CALIFORNIA ENERGY COMMISSION

In the Matter of:	)	
Senate Bill 1 Eligibility Criteria and Conditions for Incentives	)	Docket No. 07-SB-1

COMMENTS OF THE CALIFORNIA SOLAR ENERGY INDUSTRIES ASSOCIATION AND THE SOLAR ALLIANCE ON THE DRAFT GUIDELINES FOR CALIFORNIA'S SOLAR ELECTRIC INCENTIVE PROGRAMS PURSUANT TO SENATE BILL 1

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I. INTRODUCTION

In the Notice of Renewables Committee Workshop on Staff Draft Report, the Renewables Committee invited written comments on the draft staff report: *Guidelines for California's Solar Electric Incentive Programs Pursuant to Senate Bill 1* (Draft Guidelines). The California Solar Energy Industries Association (CAL SEIA)[1] and the Solar Alliance[2]

[1] CALSEIA is a non-profit trade association founded in 1977 to increase the use of solar energy in California. CALSEIA represents over 200 solar companies doing business in California including installation companies, manufacturers, distributors, wholesalers, consultants, engineers, designers, and utilities. These companies sell and install in the residential, commercial, agricultural, government, and other markets for both new construction and existing sites. Over half of CALSEIA's membership are installation companies. CALSEIA estimates this is equivalent to roughly half of the companies installing solar in California. The members of CALSEIA who are installation companies generally hold C-46 (solar), C-10 (electrical), or B (general) licenses issued by the California Contractors' State License Board. CAL SEIA has given permission to the Solar Alliance's counsel to sign this document on its behalf.

[2] The Solar Alliance is an alliance of solar manufacturers, integrators and installers dedicated to accelerating the promise of solar energy in the United States, with a focus on fostering cost-effective policies and programs at the state level. The Alliance seeks to help legislators, regulators and utilities make the transition to solar power by providing technical and policy expertise that is in the best interest of residential, commercial and government customers and Americans as a whole. The Alliance works closely with state and local solar advocates, seeking to form coalitions with corporate, grass roots, and academic institutions, as well as with local governments that advocate solar energy, so that the solar community may speak with one stronger voice. Current members of the Alliance include American

(footnote continued)

(jointly, the Joint Solar Parties) appreciate this opportunity to comment on the Draft Guidelines and submit these comments for consideration.

Our comments focus on the following major points:

A. Allowing solar installers to spur adoption of energy efficiency in parallel with the sale of a solar energy system, rather than adopting inflexible energy efficiency standards, is appropriate as flexible requirements responsive to a customer's unique situation-will provide for greater adoption of both solar and energy efficiency.
B. Despite the preliminary research shared at the workshop held on October 4, 2007, sufficient analysis has not yet been performed to justify the adoption of the New Solar Homes Partnership (NSHP) calculator by the California Solar Initiative (CSI) and other statewide publicly-owned utilities (POU) solar programs.
C. Within the CSI program, a process has been established to determine an appropriate shading measurement methodology. The Joint Solar Parties propose that the Commission staff continue to work with this subcommittee to jointly develop and receive additional public input prior to imposing an alternate methodology.
D. There are a few additional requirements suggested by the staff that will create additional programmatic paperwork without adding substantial value. Both the requirement that a Maintenance Plan be submitted to Program Administrators and the requirement for the Program Administrator to provide the customer with 12 months energy data are duplicative and should be eliminated. In addition, customers should not be precluded from switching performance monitoring service (PMRS) providers.
E. In 2008, the Commission should monitor any potential module testing back log on a quarterly basis to determine if all modules will be completed for inclusion on January 1, 2009.
F. The Guidelines should be clarified to provide that the eligibility criteria in place on January 1, 2009 should only apply to new applications that are submitted after that date. Applications submitted prior to that date will be allowed to proceed under the rules in place prior to January 1, 2009.
G. The current five year payment period for performance based incentive (PBI) payments should be retained and not subject to revision by program administrators.
H. The proposed definition of solar energy systems should be revised to clarify the difference between solar photovoltaic (PV) systems and solar thermal energy systems.

Solar Electric, BP Solar, Conergy, Energy Innovations, Evergreen Solar, First Solar, Kyocera Solar, MMA Renewable Ventures, Mitsubishi Electric, PPM Solar, REC Solar, Sanyo Energy, Schott Solar, Sharp Electronics Corp.-Solar Energy Solutions Group, Solar World, SPG Solar, Sun Edison, SunPower, Suntech, Turner Renewable Energy, Uni-Solar and Xantrex.

