

**MINUTES**

**California Alternative Energy and Advanced  
Transportation Financing Authority  
915 Capitol Mall, Room 587  
Sacramento, California  
January 25, 2011**

**1. CALL TO ORDER & ROLL CALL**

Bettina Redway, Chairperson, called the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA or Authority) meeting to order at 11:28 a.m.

Members Present: Bettina Redway for Bill Lockyer, State Treasurer  
Cindy Aronberg for John Chiang, State Controller  
Miriam Ingenito for Ana J. Matosantos, Department of Finance  
Paul Clanon for Michael R. Peevey, Director,  
Public Utilities Commission  
Galen Lemei for Karen Douglas, Chair,  
California Energy Commission

Staff Present: Christine Solich, Executive Director  
Sherri Kay Wahl, Deputy Executive Director

Quorum: The Chairperson declared a quorum

**2. MINUTES**

Ms. Redway asked if there were any questions or comments concerning the December 15, 2010 meeting minutes. There were none.

Ms. Redway asked if there was a motion.

Mr. Clanon moved approval of the minutes. Upon a second, the minutes were approved by the following vote: Bettina Redway, aye; Cindy Aronberg, aye; Galen Lemei, aye; Paul Clannon, aye; and, Miriam Ingenito, abstain.

**3. EXECUTIVE DIRECTOR'S REPORT**

Ms. Solich welcomed Miriam Ingenito to the Board. She then began her report by advising the Board that CAEATFA is moving forward and making progress with all programs including the SB 71 Sales Tax and Exclusion (STE) for manufacturers program, the California Ethanol Producers Incentive Program (CEPIP), as well as the potential development of a generator program, and would be recommending approval of a consultant contract to the Board.

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Ms. Solich reported that Staff has had inquiries about the SB 71 STE Program's progress from Senator Padilla's Office. Staff is responding with monthly updates, including the executive summary and pipeline report.

Ms. Solich reported that Agenda Item #3, the pipeline report of SB 71 applications, represented the third round of approvals of SB 71 applicants.

She continued to report that the Authority had extended \$84.5 million in STE's and were recommending an additional \$3 million, for a total of \$87.5 million to date. The Authority received two applications at the deadline for the March 22, 2011 meeting and Staff is in the process of evaluating those applications. She then advised the Board that one of the companies on the report has withdrawn its application after having been previously approved by the Board, Soliant from Los Angeles County, and intends to reapply at a later date.

Ms. Solich further reported that there has been some media around the "green manufacturing" sector and Staff has continued to follow these reports. There has been some news on companies making business decisions to scale back, and/or relocate facilities to other states and other parts of the world. Some reports have involved companies currently engaged with CAEATFA. There has been a recent report about one of the companies that has decided to locate its manufacturing facility to Mississippi after being enticed by an attractive loan offer from that state. Staff followed up and learned that the company is still planning to expand its production capabilities in California with the STE awarded and will keep staff informed if its plans change. Ms. Solich stated that she is bringing this issue to the Board's attention to make members aware that there is some risk and that Staff is being as diligent as it can in following up with the applicants.

### 4. BUSINESS ITEMS

#### A. DISCUSSION AND CONSIDERATION OF APPLICATIONS FOR SB 71 SALES AND USE TAX EXCLUSIONS

Presented by: Heather Williams, Analyst

CAEATFA received three applications by the November 23<sup>rd</sup> deadline, all of which are being brought to the Board for its consideration. Staff is recommending approval of these three Projects—as described in Agenda Items 4.A.1 – 4.A.3—which have a combined value of \$32,786,475 in anticipated Qualified Property purchases, anticipated to result in approximately \$2,983,569 of sales and use tax exclusions over the next three years.

Based on the net benefits methodology embodied in the program regulations and on representation from these applicants, Staff estimates that approximately \$3 million in STE will assist in creating environmental benefits valued at approximately \$3 million and fiscal benefits valued at approximately \$2.5 million. This results in approximately \$6 million in total benefits and a net benefit value of \$2.8 million.

Together these projects are anticipated to create 88 jobs (52 permanent jobs and 36 temporary construction or installation jobs). Staff calculates that approximately six of

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these jobs (three permanent jobs and three construction jobs) are attributed to the program, based on the estimation methodology embodied in the regulations

The value of the projects ranges from approximately \$1.3 million to \$26.1 million, with corresponding anticipated STE amounts ranging from \$490,000 to \$2.4 million. The median size project is \$5.4 million with an anticipated STE amount of \$490,000.

These projects include a lithium ion battery manufacturer for electric vehicles, a solar photovoltaic (solar panels) manufacturer, and demonstration hydrogen fueling production station.

