



## COUNTY OF SAN BENITO BOARD OF SUPERVISORS

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December 20, 2011

California Energy Commission  
Docket Unit  
Attn: Docket No. 09-AFC-9  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512

**DOCKET**

**09-AFC-9**

DATE DEC 20 2012

RECD. FEB 06 2012

Subject: COUNTY OF SAN BENITO'S COMMENT LETTER REGARDING THE  
*[PROPOSED] COMMISSION DECISION AFFIRMING THAT WARREN-  
ALQUIST ACT SECTION 25502.3 APPLIES TO PHOTOVOLTAIC  
ELECTRICAL GENERATING FACILITIES* (DOCKET NO. 09-AFC-9)

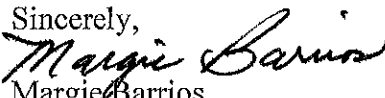
Dear Honorable Members of the Energy Commission:

On December 5, 2011, the Hearing Adviser issued the *[Proposed] Commission Decision Affirming that Warren-Alquist Act Section 25502.3 Applies to Photovoltaic Electrical Generating Facilities*. The full Commission will consider whether to adopt, modify, or reject the proposed decision at its January 11, 2012 Business Meeting. The County of San Benito respectfully submits this comment letter and joins in the arguments previously made by the California State Association of Counties (CSAC) in its brief opposing Applicant's Motion for Order Affirming Application of Jurisdictional Waiver for the Ridgecrest Solar Power Project (Docket No. 09-AFC-9).

The County of San Benito strongly opposes Applicant's request for an order determining that a developer of a photovoltaic electrical generating facility has the discretion to voluntarily submit to the Commission's jurisdiction. Jurisdiction over such facilities is, and should remain, exclusively vested in local land use authorities. The precedent created by granting the Applicant's request would deprive counties of their ability to review, evaluate and permit photovoltaic facilities at a local level. In addition to the legal arguments set forth in CSAC's brief which justify the denial of Applicant's motion, San Benito County believes that the evaluation and approval of such projects is best conducted at the local level. San Benito County has successfully processed two solar power projects within the last two years. The first was a large scale 399 MW project approved in late 2010. The second was a smaller 1.5 MW project approved in 2011.

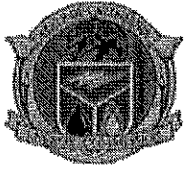
The County of San Benito respectfully requests that the Commission deny Applicant's motion and reject the *[Proposed] Commission Decision Affirming that Warren-Alquist Act Section 25502.3 Applies to Photovoltaic Electrical Generating Facilities*. Thank you for your time and consideration of this letter.

Sincerely,



Margie Barrios

Chair, Board of Supervisors



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA  
1516 NINTH STREET, SACRAMENTO, CA 95814  
1-800-822-6228 – [WWW.ENERGY.CA.GOV](http://WWW.ENERGY.CA.GOV)

**APPLICATION FOR CERTIFICATION**  
**For the *RIDGECREST SOLAR POWER PROJECT***

**Docket No. 09-AFC-9**  
**PROOF OF SERVICE**  
*(Revised 12/13/2011)*

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## DECLARATION OF SERVICE

I, Billie Jimenez, declare that on February 3, 2012, I served and filed copies of the attached, dated. COUNTY OF RIVERSIDE'S COMMENT LETTER IN SUPPORT OF CALIFORNIA STATE ASSOCIATION OF COUNTIES' BRIEF OPPOSING MOTION FOR ORDER AFFIRMING APPLICATION OF JURISDICTIONAL WAIVE FOR THE RIDGECREST SOLAR POWER PROJECT (DOCKET NO. 09-AFC-9) dated September 16, 2011. The original documents, filed with the Docket Unit or the Chief Counsel, as required by the applicable regulation, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [\[www.energy.ca.gov/sitingcases/solar\\_millennium\\_ridgecrest/index.html\]](http://www.energy.ca.gov/sitingcases/solar_millennium_ridgecrest/index.html).

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

### **(Check all that Apply)**

#### **For service to all other parties:**

- Served electronically to all e-mail addresses on the Proof of Service list;
- Served by delivering on this date, either personally, or for mailing with the U.S. Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "e-mail preferred."

### **AND**

#### **For filing with the Docket Unit at the Energy Commission:**

- by sending an original paper copy and one electronic copy, mailed with the U.S. Postal Service with first class postage thereon fully prepaid and e-mailed respectively, to the address below (preferred method); **OR**
- by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

CALIFORNIA ENERGY COMMISSION – DOCKET UNIT  
Attn: Docket No. 09-AFC-9  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512  
[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

CALIFORNIA ENERGY COMMISSION – CHIEF COUNSEL  
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#### **OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:**

- Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

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Michael J. Levy, Chief Counsel  
1516 Ninth Street MS-14  
Sacramento, CA 95814  
[mlevy@energy.state.ca.us](mailto:mlevy@energy.state.ca.us)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

*Billie Jimenez*  
\_\_\_\_\_  
Billie Jimenez

\*indicates change