II. COMMENTS ON THE DRAFT GUIDELINES

A. Energy Efficiency

The Joint Solar Parties support California's ambitious energy efficiency goals. By placing energy efficiency as first in the loading order adopted in the Energy Action Plan, creating some of the most energy efficient building and appliance codes in the nation, and through other well designed and well implemented policies such as decoupling, California has become one of the most energy efficient states on a per capita basis in the nation. The Joint Solar Parties fully support linking energy efficiency with solar market transformation as embodied in Senate Bill No. 1 (Murray, 2006) (SB 1). In particular, the Joint Solar Parties appreciate the recognition that energy efficiency and solar should be deployed on parallel paths rather than sequentially. This topic was widely discussed at the workshop held on October 4, 2007 and the Joint Solar Parties continue to support the adoption of appropriate energy efficiency requirements that will move California towards the goals established for the CSI program while also moving California towards greater energy efficiency. The Joint Solar Parties continue to believe that the guiding principle for determining what are appropriate energy efficiency measures required pursuant to Public Resources Code Section 25782(b)(3) is aligning incentives and requirements to further spur adoption of energy efficiency and renewables without holding one hostage to the other. With this principle in mind, the Joint Solar Parties appreciate the substantial revisions to the energy efficiency requirements contained in the Draft Guidelines and offer the following comments and suggestions on these new proposed requirements.

1. New Buildings

The Joint Solar Parties support the Draft Guidelines' proposed requirements regarding energy efficiency for new residential and new commercial buildings. Projects which

are in the construction process must already employ energy efficiency experts in order to meet Title 24. Requiring new buildings to go beyond Title 24 by 15% for Tier I and establishing a preference for a Tier II level of 30% beyond Title 24 is appropriate as builders already have the expertise needed to meet these requirements at minimal additional cost. Accordingly, these requirements will achieve the goal of ensuring that solar energy systems of an appropriate size are installed on highly efficient, newly constructed structures.

2. Existing Buildings

a. Residential

The Joint Solar Parties appreciate the revisions made to the proposed standards for residential retrofit building market. The proposed standards would require: 1.) a residential building owner to perform an audit either online, over the telephone, or onsite as determined by the Program Administrator (PA); 2. disclosure of the energy audit results to the customer while providing of energy efficiency information to the customer by the PA prior to the installation of the solar energy system; 3. verification by the building owner that they have received this information along with identification of which energy efficiency measures will be taken and when those measures will be implemented. The Joint Solar Parties support this three-step process as it will provide the homeowner with necessary information regarding their current energy use and the energy efficiency options available to them while also placing the determination of which energy efficiency measures make sense and are cost-effective for the homeowner's individual situation with the homeowner. The proposed guidelines recognize that it is the homeowner who ultimately has decision-making power over whether to go forward with the purchase of a solar energy system and energy efficiency measures depending on what mix of those products meets their unique situation. In this sense, the proposal is reasonable and

appropriate and will spur the deployment of both energy efficiency and solar.

b. Existing Commercial Buildings

The Joint Solar Parties continue to firmly believe that if solar customers are made aware of their energy efficiency options, the incentives available to them, and the potential increased financial benefits of adopting energy efficiency measures, many are likely to pursue energy efficiency. Thus, the Joint Solar Parties were pleased to see the revised guidelines require commercial customers to agree to undergo an energy efficiency audit as a condition of CSI incentives. For commercial buildings, the Joint Solar Parties also support the requirement that customer benchmark their building with the Portfolio Manager and provide that information to the Program Administrator. These requirements will provide vital information to commercial customers concerning their energy usage and how it compares with similar businesses. Accordingly, these requirements will spur interest in energy efficiency and are, therefore, appropriate and reasonable.

However, the Joint Solar Parties continue to be very concerned with requirements that establish outcomes which do not take into account the unique situation an individual customer faces in determining which mix of energy efficiency and solar will meet their needs and goals. In this respect, the Draft Guidelines' recommendations that all commercial buildings greater than 50,000 square feet and that all buildings less than 50,000 square feet with a benchmark rating of less than 75 perform a retro-commissioning in conjunction with the requirement that the building owner sign a commitment agreement that indicates the specific measures and installation dates of the measures to bring the building up to a benchmark rating of 75 as a condition to receiving the incentive for the solar system is particularly problematic.

