

**CALIFORNIA ALTERNATIVE ENERGY AND  
ADVANCED TRANSPORTATION FINANCING AUTHORITY**

*Request to Approve Project for SB 71 Sales and Use Tax Exclusion (STE)<sup>1</sup>*

**MT. POSO COGENERATION COMPANY, LLC  
Application No. 11-SM006**

**Tuesday, March 22, 2011**

Prepared By: *Heather Williams*

**SUMMARY**

**Applicant** – Mt. Poso Cogeneration Company, LLC

**Location** – Bakersfield, Kern County

**Industry** – Biomass Processing and Fuel Production

**Project** – Conversion of a Coal Power Plant to a Waste Wood Fuel Processing Facility

**Value of Qualified Property** – \$14,374,000

**Estimated Sales and Use Tax Exclusion Amount<sup>2</sup>** – \$1,308,034

**Estimated Net Benefits** - \$2,359,266

**Application Score -**

Fiscal Benefits Points:	2,653
<u>Environmental Benefits Points:</u>	<u>151</u>
<b>Net Benefits Score:</b>	<b>2,804</b>

<u>Additional Benefits Points:</u>	<u>29</u>
<b>Total Score:</b>	<b>2,833</b>

**Staff Recommendation** – Approval

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<sup>1</sup> All capitalized terms not defined in this document are defined in the Program’s statute and regulations.

<sup>2</sup> This amount is calculated based off of the average statewide sales tax rate of 9.1%.

**THE APPLICANT**

Mt. Poso Cogeneration Company, LLC (“Mt. Poso” or “Applicant”) was incorporated on November 1, 2010 in Delaware and is headquartered in Bakersfield, California. Mt. Poso is a cogeneration power plant located in Kern County, California that will produce 100% renewable energy. Mt. Poso is now being converted from a coal fired plant to burn biomass fuel. The ownership structure of Mt. Poso is described in Attachment A.

**THE PROJECT**

The conversion of the Mt. Poso power plant from the use of coal to woody biomass consists primarily of the addition of an 18 acre, 4 million cubic foot storage capacity waste wood fuel processing facility (the “Facility”) with the ability to increase to 8 million cubic feet, and several boiler modifications to allow the power plant to use biomass fuel. The Qualified Property in this Application will be used directly in relation to the Facility, not for boiler modifications or any part of the process in which the fuel is converted from fuel into electricity.

The waste wood fuel input material will consist of tree limbs, tree tops, agricultural prunings, wood boxes, scrap pallets and crates, wood processing and manufacturing residues, and construction waste wood. The waste wood material handling system will receive wood material delivered by trucks, which are weighed upon entrance and exit on truck scales. The trucks then proceed to the material receiving area where material is deposited in hoppers and discharged onto conveyors. Material passes by a magnetic separator to remove metal, is weighed again and then moves into the biomass processing tower where it is processed to its final size. The material is then further screened for contaminant (fines and sand) removal. The screened material is then conveyed to the boiler building where the fuel will be burned to generate electricity.

The Facility will, on average over the next 20 years, produce approximately 335,300 bone-dry tons of biomass fuel each year, resulting in the generation of approximately 335,333 MWh of electricity each year. This is enough electricity to power more than 30,000 homes.

**ANTICIPATED COSTS OF QUALIFIED PROPERTY**

The anticipated Qualified Property purchases are listed below:

Truck scales	\$ 170,000
Truck dumper	300,000
Receiving hoppers	540,000
Conveyors C1, C2, C3, C4, C6, C8, C9, C10, C11, C12	3,900,000
Magnetic separator	90,000
Conveyor beltweigh scale	60,000
Air compressors	106,000

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Anticipated Qualified Property purchases continued:

Hog	170,000
Screen – scalping	70,000
Stacker/reclaimer	2,750,000
Screen – gyratory	60,000
Fuel bin	25,000
Conveyors C13, C14, C15, C16 reclaim screw and chain conveyors	800,000
Rotary feeders	100,000
Fines truck load out facility	250,000
Buildings to house MCCA, MCC2, air compressors, and scale house	325,000
Electrical feed to fuel yard ( bus duct, breakers, transformers, MCCs)	650,000
Electrical distribution equipment to operate fuel processing equipment (cables, trays, RFDs)	1,100,000
Fuel yard infrastructure (paving, culvers, lighting, fire protection)	800,000
Cameras	50,000
Structural steel	1,000,000
Fly ash recycle system	350,000
Dust collectors	208,000
Controls and digital control system	500,000
<b>Total</b>	<b><u>\$14,374,000</u></b>

