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July 25, 2011

Via Email and US mail

Chairman Robert Weisenmiller, Ph.D.
Commissioner Karen Douglas
California Energy Commission
1516 Ninth Street, MS-2000
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John McCamman
Acting Director
Department of Fish and Game
1416 Ninth Street, 12th Floor
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Re: Calico Solar Project Amendment, Docket 08-AFC-13C

Dear Chairman Weisenmiller, Commissioner Douglas and Director McCamman:

I write on behalf of the Applicant for the Calico Solar Project, Calico Solar, LLC, to respond to the letter sent to you by Sierra Club on July 13, 2011.[1] In their letter, Sierra Club makes a variety of assertions as to why the Energy Commission should not follow its normal process for considering an amendment to a power plant's license. As is discussed below, these assertions have no support in either CEQA or the Warren-Alquist Act. The Commission should continue to act as lead agency over this project, it should process the amendment under its certified regulatory program, and CDFG should act as a responsible agency, taking any necessary permitting action in reliance on the Commission's EIR equivalent document.

I. THE ENERGY COMMISSION IS THE APPROPRIATE LEAD AGENCY

As the Commission's Siting Committee found in its Order of July 1, 2011, the Commission must be the lead agency for the thermal component of the Calico Solar

[1] The July 13th letter was signed by a number of parties. This letter is referred to herein as the Sierra Club letter.

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Project. In this role, the Commission must consider all environmental impacts of the proposed amendment in its supplemental CEQA review, including any impacts resulting from the installation of PV that are new or different from those previously analyzed. Section 25519(c) of the Warren-Alquist Act states that the Commission "shall be the lead agency … for all projects that require certification pursuant to this chapter and for projects that are exempted from such certification pursuant to Section 25541." As the Commission's Order correctly found, the "project" includes the "whole of the action," which includes the PV generation components of the Calico Solar Project that the Committee concluded are not within the Commission's siting jurisdiction. *See* 14 Cal. Code Regs. § 15378(a) and (c). It is fundamental in CEQA that the "whole of the action" includes both the components over which the lead agency has direct permitting authority, as well as the components of the project for which it does not. *California Unions for Reliable Energy v. Mojave Desert Air Quality Management Dist.*, 178 Cal.App.4th 1225, 1242 (2009).

Not only is having the Commission continue to act as a lead agency over the entire amendment consistent with the requirements of CEQA and the Warren-Alquist Act, it also makes practical sense. The Commission has already acted as the lead agency for the currently approved Calico Solar Project, and it has a great deal of familiarity with the Calico Solar Project.[2] This familiarity includes, but also goes well beyond, issues concerning protected species that prospectively will be partially within the jurisdiction of the CDFG.[3] CDFG is an agency with limited jurisdiction, and CDFG generally does not take the lead agency role where, as here, another agency is acting on the project. *See* 14 Cal. Code Regs. § 783.3(a) and (b). Unlike CDFG, the Commission has jurisdiction over all laws, ordinances, regulations, and standards affecting power plant projects. Pub. Res. Code § 25525; 20 Cal. Code Regs. § 1744(a). Not only does the Commission have experience with evaluating the full spectrum of impacts associated with the project, it has done so once before with respect to this project.

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[2] CEQA Guidelines address the situations in which there should be a shift in a lead agency for a project that has already been subject to environmental review. Section 15052 provides that another agency should take over the role when: (1) there was no environmental review completed by the lead agency and the time for challenge the action of the appropriate lead agency has expired; (2) changes to the project require subsequent environmental review and the lead agency has granted final approval on the project; or (3) the lead agency prepared inadequate environmental review and failed to consult responsible agencies. None of these triggers exist here so there is no reason for any other agency to assume the Commission's lead agency role over the Calico Solar Project.

[3] Notably, of the 165 conditions of certification imposed by the Commission, 31 addressed biological impacts.