First, the retro-commissioning requirement does not take into account the fact that the size of the building matters with regard to the cost-effectiveness of retro-commissioning. While retro-commissioning can be useful for many large buildings, it is not a solution for all facilities. In fact, the Staff's recommendation that all buildings greater than 50,000 and that all buildings of less than 50,000 square feet which are found to have a benchmarking rating of less than 75 undergo retro-commissioning is more stringent than the retro-commissioning standards found in existing energy efficiency programs offered through Pacific Gas and Electric Company (PG&E), Southern California Edison (SCE) and San Diego Gas & Electric Company (SDG&E). In PG&E, SCE & SDG&E's service territories, for a facility owner to participate in the existing retro-commissioning programs, they must own or operate a building that has at least 100,000 square feet of conditioned space (grocery stores should be at least 30,000 square feet). This square footage requirement was identified as the common threshold, as the analytical results for buildings less than this size are typically not worth the rigor and cost of the analysis. Accordingly, the current retro-commissioning requirements for commercial buildings impose a condition on the receipt of CSI incentives which has been shown to not be cost-effective in other contexts. This outcome will undermine the uptake of both solar and energy efficiency measures which is contrary to the goals of SB1.

The current retro-commissioning requirement also does not take account of the fact that the majority of commercial property in California is leased, not owner-occupied. Historically, leased buildings have been an obstacle for deployment of solar energy systems for a variety of reasons such as the fact that in some situations the payback period for a solar project may outlive the length of the tenant's lease term. Under this situation, neither the tenant nor the owner has an incentive to install solar because the tenant will not receive the long-term benefits

and the building owner might not choose to install solar unless a tenant requests it or guarantees a return to the building owner of the invested capital. To address this issue, third-parties have developed innovative third-party financing arrangements which allow clients to purchase the power produce by a solar energy system without actually requiring ownership of the system. In this situation, the tenant only has to commit to purchasing electricity (which is something which they need to do regardless of whether they own the building) in order to support the deployment of a solar energy system and the building owner is relieved of the risk of not having a turn on their investment while still being able to offer a valued service to their tenant. A requirement that tenants or building-owners perform a retro-commissioning on a building undermines this positive innovation by creating the following dilemma: owners will not want to make the investment if all the benefits accrue to the tenant and tenants have little incentive to invest in permanent upgrades on a building which they do not own. In this situation, retro-commissioning would represent another barrier to deploying solar energy systems on commercial buildings undermining the positive progress made in deploying solar energy in the existing commercial building marketplace.

By imposing retro-commissioning requirements which have been shown in other contexts to not be cost-effective and that result in an additional barrier to deploying solar energy systems on existing commercial structures, the proposed retro-commissioning requirements will undermine the goals of SB1 and are, therefore, inappropriate. As discussed in the Joint Solar Parties comments on the Staff Report, the best outcome for meeting the requirement in Pub. Res. Code 25782(b)(3) is one which aligns incentives in a manner which spurs the adoption of both energy efficiency and solar but does not hold one hostage to the other. The framework established for residential customers does exactly that by requiring information on energy

efficiency be provided to the residential customer, providing the customer with information regarding their current energy use, providing a process whereby the customer chooses which energy efficiency measures make sense in their unique situation and when those measures will be implemented. The same flexible customer-oriented requirements are appropriate for the existing commercial building sector. Such a requirement would allow the building owner and/or tenant to work cooperatively with their solar installer/vendor to select energy efficiency measures which are cost-effective and feasible in their unique situation as part of the process of investing in a solar energy system. This outcome spurs the penetration of energy efficiency and solar without holding one hostage to the other and is fully compliant with the requirement in Pub. Res. Code 25782(b)(3) which requires the Commission to condition receipt of CSI incentives upon the uptake of "appropriate" energy efficiency measures.