Staff recommended approval of one application (Agenda Item 4.A.3) that does not meet the program's standard point threshold or net benefit test; however, Staff strongly believes the project is in the public interest and advances the purposes of the program. This applicant, the Alameda Contra Costa Transit District, is constructing a demonstration hydrogen fueling station for hydrogen buses and potentially hydrogen cars at its Emeryville facility. The project does not meet the threshold point requirements for the economic or environmental benefits, as it is a research and development project, yet the project has great potential for the future of the State's advanced transportation industry.

Staff anticipated these types of situations in developing the program structure. If a project receives a total score of less than 1,000 points, a pollution benefit score less than 100 points, or both, the Executive Director may recommend it to the Board for approval upon a statement articulating specific reasons why the approval is in the public interest and advances the program. While CAEATFA anticipated numerous potential project scenarios in developing the regulations, this provision was included to allow CAEATFA to more appropriately evaluate unique and innovative projects which may not have been anticipated in the evaluation criteria established in the regulations.

Ms. Redway asked if there were any questions or comments from the Board.

Ms. Aronberg asked about statewide marketing efforts since there seems to be a heavy concentration of applicants located in the Bay Area.

Ms. Williams responded that there has not been any extensive outreach to date and it's something Staff can explore over the next several months if it continues to be an issue.

Mr. Clanon asked if there were any other projects, besides CalTech and AC Transit, on the pipeline that do not meet the program's standard point threshold.

Ms. Williams confirmed that there is a current applicant that does not meet the threshold. The applicant is not a public entity or public project and Staff will continue to evaluate the applicant.

Mr. Clanon stated that he supports the concept and applauds the fact that Staff is willing

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to engage and consider the application even without meeting the threshold.

Ms. Redway asked if the applicants in Agenda Items 4.A.1 and 4.A.2 are obtaining any of their materials in California.

Ms. Williams replied that she was not familiar with MiaSolé and asked if there was a Company representative present.

Mr. Richard Carter, Vice President of Finance of MiaSolé, advised the Board that the Company is sourcing its glass from China. The Company did put out a request for bids but did not receive any competitive bids from California.

Ms. Redway informed Mr. Carter of a company in Lathrop, NSG, that provides glass for this particular market.

Ms. Williams said that Leyden Energy does not currently have suppliers in California but is aware of Simbol Mining Company, a previously approved applicant, and is looking for possible California sources for lithium for its production of electric vehicle batteries.

Ms. Redway asked if there were any further comments from the Board, or the public. There were none.

Ms. Redway asked if there was a motion.

Ms. Aronberg moved approval of items 4.A.1 – 4.A.3; upon a second, the items were unanimously approved.

### **B. REQUEST FOR APPROVAL OF CONTRACT FOR CONSULTING SERVICES FOR CAEATFA'S SALES AND USE TAX EXCLUSION PROGRAMS IN AN AMOUNT NOT TO EXCEED \$750,000**

Presented by: Deana Carrillo, Program Manager

Staff requested approval to enter into a contract with Blue Sky Consulting Group, LLC (Blue Sky) to provide consulting services for CAEATFA's STE Programs – the SB 71 STE program and a to-be-developed STE program for renewable energy generators. Staff advertised a Request for Proposal (RFP) through competitive bid process, and CAEATFA received one proposal. Under State contracting manual requirements, CAEATFA was required to inquire as to why other entities did not respond to the RFP. The entities surveyed stated reasons ranging from their lack of depth and breadth of experience to the quick timeframe of the RFP process. Staff evaluated the Blue Sky proposal very diligently and Blue Sky received a score of 92 out of 100 possible points. The contract will be for a two year term, with an option to extend for one additional year, and will not exceed \$750,000.

Under direction from the CAEATFA Executive Director, the scope of services will

include assistance, advice and activities related to program development, establishment, implementation, initial program administration, and planning for program administration and evaluation. Services will be concentrated in providing technical assistance specific to economic and environmental evaluation criteria and standards for various alternative source and advanced transportation industries, and building program administration infrastructure and evaluation tools.

Ms. Redway asked if there were any questions or comments from the Board.

Mr. Clanon thanked and commended Ms. Carrillo's written staff report of the item as a great example of how to explain a State process to the public. He stated the summary answered all the questions that he had coming into the meeting.

Ms. Redway asked if there were any further comments from the Board, or the public. There were none.

Ms. Redway asked if there was a motion.

Mr. Clanon moved approval of the item; upon a second, the item was unanimously approved.