The only justification that Sierra Club letter provides for "*insisting*" that CDFG act as lead agency is its assertion that, if the Commission acts as lead agency, the public will be denied a meaningful opportunity to participate in the decision making process because the Commission's process is, in the Sierra Club's view, burdensome. These comments are no more than generalized complaints about the Commission's siting process and therefore, are outside the scope of issues that can properly be raised in the context of an individual siting proceeding such as Calico's request for an amendment to its license. Further, these complaints are completely lacking in merit. We are not aware of any other agency's permitting process that affords interested members of the public more or more meaningful opportunities to participate in and influence a permitting decision than the Commission's siting process. Members of the public are not only given the opportunity to provide oral and written comments at all proceedings and on all documents but are also given the relatively unique opportunity to participate as full parties in the proceedings. The original Calico proceeding demonstrates how effective this participation can be. As the Commissioners repeatedly commented on in the earlier proceedings, the reduction in the Calico Solar Project size by more 44% from the original 8,230 acres to the approved 4,613 acres was largely driven by information presented by intervenors, including the Sierra Club, during the licensing proceedings.[4] The Calico Solar Project shows how well the Commission's CEQA process can work to identify and substantially reduce potentially significant environmental impacts.

II. THE COMMISSION SHOULD REVIEW THE WHOLE OF THE ACTION PURSUANT TO ITS CERTIFIED REGULATORY PROGRAM AS IT NORMALLY DOES

As all parties to the proceedings recognize, the Commission has a certified regulatory program for reviewing applications for certification for power plants. CEQA Guidelines 15251(j) (providing that the Commission's power plant site certification program is a certified regulatory program). Because the regulatory action to be taken here by the Commission is certification of the thermal component and related facilities of the Calico Solar Project, this action will be taken pursuant to the Commission's power plant site certification program. Prior to making a decision on the proposed amendment, the Commission must analyze all the proposed changes to the "project," as CEQA requires, which includes the "whole of the action." *See* 14 Cal. Code Regs. § 15378(a) and (b)

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[4] We note that the Sierra Club states that the amended Project would cover 6,215 acres. This is not correct. During the original proceedings, Calico reduced the original size of the Project footprint from 8,230 acres to 6,215 acres after it was found that the impacts would be greater than anticipated. The project size was reduced again in September, 2010 and the approved Project, as well as the proposed amended Project, covers approximately 4,613 acres.

("The term 'project' does not mean each separate governmental approval."). Public agencies that are conducting environmental review pursuant to a certified regulatory program *must always* consider aspects of a project that are not within the agency's jurisdiction and they must also make appropriate findings based on that environmental review. The fact that a regulatory program is certified does not exempt agencies from the requirement to make findings about impacts that are outside of the agency's jurisdiction to address. *See* Pub. Res. Code § 21081(a)(2) and (3) (requiring either an override or a finding that "[t]hose changes or alterations [of the project that] are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.").[5] Given that the PV component is part of the whole of the Calico Solar Project, the Commission's regulatory program *requires* it to prepare a written environmental document that considers the impacts of the PV component and the rest of the Project. [6]

Sierra Club's assertion that CEQA Section 21080.5(b)(1) limits the scope of the Commission's environmental review to the portions of the Project over which the Commission has siting jurisdiction is unsupported by any authority and is without merit. Section 21080.5(b)(1) identifies the types of "projects" that can be processed under a certified regulatory program. *See* Pub. Res. Code § 21080.5(b)(1) ("This section applies only to regulatory programs or portions thereof that involve either of the following: (1) The issuance to a person of a lease, permit, license, certificate, or other entitlement for use; (2) The adoption or approval of standards, rules, regulations or plans for use in t he regulatory program."). In doing so, it tracks the definition of "project" in section 21065(c). Pub. Res. Code § 21065 ("'Project' means ... (c) An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies."). The effect of section 21080.5(b) is simply to the limit the types of CEQA projects that can be included in a certified regulatory program; certified regulatory programs cannot be used to approve "[a]n activity directly undertaken by any public agency" or "[a]n activity undertaken by a person which is supported . . . through contracts, grants, subsidies, loans, or other forms off assistance from one or more pubic agency", because neither of these types of "projects" would be a "regulatory program." *See* Pub. Res. Code § 21065(a) & (b). Because the action that the Commission will take

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[5] See Pub. Res. Code § 21080.5(c) (providing certified regulatory programs with selective exemptions from CEQA's procedures, which do not include section 21081).

[6] Because the Commission is required to consider the whole of the action in its environmental document prepared under its certified regulatory program, there is no need for the Commission to prepare a second, duplicative document for the portion of the project over which it does not have direct licensing authority. Such a document is not contemplated by, much less required by, CEQA and would serve no practical purpose.

in this case is issuance of a license, it clearly falls within the types of projects that can be included in a certified regulatory program; further, the issuance of a license to a power plant is included in the Commission's certified regulatory program. CEQA Guidelines 15251(j).