*Note: The Qualified Property purchases reported in the Application and shown here in staff's report are estimated costs. At the termination of the Master conveyance/reconveyance agreement a finalized Project equipment list will be prepared detailing the value of the Project equipment conveyed and reconveyed and detailing the actual tax benefit realized pursuant to Revenue and Tax Code Section 6010.8. Variations from the costs shown in the Application and in this report may occur prior to the closing due to increased costs of certain components of the Project from original estimates, and other reasons. In addition, such costs may vary after closing due also to increased costs, as well as common design and equipment modifications during construction, differences in equipment due to future changes in law or regulation or for other reasons.*

**TIMELINE**

The Mt. Poso power plant is currently operating as a coal-fired power plant as the conversion construction work begins. The preliminary construction work to build the new Facility has begun. Earthwork commenced in December 2010. Facility foundation work began in March 2011. Erection of Facility equipment will take place in April 2011. In September 2011 initial alternative source production will begin and final completion of the Facility is expected in December 2011.

**PROJECT EVALUATION**

**NET BENEFITS**

The total cost of the Qualified Property purchases is anticipated at \$14,374,000 and the total net benefits are valued at \$2,359,266 for the Project. The Project received a Total Score of 2,833, which exceeds the required 1,000 point threshold and a total Environmental Benefits Score of 151, which exceeds the 100 point threshold.

- A. Fiscal Benefits (2,653 points):** The net present value of the total fiscal benefits over the lifetime of the Qualified Property is derived from the Applicant’s sales taxes, personal income taxes paid by the firm’s employees, firm taxes on profits, property taxes and other indirect fiscal benefits of the Applicant which amounts to \$3,470,273, resulting in a Fiscal Benefits Score of 2,653 points for the Project.
- B. Environmental Benefits (151 points):** The Project will result in \$197,027 of total pollution benefits over the life of the Facility resulting in an Environmental Benefits Score of 151 points for the Project. These benefits derive from the production of biomass fuel, which offsets the need for coal.
- C. Additional Benefits (29 of 200 points):** Applicants may earn up to 200 additional points for their Total Score. The Applicant submitted information and received 29 additional points.

  - 1. Permanent Jobs (0 of 40 points).** The Applicant’s Project will support a total of 8 permanent jobs at its Facility. CAEATFA estimates that approximately 1 of these jobs will be attributable to a marginal increase in jobs created due to the approved STE. Zero points were awarded because the marginal increase in jobs does not meet the required threshold.
  - 2. Construction Jobs (10 of 20 points).** The Applicant’s Project will support a total of 89 construction jobs at its Facility. CAEATFA estimates that approximately 10 of these jobs will be attributable to a marginal increase in jobs created due to the approved STE, resulting in a Construction Jobs Score of 10 points for the Project.
  - 3. Unemployment (19 of 40 points).** The Applicant’s Project is located in Kern County, which has an unemployment rate of 16 percent. Since this is above 110 percent of the statewide unemployment average, which is currently at 12.4 percent, the Project was awarded an additional 19 points.

## **STATUS OF PERMITS/OTHER REQUIRED APPROVALS**

The Project has nearly all major permits and financing necessary to complete the construction of the Facility and the conversion of the power plant to utilize the Alternative Source. Two electrical building permits are expected to be received by late March or early April.

## **LEGAL QUESTIONNAIRE**

Staff reviewed the Applicant's responses to the questions contained in the Legal Status portion of the Application. The responses did not disclose any information that raises questions concerning the financial viability or legal integrity of this Applicant.

## **CAEATFA FEES**

In accordance with CAEATFA Regulations,<sup>3</sup> the Applicant has paid CAEATFA an Application Fee of \$5,000 and will pay CAEATFA an Administrative Fee up to \$57,496.

## **RECOMMENDATION**

Staff recommends approval of Resolution No. 11-SM006 for Mt. Poso Cogeneration Company, LLC's purchase of Qualified Property in an amount not to exceed \$14,374,000 anticipated to result in an approximate sales and use tax exclusion value of \$1,308,034.

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<sup>3</sup> California Code of Regulations Title 4, Division 13, Article 2, Section 10036

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A TITLE  
CONVEYANCE AGREEMENT WITH MT. POSO COGENERATION COMPANY, LLC**

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) has received the Application of **Mt. Poso Cogeneration Company, LLC** (the “Applicant”), for financial assistance in the form of a conveyance/reconveyance of title agreement (the “Agreement”) regarding tangible personal property for the design, manufacture, production or assembly of Advanced Transportation Technologies or Alternative Source products, components, or systems (“Qualified Property”) as more particularly described in the staff summary and in the Applicant’s Application to the Authority (collectively, the “Project”); and

WHEREAS, the Applicant has requested the Authority to enter into the Agreement transferring title of Project equipment with an estimated cost not to exceed \$14,374,000 over a period of three years; and

WHEREAS, the Agreement will provide that the Applicant will, prior to any use of the Qualified Property, transfer title at no cost to the Authority from time to time as purchases of Qualified Property are made and the Authority will then transfer title back to the Applicant without having taken possession of the Qualified Property; and