**C. DISCUSSION AND CONSIDERATION OF A FINANCIAL ASSISTANCE AGREEMENT UNDER THE CALIFORNIA ETHANOL PRODUCERS INCENTIVE PROGRAM (CEPIP) (PURSUANT TO CAEATFA'S INTERAGENCY AGREEMENT WITH THE CALIFORNIA ENERGY COMMISSION)**

Presented by: Deana Carrillo, Program Manager

Staff introduced Pat Perez of the California Energy Commission.

1) Pacific Ethanol of Stockton, LLC

The California Energy Commission (CEC) requested that CAEATFA enter into a Financial Assistance Agreement with Pacific Ethanol Stockton, LLC (PES or the Participant) for an amount not to exceed \$2,000,000, pursuant to CAEATFA's Interagency Agreement (IA) with the CEC to assist in administering the California Ethanol Producers Incentive Program (CEPIP).

Under the IA, it is the sole responsibility of the CEC to establish and manage the CEPIP Participant Agreement eligibility and terms and conditions for the incentive payments to, and reimbursements from, CEPIP Participants.

Upon the request from the CEC and subsequent to CAEATFA Board approval, CAEATFA will execute a Financial Assistance Agreements with eligible CEPIP Participants to establish the terms and conditions of the payments and reimbursements under CEPIP. The Financial Assistance Agreement identifies the terms under which CAEATFA will make payments and request reimbursements

from CEPIP Participants as calculated and determined by the CEC.

On December 1, 2010, the CEC approved a zero-cost CEPIP Participant Agreement with PES to establish the program requirements for participation in the CEPIP. PES, LLC began production in December 2010. The CEC has determined that PES has the capacity to produce up to 60 million gallons of ethanol per year while providing both short and long- term jobs and economic benefit critical to this area of the state.

Ms. Redway asked if there were any questions or comments from the Board.

Mr. Perez stated that the CEC was very excited about the innovative program and partnership with CAEATFA and thanked Staff and the Board for the work that was put into starting the program. The program will provide a lot of benefits to the existing ethanol industry in California; it includes payback provisions that are not required by many national programs. He thanked the CEC's project manager and legal counsel for working with CAEATFA's Staff legal counsel on a very complex assignment.

Ms. Redway asked if there were any further comments from the Board, or the public.

Mr. Lemei thanked staff and legal counsel for working on a program that was challenging to develop. He stated the program has the potential to save jobs, and thanked everyone for their support.

Ms. Redway commented that this was the first IA between the CEC and CAEATFA. Several others are currently being worked on and she feels it will get easier as the two staffs become familiar with one another.

Ms. Redway asked if there was a motion.

Mr. Lemei moved approval of the item; upon a second, the item was unanimously approved.

**D. DISCUSSION AND CONSIDERATION OF PROGRAM ALTERNATIVES IN DEVELOPING THE SALES AND USE TAX EXCLUSION PROGRAM FOR RENEWABLE ENERGY GENERATION PROJECTS**

Presented by: Deana Carrillo, Program Manager

Ms. Solich opened the discussion by providing some background on the item. SB 71 raised awareness on the part of stakeholders, including renewable energy generators, about whether renewable energy generators were eligible under the STE program. It was determined that the SB 71 program was for manufacturing companies or projects and generators were not eligible.

In July 2010, the Chair of CAEATFA received a letter from Public Utilities Commission (PUC) and the CEC requesting that the Board clarify and expand its policies to authorize staff to also review applications made by worthy alternative energy source projects for

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Board consideration. Earlier research indicated that the pipeline of projects in California totaled a value of approximately \$2-\$5 billion, which amounted to approximately \$200 - \$500 million in STEs. On July 28, 2010, the idea of a renewable energy generator STE program was taken to the Board for consideration and there was a fair amount of discussion at that meeting. At that time Staff was given direction to develop a narrow/targeted program, and to consider keeping the financial assistance within the cap of SB 71, which was a soft cap of \$100 million. The Board also directed Staff to focus on technologies that assist in providing baseload power in the State and assist the State's economic growth by targeting high unemployment areas.

Staff came back to the Board in August with a narrow proposal and at that time Staff was advised that its proposal was too narrow. The Board asked Staff to go back and work with PUC and CEC to develop a broader policy that was technology neutral. The Board also requested Staff to be judicious with the State's limited resources and try to develop a program that trailed closely behind the implementation of SB 71, but did not interfere with SB 71.

In September 2010, the Board directed Staff to initiate the rulemaking process for a limited STE program for generators. Staff has conducted research and outreach over the past several months and met with PUC, CEC, stakeholders, the Governor's office, and received a lot of very good input regarding eligibility and evaluation criteria. Most of the comments received were very supportive of a short-term program, and some more relevant to implementing a longer-term program.