Contrary to Sierra Club's reading, Section 21080.5 does not address the *scope* of the review that can and should be done for projects that fall within the certified regulatory program. Nothing in Section 21080.5 *allows* an agency conducting environmental review in a certified regulatory program to consider less than the whole of the action, let alone *precludes* the agency from doing so.

Sierra Club attempts to find support for its logic in *Citizens for Non-Toxic Pest Control v. Department of Food and Agriculture*, 187 Cal.App.3d 1575 (1986) (*CDFA*), but that decision is wholly inapplicable as it does not even speak to the scope of environmental review that can and must be completed in an EIR equivalent document. *CDFA* involved a challenge to California Department of Food and Agriculture's program to control and eradicate a pest in California. The Court found that the Department could not rely on its limited regulatory certified program because it had not conducted *any* environmental review of its proposed program nor had it produced *any* environmental document. *Id.* at 1586 Further, some of the actions that the Department proposed to undertake were excluded from the Department's certified regulatory program and therefore, the Department could not undertake those actions pursuant to a document prepared under its certified regulatory program. *Id.* at 1587 Here, by contrast, the Commission has produced a complete environmental document for the approved Project and will produce a supplemental or subsequent document considering the incremental impacts associated with the proposed changes to the Project. Further, the only regulatory action that the Commission will take will be to issue a license to a power plant, the very action expressly covered by its certified program. Accordingly, *CDFA* does not speak to the issue before the Commission nor does it provide any support for Sierra Club's reading of CEQA.

If Sierra Club's argument were correct, whenever the "whole of the action" went beyond the Commission's jurisdiction the Commission would not be able to utilize its certified regulatory program. As a matter of law, for example, the Commission would be precluded from analyzing potentially significant transmission impacts that occur beyond the first point of interconnection within the context of its certified regulatory program. *Public Util. Comm'n v. Energy Resources Conservation and Development Comm'n*, 150 Cal. App.3d 437 (1984). This reasoning could also be extended to prevent the Commission from analyzing cumulative impacts within its certified regulatory program – which it clearly *must* analyze – where those impacts arise from projects that are not within the Commission's jurisdiction. *See Laupheimer v. State of California*, 200 Cal.App.3d 440, 465 (1988) (public agencies must consider cumulative impacts in their certified regulatory program). Under the Sierra Club's rationale, the Commission would be precluded from conducting its CEQA analysis in its functionally equivalent documents both in routine and novel jurisdictional situations.

The Commission has not previously endorsed Sierra Club's flawed analysis. In other siting decisions where the Commission lacked jurisdiction over substantial portions of the proposed project, the Commission has assumed the lead agency role and has analyzed the project in the context of the Commission's certified regulatory program. *See Sacramento Ethanol And Power Cogeneration (SEPCO) Project*, Docket No. 92-AFC-2, 1994 WL 468613, at 119 (1994); *see also* Sycamore Project, Kern River, 84-AFC-6; Sutter Power Project, 97-AFC-2; Three Mountain Power Project, 99 AFC-2; and SMUDGED, 80-AFC-1. In the SEPCO decision, for example, the Commission considered a proposed natural gas plant that would also produce 12 million gallons per year of ethanol from 132,000 tons of rice straw. The Commission had siting jurisdiction over the natural gas plant but Sacramento County had permitting jurisdiction over the ethanol plant. *Id.* at 119. Pursuant to a Memorandum of Understanding between the Commission and the County, the Commission analyzed the entire project as the lead agency under the Commission's certified regulatory program, and the County acted as a responsible agency. *See id.*, Appendix C (Memorandum of Understanding). The Commission's environmental review constituted an "extensive analytic exercise similar in scope to a traditional Environmental Impact Report review." *Id.* at 4. The Commission's decision noted that the Commission's process provided a useful forum for integrating and coordinating the regulatory actions of multiple agencies with jurisdiction over the project. It wrote:

> Rather than stressing differences and competing over primacy of authority … the jurisdictions and agencies involved focused upon solutions. The established siting process and the forum provided by the Commission allowed the timely and effective resolution of potential conflicts, and provided a venue to formulate the solutions reached. We believe that the adaptability and flexibility evident in the Commission's licensing process and the constructive participation by other involved governmental entities shows responsive, rather than repressive and redundant, regulation.

Id. at 5. The Commission also noted that the arrangement "avoided duplicate analyses," and provided for "rational" and "complete" analysis. *Id.* at 119. The process in SEPCO is exactly the process that the Commission and CDFG should undertake here to ensure similar results.