This understanding of the retro-commissioning requirement appears to be consistent with the Joint Solar Parties understanding of the discussion at the workshop held on October 4, 2007 regarding energy efficiency requirements for commercial buildings. The Joint Solar Parties appreciated the Staff's verbal comments recognizing that energy efficiency and solar should be deployed on parallel paths and that existing commercial structures should make efforts to achieve a benchmark rating of up to 75. The Joint Solar Parties fully support this understanding of the Draft Guidelines. Setting a goal of achieving a benchmark rating of 75, rather than a requirement to achieve such a goal, is fully consistent with SB1's requirement that appropriate energy efficiency standards be adopted as it establishes a "best practices" goal while recognizing that the standard might not be achievable for a particular solar customer's unique situation and still allowing that customer to contribute to the state's energy efficiency to the extent they are able. This outcome will spur both the penetration of solar and energy efficiency

in a synergistic and positive manner.

Finally, the Commission, with input from the industry, Program Administrators and the California Public Utilities Commission, should take the opportunity at a later date to examine progress made on energy efficiency. Once data is collected on program progress over time, the Commission can review whether sufficient progress has been made on all the goals of the CSI or whether more explicit requirements are necessary.

The Joint Solar Parties would like to caution the Commission with regard to forcing standardized customer financial analyses. Specifying a set pay back period, or definition of cost-effectiveness for customers is not recommended because each commercial customer has its own internal decision process and financial hurdles such as return on investment (ROI) or payback period for expenditures. These analyses will not be vary across all companies, or even within sub-parts of a single company (e.g., retail companies with branches in many states).

The financial or budgetary consideration around an energy efficiency investment or a solar equipment investment can also be quite different. Energy efficiency projects are often at least partially funded from annual expense budgets using one budget decision process; whereas solar projects are often funded from capital budgets, using a separate budget decision process. Requiring a specific payback period (or ROI or other financial metric) for energy efficiency constrains the commercial customer's decision process and may result in the company pursuing neither energy efficiency nor solar. This outcome is clearly inconsistent with the goals of the CSI program as adopted in SB 1.

B. CSI Adoption of NSHP Calculator

One of the primary goals of the CSI program is to reduce the end cost of solar

energy systems to consumers. Accordingly, program changes which potentially increase costs to stakeholders should only be implemented if there is a clear benefit to doing so. Consistent with this principle, the Joint Solar Parties continue to believe that the NSHP calculator should only be adopted for the CSI program if it is shown to provide significantly more accurate results than the current CSI calculator. Participants in the CSI program are already familiar with the current CSI program calculator, the EPBB calculator, and trained in its use. In contrast, the NSHP calculator requires more detailed system analysis and more time inputting data than the EPBB calculator. Both of these factors raise costs for installers many of whom are already struggling with increased administrative costs of participation in the CSI program.

We understand that the NSHP calculator has generated some unexpected results that have not been fully explained or corrected at this time. At the workshop held on October 4, Commission Staff showed preliminary results from a comparison of the two calculators. It is premature to recommend one calculator over the other based upon preliminary results, and until further analysis has been performed and shared with industry showing a clear benefit to adoption of the NSHP calculator a recommendation should not be made. If the NSHP calculator significantly improves the accuracy of expected system performance, then the increase in costs to installers, which will be passed on to end costs to consumers, could be justified due to more efficient expenditure of ratepayer dollars. However, if the results provided by the NSHP calculator are not significantly more accurate than those provided by the current CSI calculator, then the costs to solar consumers could be increased through adoption of the NSHP calculator without any significant offsetting benefits.

C. Shading

The Joint Solar Parties disagree with the recommendation that the NSHP shading

methodology should be the basis for addressing shading systems at this time. The CSI Shading Subcommittee is a group of industry stakeholders including Program Administrators, engineers, manufacturers, installers, and other public participants who have been meeting regularly and recently submitted their recommendations for the California Public Utilities Commission on how shading should be calculated for the CSI. The recommendations were to:

1. Redefine "minimal shading" to include any system with a 90%+ summertime availability. Any systems with above a 90% summertime availability receive no reduction in rebate due to shading;

2. For systems with a 89% to 85% summertime availability, use a sliding scale to reduce rebate level without having a sharp drop (chart below);

3. Allow a measurement tolerance of +/-5 percentage points. This tolerance was chosen to account for differences between the Solar Pathfinder and Solmetric Suneye tool readings (measurements commonly between 2 and 3 percentage points different) as well as for slight measurement errors due to the tool needing to be held perfectly level in the proper orientation;

4. Require a revised EPBB print out to be submitted with the claim documents if there are any differences in the shading at the claim stage versus what was originally reported in the application. This also allows the inspector to verify that the readings are within the 5 percentage point tolerance reported.

