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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	SEP 16 2011
RECD.	SEP 16 2011

Re: County Of Imperial's 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:

Pursuant to the Commission's Order of August 24, 2011 (Order No. 11-0824-8), the County of Imperial respectfully submits this letter in support of the arguments 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 Imperial strongly opposes Applicant's request for an order allowing a developer of a photovoltaic electrical generating facility the discretion to voluntarily submit to the Commission's jurisdiction. The purpose of the Warren-Alquist Act ("Act") is to confer upon the Commission jurisdiction to site only thermal powerplants and related electric transmission lines. (*Public Resources Code* §25500.) Under the Act, "sites" are defined as "any location on which a facility is constructed or is proposed to be constructed" (*Pub. Res. Code* § 25119), and "facility" is defined as "any electric transmission line or thermal powerplant or both." (*Pub. Res. Code* § 25110.) The Act further defines "thermal powerplant" as "any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, or any facilities appurtenant thereto." (*Pub. Res. Code* § 25120.) By these definitions, photovoltaic facilities are specifically excluded from the Commission's jurisdiction. (*Pub. Res. Code* §§ 25110; 25120.)

As such, jurisdiction over photovoltaic facilities is instead exclusively vested in local land use authorities by their constitutionally conferred police powers. If the Commission grants Applicant's Motion for Order and affirms the Application of Jurisdictional Waiver, Kern County may, at the election of Applicant, be deprived of its constitutionally conferred police power to permit the Ridgecrest Solar Power Project.

Moreover, granting of the Motion and issuance of the requested Order Affirming Application of Jurisdictional Waiver would have far reaching effects. Other solar power plant developers will likely seek similar orders and other counties may, at the election of developers, be deprived of their constitutionally conferred police power to permit photovoltaic facilities.

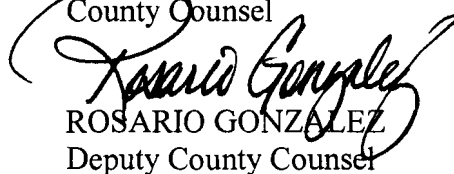
The County of Imperial fully supports and incorporates the arguments raised by CSAC in the Brief Opposing Motion for Order Affirming Application of Jurisdictional Waiver filed in this case. Therefore, the County of Imperial respectfully requests:

- 1) That the Commission deny Applicant's Motion For Order Affirming Application of Jurisdictional Waiver for the Ridgecrest Solar Power Project (Docket No. 09-AFC-9); and
- 2) That County of Imperial be added to the Proof of Service list as an Interested Agency for this Docket No. 09-AFC-9.

Thank you for your consideration of this matter. Should you have any questions concerning the County of Imperial's position, please contact me at (760) 482-4400.

Regards,

MICHAEL ROOD
County Counsel



ROSARIO GONZALEZ
Deputy County Counsel

cc: See Attached Proof of Service.



**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, Priscilla Chavarria, declare that on September 16, 2011, I served and filed copies of the attached COUNTY OF IMPERIAL'S 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

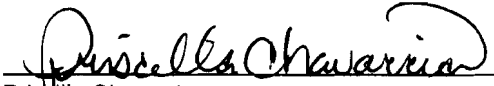
For filing with the Docket Unit at the Energy Commission:

- 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
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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.



Priscilla Chavarria

*indicates change