III. THE DEPARTMENT OF FISH AND GAME CAN RELY UPON THE COMMISSION'S ANALYSIS AS A RESPONSIBLE AGENCY

Sierra Club's assertion that CDFG cannot rely on the Commission's CEQA analysis from the Commission's certified regulatory program is a simple misstatement of law. CDFG must rely upon the Commission's environmental review of the components of the Calico Solar Project that are within the Commission's jurisdiction. Pub. Res. Code § 25519(c).

If the Commission reviews the whole of the action as the lead agency, as it should, CDFG may rely upon the Commission's environmental review, provided that the requirements of CEQA Guideline 15253(b) are met. This section provides:

> The conditions under which a public agency shall act as a responsible agency when approving a project using an environmental analysis document prepared under a certified program in the place of an EIR or negative declaration are as follows:
>
> (1) The certified agency is the first agency to grant a discretionary approval for the project.
>
> (2) The certified agency consults with the responsible agencies, but the consultation need not include the exchange of written notices.
>
> (3) The environmental analysis document identifies: (A) The significant environmental effects within the jurisdiction or special expertise of the responsible agency. (B) Alternatives or mitigation measures that could avoid or reduce the severity of the significant environmental effects.
>
> (4) Where written notices were not exchanged in the consultation process, the responsible agency was afforded the opportunity to participate in the review of the property by the certified agency in a regular manner designed to inform the certified agency of the concerns of the responsible agency before release of the EIR substitute for public review.
>
> (5) The certified agency established a consultation period between the certified agency and the responsible agency that was at least as long as the period allowed for public review of the EIR substitute document.
>
> (6) The certified agency exercised the powers of a lead agency by considering all the significant environmental effects of the project and making a finding under Section 15091 for each significant effect.

14 Cal. Code Regs. §1 5253(b). Indeed, Guideline 15253 states that if these conditions are met the "public agency *shall* act as a responsible agency."

As was the case with the SEPCO project, the Commission and CDFG can establish procedures for ensuring that the requirements of Guideline 15253 are met, either through a formal or informal agreement. Such an agreement may contain other provisions that go beyond 15253(b) and ensure that there is concurrence between the Commission and CDFG. *See* 14 Cal. Code Regs. § 15051(d) (an "agreement may … provide for cooperative efforts by two or more agencies by contract, joint exercise of powers, or similar devices."); *but see Planning & Conservation League v. Dept. of Water Resources*, 83 Cal.App.4th 892, 906 (2000) (agreements cannot make an agency a lead agency if it is not). A copy of the SEPCO Memorandum of Understanding is attached to this letter as Exhibit A. The fact that the Commission and CDFG have a long history of working together, including during the original consideration of the Calico Project, helps ensure that the coordinated processing and review is thorough and efficient.

Sierra Club's assertion that *Californians for Alternatives to Toxics v. Department of Food and Agriculture*, 136 Cal.App.4th 1 (2005), somehow prevents CDFG from relying on the Commission's environmental analysis is simply wrong. In *Californians for Alternatives to Toxics*, CDFA attempted to rely upon the Department of Pesticide Regulation's (DPR) certified regulatory program when there was no evidence that the CDFA had actually considered DPR's environmental analysis and DPR's pesticide registration process did not account for the CDFA's specific use of pesticides. *Id.* at 16-18. In other words, CDFA was not acting as a responsible agency for a project approved by DPR, but rather was trying to rely on DPR's EIR equivalent document for a different project. No environmental review of the specific project in issue in that case had been undertaken. *Californians for Alternatives to Toxics* does not address a situation where two agencies must evaluate the *same project*, nor does it invalidate or cast doubt upon CEQA Guideline 15253(b).

IV. CONCLUSION

This is not the first time that the Commission has confronted having partial jurisdiction over a project, and there is nothing at all complicated about the procedure that the Commission and CDFG should follow. While the specific facts involved in this case are unique, both CEQA and the Warren-Alquist Act provide answers as to how the amendment should be processed. As it has in similar situations before, the Commission should be lead agency for the entire project, and because it is acting under it power plant siting authority, the Commission should utilize its certified regulatory program to complete the necessary analysis. The Commission, CDFG, and other responsible agencies should continue to work together to ensure that all environmental impacts of the proposed amendment are adequately addressed. The requirements of CEQA Guideline 15253(b) should be strictly followed, and the public should be given an opportunity to participate in the environmental review. We are confident that the Commission and its sister agencies can continue to process the Calico Solar Project in a way that ensures full

analysis and consideration of potential impacts associated with the proposed amendment in this integrated process.

