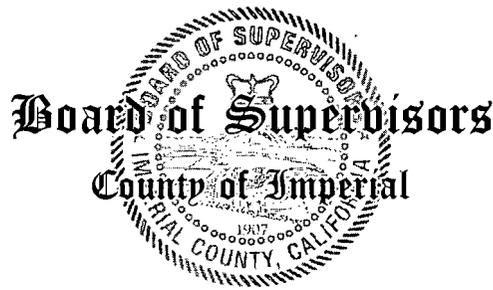


DISTRICT 1
JOHN R. RENISON
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February 7, 2012

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 FEB 07 2012
RECD. FEB 15 2012

Subject: County of Imperial'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 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 County of Imperial 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 Imperial strongly opposes Applicant's Motion 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 (PV) facilities are specifically excluded from the Commission's jurisdiction. (*Pub. Res. Code §§ 25110; 25120.*)

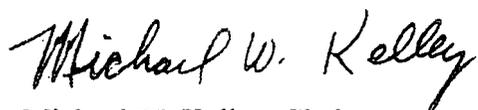
Imperial County has been actively engaged in the process of reviewing and permitting a number of utility-scale photovoltaic generation projects for the last several years. To date, we have approved six large PV facilities totaling over 450 megawatts of capacity. In this process, we have developed a considerable amount of expertise and experience in identifying and addressing the numerous impacts and mitigation strategies related to those projects.

Additionally, many of the land use issues that we are dealing with are entirely specific to our area. For example, a number of the solar plants that have been approved or are still under review are located on agricultural farmland which would be taken out of production during the projects' lifetime. We have had many workshops and public hearings at the Planning Commission and Board of Supervisors meetings on this one topic alone with a great amount of input and comments from local residents. It is difficult for us to imagine how this public participation process could be improved by shifting the decision-making authority from Imperial County to Sacramento.

As such, jurisdiction over such facilities is, and should remain, exclusively vested in local land use authorities. The precedent created by adopting the Proposed Decision would deprive counties of their ability to review, evaluate and permit photovoltaic facilities at the local level. 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 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,

A handwritten signature in black ink that reads "Michael W. Kelley". The signature is written in a cursive, slightly slanted style.

Michael W. Kelley, Chairman
Board of Supervisors