for composting and recycling are always less than thermal treatment. Raw material resources are destroyed in thermal treatment. To get more paper, cardboard, etc. you have to cut down more trees. As EPA states, "forest carbon sequestration increases as a result of source reduction or recycling of paper products because both source reduction and recycling cause annual tree harvests to drop below otherwise anticipated levels (resulting in additional accumulation of carbon in forests). " *Solid Waste Management and Greenhouse Gases*, 2006 EPA Report.

Water Use

Millions of gallons of water are used at these facilities for cooling and often just evaporated into the air. Permission to use sewage treatment plant effluents for cooling can result in air emissions as well, since STPs are not capable of treating toxic contaminants in sewage. This is why there is a known problem associated with prescription drugs found in our waterways. The cleaning of boilers (blowdown) can result in the discharge of toxic contaminants to waterways.

Jobs

Jobs and economic development are two often cited economic benefits cited in relation to the evaluation of particular projects. Jobs are also a very significant social benefit for society and should be considered in any evaluation of sustainability. Few jobs are provided by combustion facilities in comparison to reuse, recycling and remanufacturing facilities.

<u>New York State Data as of 2009</u>

The table below was assembled from information provided by the Northeast Recycling Council (NERC) Study, which was funded partially by the Empire State Development Agency.

Businesses and Jobs associated with the REUSE, RECYCLING AND REMANUFACTURING INDUSTRY.

3,948 businesses
32,240 employees
$1.39 billion in payroll
$10.1 billion in total receipts

(Northeast Recycling Council Economic Study for the Northeast, Sept. 2009).

The Study found that reuse and recycling industries already in New York State directly support more than 32,000 jobs with just 5,000 of those jobs in collection. This represents $1.39 billion in payroll and $10.1 billion in total receipts. The State DEC estimated that a broad scale increase in recovery efforts, as outlined in the *Beyond Waste* Plan, could increase the jobs related to reuse, recycling and remanufacturing by more than 67,000 by 2030.

Consumer Generated Funds

Government always has an implicit contract with the public in terms of public service for the governed. However, in the case of funding for energy efficiency and renewables, the contract is explicit. Consumers are required to pay a fee monthly that is to be used for broad public benefits that are designed to save money for consumers, support efficient use of energy, and the development of renewable energy, which is supposed to offer benefits over energy from fossil fuels. There is widespread support for clean, renewable energy which the public most often lists as including solar and wind.

The largest danger associated with mismanagement of these funds by government support for dirty energy is the loss of public support for these programs. If the public sees the government subsidizing dirty polluting energy, which impacts public health, offers no climate change benefits, while creating few jobs and using their money to do it, the public will fight for an end to the program. Since there are sound alternatives to this path, which provide renewable energy that is clean and non-polluting, while providing far more jobs, the public has a right to be angry.

However, an end to the entire program would be catastrophic for achieving New York's climate change goals. In Massachusetts, a petition, was organized by the Stop Spewing Carbon Campaign in 2009 and 2010. It sought to remove subsidies for biomass facilities, by qualifying for the 2010 Massachusetts ballot. Though the petition received the 120,000 signatures needed to make the ballot, this initiative was halted when the state government agreed to enact regulations to address the issues. The massive statewide grassroots effort is widely credited for applying the political pressure needed to ensure government action. A Massachusetts powerpoint presentation captures the essence of the program. It should be noted that on the first substantive slide the exclusion of construction and demolition debris from eligible biomass is indicated.

The State's Biomass Guidebook and its development process has become a significant obstacle to obtaining Renewable Energy, that is Clean and non-polluting.

The PSC turned over the task of developing biomass guidelines to NYSERDA. NYSERDA is not a state agency, but an independent authority. NYSERDA produces a large assortment of documents used by NYS government for energy planning and to address climate change. Unfortunately, the vast majority of these documents are produced by private contractors and subsequently there is no opportunity for scientific or public review of draft documents before they are finalized. This stands in contrast to other documents produced by state agencies which must undergo public review and comment.

As a result the Biomass Guidebook was produced by a private contractor. The qualifying statement at the beginning of the report should have signaled to the PSC the need for a careful detailed review and public comment on the guidebook.

> "This report was prepared by Antares Group, Incorporated, in the course of performing work contracted for and sponsored by the New York State Energy Research and Development Authority (NYSERDA), as Central Administrator of the Renewable Portfolio Standard (RPS). The opinions expressed in this report do not necessarily reflect those of NYSERDA or the State of New York, and reference to any specific product, service, process, or method does not constitute an implied or expressed recommendation or endorsement of it. Further, NYSERDA, the State of New York, and the contractor make no warranties or representations, expressed or implied, as to the fitness for particular purpose or merchantability of any product, apparatus, or service, or the usefulness, completeness, or accuracy of any processes, methods, or other information contained, described, disclosed, or referred to in this report. NYSERDA, the State of New York, and the contractor make no representation that the use of any product, apparatus, process, method, or other information will not infringe privately owned rights and will assume no liability for any loss, injury, or damage resulting from, or occurring in connection with, the use of information contained, described, disclosed, or referred to in this report."

It is highly questionable to have a private contractor issue a guidance document that must then be used by other state agencies, when the report is based on opinions that don't even reflect the views of NYSERDA or the State of New York. Further no one stands behind the usefulness, completeness or accuracy of any process, methods or other information contained in the report--not the contractor, not NYSERDA and not the State of New York. Energy and its economic, environmental and social costs are far too important to be privatized in this way. It opens the door for corporate capture of our Energy system.

We strongly recommend a different process for handling the renewable energy portfolio standard that is more scientific, technical and with more public involvement- more credible.

Thank you for your attention.

Sincerely,

Barbara J. Warren
Executive Director

List of References and Attachments

Biomass Electricity Report: Clean Energy Subsidies for a Dirty Industry, Sheehan, Margaret, et.al., Biomass Accountability Project, June 2011.

Burning Public Money for Dirty Energy: Misdirected Subsidies, Global Alliance for Incinerator Alternatives, November 2011.

Factsheet related to tire burning facility emissions testing in California, Greenpeace.

Letter in Opposition to Niagara Generation Petition, Partnership for Policy Integrity, Booth, Mary PhD.

Massachusetts Public Initiative on Biomass (subsequently withdrawn)

Massachusetts Department of Energy Resources Powerpoint presentation.

Stop Trashing the Climate, Platt, Brenda et.al., Institute for Local Self-Reliance et.al, June 2008. Factsheet only. Full report at www.stoptrashingtheclimate.org