WHEREAS, the Applicant believes that this form of financial assistance will enable it to avail itself of the benefits of an exclusion from sales and use taxes relative to the Qualified Property pursuant to California Revenue and Taxation Code Section 6010.8; and

WHEREAS, approval of the terms of the Agreement and authority for the Executive Director, Deputy Executive Director, or Chair of the Authority, to execute the necessary documents to effectuate the Agreement is now sought;

NOW, THEREFORE, BE IT RESOLVED by the California Alternative Energy and Advanced Transportation Financing Authority, as follows:

Section 1. The Project constitutes a “project” within the meaning of Public Resources Code Section 26003(g)(2).

Section 2. The requested conveyance agreement constitutes “financial assistance” within the meaning of Public Resources Code Section 26003(e)(2).

Section 3. The Applicant is a “participating party” within the meaning of Public Resources Code Section 26003(f).

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Section 4. The Executive Director, Deputy Executive Director, or Chair of the Authority (the “Authorized Signatories”) are hereby authorized for and on behalf of the Authority to approve any changes to the Project as the Executive Director shall deem appropriate, provided that the amount of the Qualified Property to be purchased may not be increased above the amount approved by the Authority.

Section 5. The proposed form of the Agreement between the Applicant and the Authority, as filed with the Authority prior to this meeting, is hereby approved. The Authorized Signatories are hereby authorized and directed, for and on behalf and in the name of the Authority, to execute, acknowledge and deliver to the Applicant the Agreement in substantially the form filed with or approved by the Authority, with such insertions, deletions or changes therein as the Authorized Signatory executing the same, may require or approve, and with particular information inserted therein in substantial conformance with the staff summary and in the Applicant’s Application to the Authority, such approval to be conclusively evidenced by the execution and delivery thereof. The Authority understands and agrees that pursuant to the terms of the Agreement, the obligations of the Applicant may, under some circumstances be carried out or assumed by a successor or assignee entity, or by an affiliate of the Applicant.

Section 6. Each of the Authorized Signatories, acting alone, is hereby authorized and directed to do any and all ministerial acts, including (without limitation) the execution and delivery of any and all documents and certificates they may deem necessary or advisable in order to consummate the Agreement and otherwise effectuate the purposes of this resolution.

Section 7. The Applicant shall assure CAEATFA that all Qualified Property conveyance pursuant to the Agreement shall be installed, maintained and operated in compliance with all applicable local, state and federal laws.

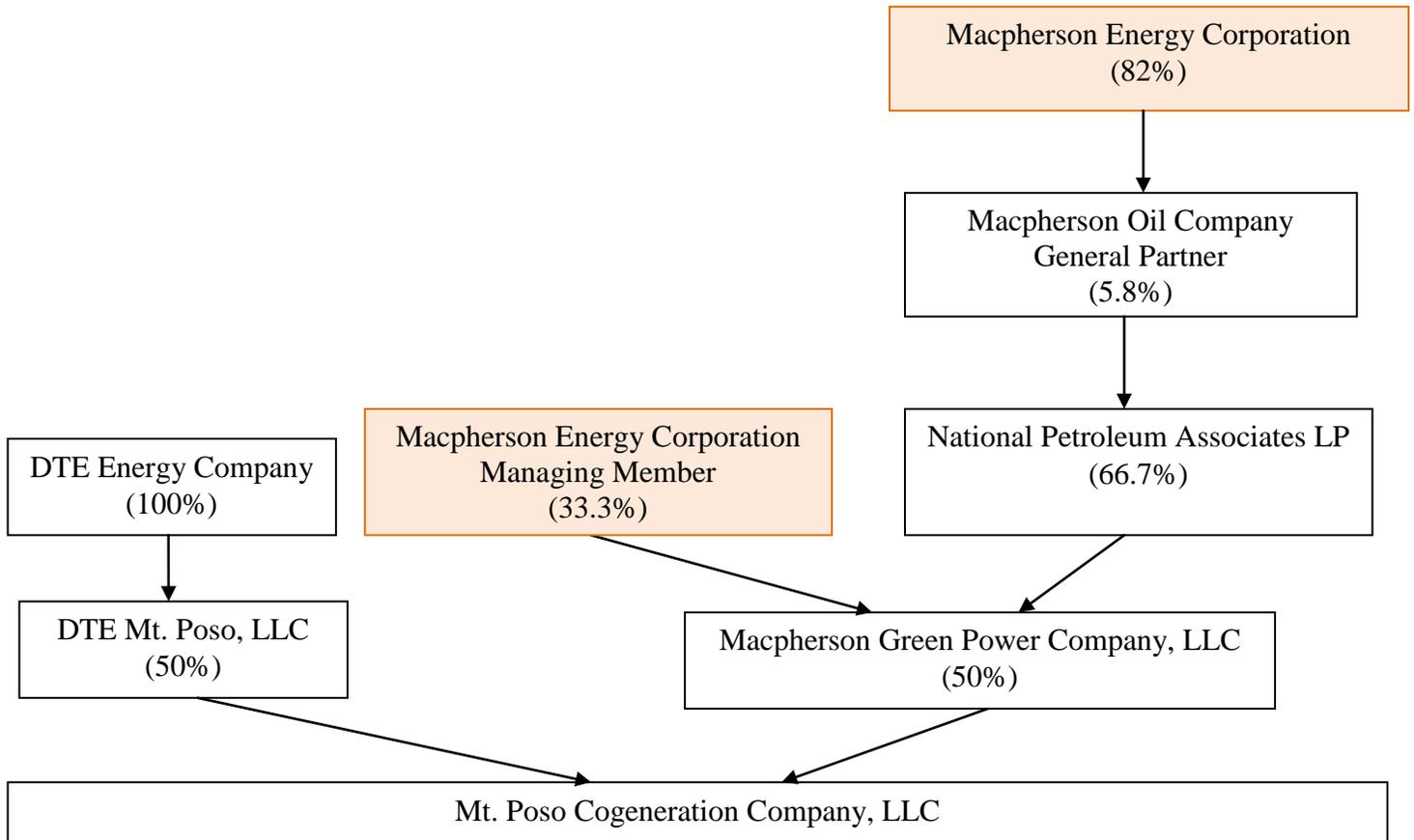
Section 8. The Agreement shall only apply to Qualified Property that the Applicant certifies will be installed, maintained and operated at facilities within the State of California.