Measured % Available for Summer Period	EPBB Calculator % for Summer Period
90-100% (minimal shade)	100%
89%	97%
88%	94%
87%	91%
86%	88%
85%	85%
<85%	Measured % Available = EPBB %)

The Joint Solar Parties recommend that these suggestions be adopted and implemented rather than the NSHP methodology.

D. Additional Requirements

The proposed Guidelines require that a maintenance plan be provided by the installer to the system owner, facility manager and Program Administrator. While there is consumer benefit to educating solar system owners to the benefit of maintenance (including cleaning, checking power output, etc), the Joint Solar Parties are concerned with any requirement that creating additional paperwork and documentation to the CSI program, as such requirements run counter to the great efforts recently to simplify the CSI application process. As an alternative to the submission of maintenance plans as described in the Guidelines, the Joint Solar Parties suggest educating solar customers on the maintenance of their systems be considered as part of the CSI Education and Outreach efforts. Brochures and communication can be developed with information about what problems to look for and what actions to take if solar production is

not as expected and these educational tools can be provided to customers.

Moreover, customers have strong financial incentives to ensure maximum performance from their solar energy system under both the PBI and EPBB incentive structures. Under the PBI incentive structure, payments are directly linked to the amount of energy generated by a customers system. Even under the EPBB methodology, it is in the customers best interest to ensure their system is operating at maximum performance as production still directly impacts the monthly bill they receive from their utility. These incentives will motivate a customer to ensure energy generation on their system if they are given the proper information to do so.

Additionally, the Draft Guidelines recommend that the Program Administrator or utility must provide the customer the most recent 12 months of energy consumption data. While this information is critical, it has typically already been provided as part of the system sizing analysis for a solar bid. Additionally, this information is easily obtained by the utilities web sites. By requiring this at the time of application, it is adding an administrative step that is not adding additional value to the process.

The Draft Guidelines also contain an requirement for customers to enter into a five year service contract for PMRS. While PMRS should be required in order to receive an incentive payment, the requirement that the contract be for a five year term could work to the detriment of customers as there may be situations where a customer needs or chooses to switch providers during the five year period. To maintain customer choice, the Joint Solar Parties request that this requirement be modified to not require a contract of a specific length, but rather require customers of have contracted for PMRS services. Doing so will allow customers to

switch PMRS providers if they need or choose to upon the expiration of their current contract as their individual situation dictates. This flexibility will also maintain competitive pressure on PMRS providers to innovate and continue to provide excellent customer service.

E. System Component Standards

The Joint Solar Parties support stringent component standards in order to ensure installation of high quality components and, therefore, support the testing requirements established in Chapter 3 of the Draft Guidelines.

The Joint Solar Parties also appreciate the establishment of an alternate approach to address the transition to these requirements including allowing performance data based on test procedures specified in UL 1703, Section 18.1(in-house laboratory and flash test data) to be relied upon to list eligible modules between January 1, 2008 and December 31, 2008. This process would allow participation in the CSI program in 2008 while modules are going through the certification process.

To ensure a smooth transition on January 1, 2009, the Joint Solar Parties encourage the Commission to monitor the back log at testing facilities on a quarterly basis in 2008. Monitoring backlog levels will help ensure that all modules will be completed for inclusion on January 1, 2009. Monitoring on a quarterly basis during 2008 will also allow the Commission to identify if there is a significant back log of testing modules in the last quarter of 2008. If one is found, the Commission will then have time to determine whether the implementation schedule needs to be re-evaluated.

F. Schedule

In order to avoid disruption of applications already in the application pipeline, the

Joint Solar parties request that the Guidelines be clarified so that the eligibility criteria in place on January 1, 2009 should only be effective for new applications that are received after that date (rather than be retroactive to applications already in the CSI pipeline). For applications submitted prior to this date, the Joint Solar Parties believe the Commission should find that the eligibility requirements in effect prior to January 1, 2008 are applicable to these applications. If the requirements are made retroactive, it is possible applications already in the pipeline will need to be resubmitted, resubmission of applications would disrupt the application process and only increase the costs to customers who have already agreed to purchase a solar energy system and to installers working with the customer to move the application to approval. Applying the eligibility criteria in place on January 1, 2009 only to applications submitted after that date is consistent with the requirement in Pub. Res. Code Sec. 25782(a) that the Commission develop eligibility requirements for solar energy systems by January 1, 2008 as all applications as of that date would have eligibility criteria established for them depending on their date of submission.