Sincerely yours,

Ella Foley Gannon

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CEC Service List for Calico Solar Project

ATTACHMENT A

APPENDIX C

Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING BETWEEN THE CALIFORNIA ENERGY COMMISSION STAFF AND THE COUNTY OF SACRAMENTO INVOLVING ENVIRONMENTAL REVIEW OF THE PROPOSED ARK ENERGY INC., SACRAMENTO ETHANOL PROJECT

I. PURPOSE & SCOPE

A. The purpose of this memorandum of understanding (MOU) is to establish a cooperative working relationship between the California Energy Commission (CEC) staff and the County of Sacramento (County) for the environmental review of the proposed ARK Energy Inc. (Applicant), Sacramento Ethanol Project (SEP). The CEC staff is responsible for providing an independent assessment of the environmental effects of ARK Energy's SEP. In addition, the CEC staff is responsible for assessing ARK Energy's proposed mitigation measures and assessing the need for, and feasibility of, additional or alternative mitigation measures. This assessment will be done in cooperation with the County.

B. CEC staff is an independent party in the SEP proceeding. The proceeding will be presided over by a Commission Committee selected by the full Commission. All final decisions concerning the certification of the SEP will be made by the five-member Energy Commission.

II. FINDINGS

A. The CEC staff will be reviewing the ARK Energy's SEP Application for Certification. The proposed project will include a natural gas-fired 150 megawatt (MW) cogeneration power plant and an ethanol fuel production facility. The ethanol production facility will convert 132,000 tons of rice straw into 12 million gallons of ethanol fuel additive annually.

B. The project is proposed to be located in northwestern Sacramento County near the Sacramento Municipal Utility District's Elverta Substation, approximately seven miles northeast of the Sacramento Metropolitan Airport in and near the unincorporated community of Rio Linda.
C. The SEP facility is proposed to occupy approximately forty-acres and is bordered on or near Straugh Road to the south, the Union Pacific rail lines to the west, West 6th Street to the east, and Elverta Road to the north.
D. Under Public Resources Code (PRC) section 25500, the CEC has jurisdiction over the proposed cogeneration power plant and all related and appurtenant facilities.
E. Although the extent of the Commission's jurisdiction over "related and appurtenant facilities" is not entirely settled as a matter of law, for purposes of this MOU, the parties assume that the Commission will license the power plant and all facilities essential to its function while the County and other federal, state and local agencies will retain permit authority over the ethanol distillery portion of the project. This MOU is not intended to establish any precedent with respect to the division of legal responsibility between the Commission and the County or other agencies.
F. The County and the CEC staff wish to coordinate their environmental review of the power plant and proposed ethanol production facility in order to satisfy the requirements of the California Environmental Quality Act (CEQA).
G. The CEC staff will begin its environmental review of the power plant application. The CEC staff will analyze impacts of all related aspects of the project, including the ethanol production portion of the project.
H. To avoid regulatory delay and duplication of effort, it is necessary that the CEC staff and the County work cooperatively to perform the CEQA review and perform their statutorily designated roles.