Section 9. The adoption by the Authority of this Resolution for the Applicant shall not be referred to in any application before any governmental agency as evidence of the feasibility, practicality or suitability of the Project or in any application for any required permission or authority to acquire, construct or operate the Project.

Section 10. This Resolution is effective immediately and will remain in full force and effect unless the Regulatory Agreement, as defined in CAEATFA Regulations Section 10035(A), is not executed within thirty (30) days of the date of this Resolution. The Executive Director may extend the thirty days if necessary.

ATTACHMENT A

The ownership structure of Mt. Poso Cogeneration Company, LLC is as follows:



There are no major shareholders (10.0% or greater) of DTE Energy Company

The corporate officers of DTE Energy Company are:

- Gerard M. Anderson, President and Chief Executive Officer
- Daniel G. Brudzynski, Vice President
- Patrick Carey, Assistant Corporate Secretary and Associate General Counsel
- Paul Cavazos, Assistant Treasurer and Chief Investment Officer
- JoAnn Chavez, Vice President and Chief Tax Officer
- Anthony F. Earley, Jr., Executive Chairman of the Board
- Lynne Ellyn, Senior Vice President and Chief Information Officer
- Sandra Kay Ennis, Vice President

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Harold Gardner, Senior Vice President and Assistant to Chairman  
Paul D. Geick, Assistant Treasurer  
Donald J. Goshorn, Assistant Treasurer  
Paul Hillegonds, Senior Vice President  
Naif A. Khouri, Vice President and Treasurer  
Steven E. Kurmas, Group President  
Mary Lewis, Assistant Tax Officer  
Ronnie A. May, Senior Vice President  
David E. Meador, Executive Vice President and Chief Financial Officer  
Anthony G. Morrow, Assistant Corporate Secretary  
David R. Murphy, Assistant Corporate Secretary and Assistant Treasurer  
Lisa A. Muschong, Corporate Secretary, Chief of Staff  
Gerardo Norcia, Group President  
Peter B. Oleksiak, Vice President and Controller and Chief Accounting Officer  
Bruce D. Peterson, Senior Vice President and General Counsel  
Michael C. Porter, Vice President  
Randall L. Rutkofske, Associate General Counsel  
David Ruud, Vice President  
Sharon L. Sabat, Assistant Corporate Secretary  
Frederick E. Shell, Vice President  
Knut A. Simonsen, Vice President, Strategy and Corporate Development  
Edward J. Solomon, Chief Risk Officer  
Larry E. Steward, Vice President  
Anthony M. Tocco, Chief Compliance Officer  
James F. Tompkins, General Auditor

The major shareholders (10.0% or greater) of Macpherson Energy Corporation are:

Donald R. Macpherson  
Scott B. Macpherson  
James R. Macpherson

The corporate officers of Macpherson Energy Corporation are:

Donald R. Macpherson, Jr., President and Chief Executive Officer  
Scott B. Macpherson, Senior Vice President and Chief Operating Officer  
Bradford P. Williams, Controller and Chief Financial Officer  
James S. Bright, Secretary  
J.R. Swoboda, Assistant Secretary