G. Term of PBI Payment Stream

The draft criteria include language that would permit Program Administrators to establish longer terms for PBI payments (e.g., longer than 5 years). It is not clear what benefit might accrue from longer payment schedules, but such permission could be substantially disruptive to the financing of larger systems and may effectively block their deployment. The current five year term for PBI payments is closely tied to federal tax rules on depreciation and tax credit recapture and should be maintained without the threat of modification by Program Administrators.

H. Inclusion of Solar Thermal Energy Systems in the CSI

The Joint Solar Parties fully support the inclusion of solar thermal energy systems (solar thermal) in the CSI and appreciate the Guidelines efforts to address such inclusion. To this end, the Joint Solar Parties offer the following minor changes in order to continue forward momentum towards inclusion of solar thermal in the CSI:

1. Definition of a Solar Energy System

In Chapter 2, the Draft Guidelines propose a definition for solar energy system while recognizing the statutory definition of solar energy system includes non-PV solar thermal technologies is written in a manner which is inconsistent with this statutory definition. In order to ensure inclusion of solar thermal, the Joint Solar Parties recommend adoption of the following definition for solar energy system (underline/strikeout format):

> ***Solar energy systems eligible for financial incentives are those solar energy devices that have the primary purpose of providing for the collection and distribution of solar energy for the generation of electricity and solar thermal electric technologies.*** ~~*Solar energy systems*~~ *Solar photovoltaic (PV) technology must produce at least one kilowatt (kW), and not more than five megawatts, alternating current (AC) rated peak electricity, accounting for all system losses, and meet or exceed the eligibility criteria established in these guidelines.* Solar thermal electric technologies that are approved by the CPUC to participate in the CSI program are eligible for CSI incentives.
>
> ***Eligible solar technologies must primarily generate electricity. The statutory definition of "solar energy systems" includes other solar technologies such as solar thermal electric technologies.*** *However, at this time, the Energy Commission's guidelines address only solar photovoltaic (PV) technology. These guidelines will be revised in the future to include other solar technologies when appropriate to do so. Manufacturers of non-PV solar energy systems are directed to work with the Energy Commission staff to define comparably rigorous and appropriate requirements for such systems.*
>
> ~~***Solar technologies that do not primarily generate electricity,***~~ ~~*including, but not limited to solar systems whose primary purpose is for water heating, solar space heating and cooling, are not eligible.*~~

This definition recognizes that efforts of the California Public Utilities Commission and CSI stakeholders to develop standards for inclusion of solar thermal systems in the CSI pursuant to Decision no. 06-12-033 and allows solar thermal to begin participation in the CSI once those standards are set. As part of that process, on June 1, 2007, SCE and PG&E filed Advice Letter 2130-E/3060-E on behalf of themselves and the California Center for Sustainable Energy (CCSE) as PAs. On June 26, 2007, the Joint Solar Parties filed a protest to these Advice Letters which discussed changes the Joint Solar Parties believed were necessary to ensure the solar thermal technologies were included in the CSI in a productive fashion.[3] As a result of the protest, the Program Administrators and other stakeholders have worked together to develop standards for inclusion of solar thermal technologies as part of a working group process. The Joint Solar Parties anticipate that revised Advice Letters will be filed which, upon approval, will allow solar thermal system to be eligible for the CSI program before the end of the year. Accordingly, the changes requested above will allow for inclusion of solar thermal technologies in the CSI program at that time.

III. CONCLUSION

The Joint Solar Parties appreciate the opportunity to comment on the Draft Guidelines and believe the changes discussed above will result in eligibility requirements which meet the statutory requirements of SB 1 while recognizing the market realities of the solar industry.

[3] Since the filing of the protest to the Advice Letters, PV Now has become the Solar Alliance.

Respectfully submitted this 15th day of October, 2007 at Sacramento, California.

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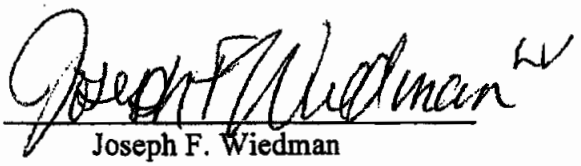
By 
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