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September 16, 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	Sept 16 2011
RECD.	Sept 16 2011

Subject: COUNTY OF SAN LUIS OBISPO'S COMMENT LETTER IN SUPPORT OF CALIFORNIA STATE ASSOCIATION OF COUNTIES' BRIEF OPPOSING MOTION FOR ORDER AFFIRMING APPLICATION OF JURISDICTIONAL WAIVER FOR THE RIDGECREST SOLAR POWER PROJECT (DOCKET NO. 09-AFC-9)

Dear Honorable Members of the Energy Commission:

As authorized by the Commission's order of August 24, 2011 (Order No. 11-0824-8), the County of San Luis Obispo respectfully submits this comment letter and joins in the arguments made by the California 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 Luis Obispo strongly opposes the Applicant's request for an order determining that a developer of a photovoltaic (PV) electrical generating facility has the discretion to voluntarily submit to the Commission's jurisdiction. The Applicant's request is particularly dangerous from San Luis Obispo County's perspective given that our county has recently permitted two large-scale (250 MW and 550 MW) photovoltaic plants. Those plants were only approved following a rigorous environmental and public review process that allowed the County to assure that appropriate mitigation of environmental impacts and impacts to county services would occur. Allowing PV companies to avoid this type of local review will have enormous impacts on local resources.

The Commission was expressly created by the Legislature to site and certify thermal power plants and related electric transmission lines only. (Public Resources Code section 25500.) Photovoltaic facilities are specifically excluded from the Commission's jurisdiction. (Public Resources Code sections 25110 & 25120.) Jurisdiction over such facilities is instead exclusively vested in local land use authorities by their constitutionally conferred police powers.

California Energy Commission
Re: Docket No. 09-AFC-9 Support Letter
September 16, 2011

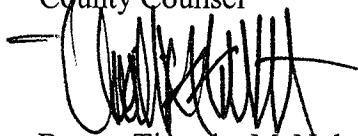
If the Commission issues Applicant's requested order, any county or city may, at the election of an applicant, be deprived of its constitutionally conferred police power to permit PV projects. The Commission has recognized that issuance of the requested order would likely have far reaching effects. Other solar power plant developers may seek similar orders and other counties, including San Luis Obispo County, may, at the election of those developers, be deprived of their constitutionally conferred police power to permit photovoltaic facilities.

The County of San Luis Obispo respectfully requests that the Commission deny Applicant's Motion for Order Affirming Application of Jurisdictional Waiver for the Ridgecrest Solar Power Project. The County of San Luis Obispo further requests that it be added to the Proof of Service list as an Interested Agency for this Docket No. 09-AFC-9.

Thank you for your time and consideration. Should you have any questions concerning San Luis Obispo County's position, please contact me at your convenience.

Very truly yours,

WARREN R. JENSEN
County Counsel



By: Timothy McNulty
Chief Deputy County Counsel

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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

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

**Docket No. 09-AFC-9
PROOF OF SERVICE
(Revised 8/15/2011)**

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DECLARATION OF SERVICE

I, Neil Warner, declare that on September 16, 2011, I served and filed copies of the attached COUNTY OF SAN LUIS OBISPO'S COMMENT LETTER IN SUPPORT OF CALIFORNIA STATE ASSOCIATION OF COUNTIES' BRIEF OPPOSING MOTION FOR ORDER AFFIRMING APPLICATION OF JURISDICTIONAL WAIVER FOR THE RIDGECREST SOLAR POWER PROJECT (DOCKET NO. 09-AFC-9) dated September 16, 2011. The original document, 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

CALIFORNIA ENERGY COMMISSION – CHIEF COUNSEL

Michael J. Levy, Chief Counsel
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Sacramento, CA 95814
mlevy@energy.state.ca.us

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:

California Energy Commission
Michael J. Levy, Chief Counsel
1516 Ninth Street MS-14
Sacramento, CA 95814
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.

A handwritten signature in black ink, consisting of stylized initials 'N.W.' followed by a long horizontal line extending to the right.

Neil Warner

*indicates change