

**CDM-PA5797-RULE01**

Ruling note

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Request for registration for “5797 Ayer  
Hitam landfill gas recovery project”

Version 01.0



**United Nations**  
Framework Convention on  
Climate Change

1. The CDM-Executive Board decided to reject the above proposed project activity on 8 August 2012, in accordance with the "Procedures for review of requests for registration", version 1.1, EB 55, Annex 40, paragraphs 20 and 28 (the procedures). In accordance with paragraph 27 of the procedures, the rulings shall contain an explanation of the reasons and rationale for the final decision, which are as follows:

(a) The DOE (RINA) failed to substantiate the additionality of the project activity, specifically (a) the start date of the project and that the project can be considered a stop and re-start project (with re-start date on 16 March 2009).

The start date as defined by the CDM glossary of terms is "In the context of a CDM project activity or PoA, the earliest date at which either the implementation or construction or real action of a CDM project activity or PoA begins".

- The proposed project activity collects and uses landfill gas (LFG) to generate electricity in a power plant that had already started operations in April 2004.
- The current PP (WLSB) had acquired 30% of the project's share in August 2005 (while the project was still operating).
- There had been email communications between the PP and the previous CDM consultant Ecair during March 2005, showing the PP's CDM consideration prior to its first investment in the LFG collection and utilization plant.
- The PDD was submitted for validation for the 1st, 2nd, and 3rd time in Jan. 2007, April 2007 and May 2008, respectively, even as the project stopped operations - from May 2007 until June 2010.
- The PP had acquired 80% ownership of the power plant on 18 July 2008 (transaction finally approved by the Ministry of economic planning on 15 April 2009).
- Further it remains unclear why the PP needed the CDM to proceed with the project activity given that it has made further investment to acquire an additional 50% ownership of the power plant in July 2008. In conclusion, the project activity cannot be considered additional given that there was collection and flaring of LFG in 2004- prior to consideration of the CDM and the PP made financial investments towards higher share of ownership of the landfill, prior to the start date selected by the PP and these investments were during the "stop" period.

(b) The DOE (RINA) failed to substantiate the applied formula for the Adjustment Factor (which resulted as zero). The adjustment factor was calculated considering no capture and collection of LFG for three years (2005-07), prior to the restart date of March 2009. However, considering the capturing and flaring of LFG began in 2004, the adjustment factor should have been calculated based on information prior to 2004.

2. Please note, however, that, with appropriate revisions, this project activity may be resubmitted for validation and registration provided it meets the requirements for validation and registration, in accordance with paragraph 42 of the CDM Modalities and Procedures (Decision 3/CMP.1).

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### Document information

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<i>Version</i>	<i>Date</i>	<i>Description</i>
01.0	24 February 2014	Initial publication. Related to EB 55, Annex 40 (Paragraphs 20, 27 & 28)

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