

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

Request to Approve Project for SB 71 Sales and Use Tax Exclusion (STE)¹

**SCS ENERGY
Application No. 11-SM010**

Tuesday, July 26, 2011

Prepared By: *Heather Williams*

SUMMARY

Applicant –SCS Energy

Location – Fresno, Fresno County

Industry – Biogas Capture and Production

Project – Wastewater Reclamation Facility Anaerobic Digester Gas Treatment System

Value of Qualified Property – \$3,155,300

Estimated Sales and Use Tax Exclusion Amount² – \$255,579

Estimated Net Benefits - \$55,884

Application Score³ -

Fiscal Benefits Points:	1,061
<u>Environmental Benefits Points:</u>	<u>157</u>
Net Benefits Score:	1,219

<u>Additional Benefits Points:</u>	<u>23</u>
Total Score:	1,242

Staff Recommendation – Approval

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

² This amount is calculated based upon the average statewide sales tax rate of 8.1%.

³ Point values in the staff summary may not add up correctly due to rounding in the Application worksheet.

THE APPLICANT

SCS Energy (“SCS Energy” or “Applicant”) was incorporated on February 18, 1972 in Virginia and is headquartered in Long Beach, California. SCS Energy provides solid waste management and site remediation projects throughout the world.

SCS Energy is an employee-owned company.

The corporate officers of SCS Energy are:

- Jim Walsh, President
- Jeff Pierce, Senior Vice President
- Curtis Jang, Chief Financial Officer

THE PROJECT

The Fresno/Clovis Wastewater Reclamation Facility (Facility) currently generates approximately 1,500 cubic feet per minute of Anaerobic Digester Gas (ADG) through its treatment of wastewater. This ADG is comprised primarily of carbon dioxide (35%) and methane (65%). Due to regulatory requirement, the ADG must be treated before being vented into the atmosphere and is most commonly treated with thermal oxidation or combustion. However, with varying levels of treatment, this gas can be utilized as fuel for generators or other equipment. The Facility also contains a power generation system used to supplement the Facility’s power demands.

The Project will generate natural gas quality fuel from the ADG to be used in the power generation system. This will significantly reduce the amount of ADG combusted at the site and will reduce the amount of natural gas required to operate the power generation system. The ADG system will treat the gas by removing moisture, hydrogen sulfide, carbon dioxide and trace contaminants. The moisture in the gas will be removed by decreasing the temperature of the gas generating condensation. The hydrogen sulfide will be removed with a process which uses the reaction of hydrogen sulfide and ferric oxide to produce water and ferric sulfide. The carbon dioxide will be removed through the use of membrane technology and also by activated carbon media. The carbon dioxide and methane are separated into two gas streams, one containing approximately 95% methane and 5% carbon dioxide (product gas) and the other containing approximately 10% methane and 90% carbon dioxide (waste gas). The product gas is intended for use in the power generation system and the waste gas will require thermal oxidation treatment or flaring.

The Project will, on average over the next 20 years, produce approximately 330,966 MMBtu (one million British thermal units) of product gas per year resulting in the generation of approximately 22,438 MWh of electricity per year.

The Qualified Property in this Application will be used directly in relation to manufacturing the product gas, not for the power generation system.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Air liquid pressure swing absorption system	\$1,522,600
Vilter gas compressor system	744,500
John Zink enclosed flare	158,200
Inlet gas chiller	50,000
Gas chromatograph	80,000
Electrical equipment	160,000
Yard piping	160,000
Sulfatreat sulfur removing system	<u>280,000</u>
Total	<u>\$3,155,300</u>

Note: The Qualified Property purchases reported in the Application and shown here in staff's report are estimated costs. At the termination of the 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

Authority to begin construction has been granted. Final start-up is scheduled for September 2011.

PROJECT EVALUATION

NET BENEFITS

The total cost of the Qualified Property purchases is anticipated to be \$3,155,300 and the total net benefits are valued at \$55,884 for the Project. The Project received a Total Score of 1,242 points, which exceeds the required 1,000 point threshold and a total Environmental Benefits Score of 157 points, which exceeds the 100 point threshold.

- A. Fiscal Benefits (1,061 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 \$271,233, resulting in a Fiscal Benefits Score of 1,061 points for the Project.

- B. Environmental Benefits (157 points).** The Project will result in \$40,230 of total pollution benefits over the life of the Facility resulting in an Environmental Benefits Score of 157 points for the Project. These benefits derive from the production of biomass fuel, which offsets the need for fossil fuel derived sources of energy.
- C. Additional Benefits (23 of 200 points).** Applicants may earn up to 200 additional points for their Total Score. The Applicant submitted information and received 23 additional points.
- 1. Permanent Jobs (0 of 40 points).** The Applicant’s Project will support a total of 3 permanent jobs at its Facility. CAEATFA estimates that zero 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 (0 of 20 points).** The Applicant’s Project will support a total of 6 construction jobs at its Facility. CAEATFA estimates that approximately one 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.
 - 3. Unemployment (23 of 40 points).** The Applicant’s Project is located in Fresno County, which has an unemployment rate of approximately 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 23 points.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

The Applicant has applied for air and building permits. The building permit has been issued and the air permit should be approved in the next few weeks.

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,⁴ the Applicant has paid CAEATFA an Application Fee of \$1,577.65 and will pay CAEATFA an Administrative Fee of \$15,000.

RECOMMENDATION

Staff recommends approval of Resolution No. 11-SM010 for SCS Energy’s purchase of Qualified Property in an amount not to exceed \$3,155,300 anticipated to result in an approximate sales and use tax exclusion value of \$255,579.

⁴ California Code of Regulations Title 4, Division 13, Article 2, Section 10036

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A TITLE
CONVEYANCE AGREEMENT WITH SCS ENERGY**

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) has received the Application of **SCS Energy** (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 \$3,155,300 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).

Agenda Item – 4.A.1
Resolution No. 11-SM010
Application No. 11-SM010

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.