III. AGREEMENTS

A. The CEC staff and the County agree that:
1. The CEC staff and the County wish to coordinate their environmental review of the cogeneration power plant and the proposed ethanol fuel production facility in order to satisfy the requirements of CEQA.
2. To avoid regulatory delay and duplication of effort, it is necessary that the CEC staff and the County work cooperatively to perform the CEQA review and to perform their statutorily designated roles.
3. The CEC staff and County agree to satisfy CEQA requirements through a cooperative effort as provided for under section 15253 of the CEQA Guidelines and in accordance with the terms of this agreement.
4. The CEC staff and County agree that the CEC is Lead Agency for the SEP, pursuant to section 15253(a) of the CEQA Guidelines. As such, the CEC will prepare environmental analysis documents for the SEP and will prepare a Mitigation Monitoring Program as required by PRC section 21081.6.
5. The CEC staff and the County agree that the County will act as a cooperating Responsible Agency in the proceeding as that role is defined in section 15253 of the CEQA Guidelines. As such, the County will assist the CEC staff in preparing the environmental assessment and will propose mitigation measures to reduce the project's environmental impacts. The County agrees to consider the CEC prepared environmental documents prior to the consideration of any discretionary permits for the project as prescribed by section 15253 of the CEQA Guidelines.
6. CEC agrees that the County will be reimbursed as per PRC section 25538. Upon receipt of the request, from the CEC staff pursuant to PRC section 25538, the County agrees to prepare a summary of the work product and propose a budget which would reimburse the County for the actual and added costs reasonably incurred in complying with the request. The County further agrees to submit the summary and budget to the Applicant for the purpose of reaching consensus, after which the County will forward the approved documents to the CEC. In accordance with PRC section 25538, the CEC will direct the Applicant to reimburse the County.
7. The CEC will retain all jurisdiction over the proposed cogeneration power plant and all related and appurtenant facilities.
8. The County, and other appropriate agencies, will retain all jurisdiction over permits and entitlements involving all other project components not governed by law through the CEC[FN1].
9. All notices for CEC staff sponsored workshops, meetings, conferences, site visits, etc. will include the names of both the CEC and the County. To the extent feasible, all CEC staff sponsored workshops, meetings, conferences, etc. will be held within the County.
10. The County will participate in all public meetings relative to the project and review all administrative documents in accordance with CEC regulations.

B. Based upon the environmental documents, and in compliance with CEQA, the CEC staff and County will work together and propose to the Commission Committee measures to mitigate all adverse impacts associated with construction and operation of the proposed SEP so that the project will not have a significant effect on the environment. The responsibility for the development of mitigation measures will be as follows:

1. Recommendations on proposed mitigation measures and conditions of certification concerning the proposed cogeneration power plant and all related and appurtenant facilities will be made by the CEC staff, with review and comment by the County.
2. Recommendations on proposed mitigation measures concerning all project components not certified by the CEC will be made cooperatively by the County and the CEC staff, with review and comment by the responsible agencies.
3. The CEC and the County agree to cooperate in good faith to reach agreement on mitigation measures for the SEP. In the event agreement cannot be reached, CEC staff will submit, concurrently with their written assessments to the Commission Committee, a separate written assessment prepared by the County presenting the County's side of the issues not agreed upon.

Date: 3/19/92

BOB SMITH, County Executive, Sacramento County

Date: 3/19/92

B. B. BLEVINS, Executive Director, California Energy Commission

FN1 The Application for Certification will contain a list and description of all necessary entitlements needed by the SEP, i.e., General Plan amendments, zoning requests, use permits, air quality permits, grading permits, etc.

RESOLUTION NO: 92-0318-01

STATE OF CALIFORNIA

STATE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

RESOLUTION

WHEREAS, the County of Sacramento and the staff of the California Energy Commission seek a memorandum of understanding (MOU) to establish a cooperative working relationship between the two agencies for the environmental review of the proposed ARK Energy Inc. Sacramento Ethanol Project;

WHEREAS, the staff of the California Energy Commission is responsible for providing an independent assessment of the environmental effects of ARK Energy's SEP and is responsible for assessing ARK Energy's proposed mitigation measures and assessing the need for, and feasibility of, additional or alternative mitigation measures. This assessment will be done in cooperation with the County of Sacramento;

WHEREAS, the staff of the California Energy Commission recommends that the Commission authorize the Executive Director to sign the MOU; and,

THEREFORE BE IT RESOLVED, that the Commission authorize the Executive Director to sign the MOU.

DATED: March 18, 1992

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
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FOR THE CALICO SOLAR PROJECT AMENDMENT

Docket No. 08-AFC-13C
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(Revised 6/7/2011)

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*indicates change

DECLARATION OF SERVICE

I, Margaret Pavao, declare that on July 25, 2011, I served by U.S. mail and filed copies of the attached:

> Letter to California Energy Commission and Department of Fish and Game regarding CEQA Review of the Calico Solar Project

dated July 25, 2011. The original document, filed with the Docket Unit, 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/calicosolar/compliance/index.html]**.

The documents have been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

(*Check all that Apply*)

FOR SERVICE TO ALL OTHER PARTIES:

__X__ sent electronically to all email addresses on the Proof of Service list;

____ by personal delivery;

__X__ by delivering on this date, for mailing with the United States 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 "email preferred."

AND

FOR FILING WITH THE ENERGY COMMISSION:

__X__ delivering an original paper copy and sending one electronic copy by e-mail to the address below (***preferred method***);

OR

____ depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 08-AFC-13C
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

I declare under penalty of perjury 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.

Margaret Pavao