In order to be responsive to the Board's direction to develop a limited program under current statute, Staff developed a framework for a short-term limited program and it was taken to a public workshop on January 19, 2011. The proposed program that was taken to the January workshop could be implemented this Spring. Under the statute, the Authority is able to use its emergency rulemaking authority for projects that provide long-term power to California to further AB 32 goals to reduce green house gas emissions. The statute provides a preference to utility scale projects that can be rapidly deployed to provide significant contribution to renewable energy supply in California. These were the criteria that Staff was proposing under with a short-term framework for a program that was taken to the public workshop. The criteria included a total program cap of \$50 million, a \$5 million per project cap, and a limited timeframe which would assist shovel-ready projects and jump-start job creation and economic activity within the State. Given what Staff has learned over the last several months and to be responsive, we are presenting several options and seeking the Board's direction as Staff develops a Renewable Energy Generator STE Program.

Ms. Carrillo reiterated that Staff is seeking direction from the Board on several options that have been brought to the Board for consideration, as well as other options the Board may wish to consider to move forward. Ms. Carrillo advised that Staff has worked with various stakeholders, many of whom believe that it would be in the State's interest to create a long-term program to help incentivize renewable power and renewable power projects.

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Ms. Carrillo discussed Staff's proposed short-term limited program, which was limited in its financing amount at \$50 million in STE. Staff believed it was important to balance the need to help these projects move forward and the State's current fiscal condition. Staff also looked at a project cap as well as a program sunset of 1 year.

Ms. Carrillo stated that the public comments received up to this point were varied, many saying the program is not enough and others saying it's too much. Larger entities largely feel it should be calculated differently, such as per megawatt, while smaller entities have said that the funds will be exhausted by the larger companies/projects. For product eligibility, Staff looked at the fact that projects must support the State's AB 32 goals. Staff believes that the technologies that contribute to Renewable Portfolio Standards (RPS's) are the best indicators however, some entities have said that the RPS is too limiting and there are some projects that can contribute to AB 32 without contributing to RPS. Various commentors have said technology neutral is great; while technologies argue that the program should consider capacity factor and those projects that can provide consistent energy to California.

Ms. Carrillo continued by stating that per statute projects shall offer power within California on a long-term contract basis and Staff believes the best indicator of that is a Power Purchase Agreement (PPA). Staff has also considered requiring CEC pre-certification as an indicator of readiness, but in the process has learned that some technologies do not get pre-certified, so other indicators of readiness may be considered as well. Originally, Staff proposed that the STE be used within six months, however, many entities have commented that six months was not a reasonable timeframe and one year is more realistic given the permitting process and some of the start-up challenges that these types of projects face. Per statute, CAEATFA is required to give preference to utility scale projects. Staff is relying on a PPA as being an indicator of utility scale. Additional information that will be required of applicants under the program will be the number of jobs, the timeline of job creation, payroll of jobs, the type of manufacturing equipment to be used, and if the companies are buying that manufacturing equipment within the State.

During discussions with various stakeholders it was brought to Staff's attention that in addition to the Program outlined above, it may be beneficial to establish a long-term program which would have the potential to extend to an even broader range of potential applicants and to incentivize these technologies within the State. If directed, Staff will continue to research and develop this program as it implements the short-term limited program. A long-term program could include the following: focus on both distributed generation and utility scale projects, overall program and individual project caps, a longer more flexible timeline, rigorous fiscal and environmental net benefit evaluations, incentives to purchase from California manufacturers and suppliers, and incentives for new renewable generation projects.

Ms. Redway suggested that comments be heard from each Board member and then the public in order to move forward in a timely manner.



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Mr. Clanon stated that it was a great overall program and thanked Staff for being able to get a public process together that has reached this point. The PUC feels it is important to get a short-term program in place in order to get the program out as quickly as possible but also work on a long-term program. As far as the short-term program is concerned, the issue of per project versus per megawatt cap is a key point to focus on. Mr. Clanon directed Staff to work with the CEC on the matter of pre-certification and obtain additional guidance from the elements of the industry that do not deal with the pre-certification process. Regarding the program's prioritization on utility scale, the generator program should maximize taxpayer money, so larger projects with more benefits will have a leg up in the process, and though there will be no exclusions, that fact should be recognized.

Ms. Ignenito advised that the Department of Finance (DOF) feels that this is a very ambitious program. The new Administration is very supportive of green technologies and moving green technology projects forward, however, the Administration has asked for more time in order to fully understand the options that are being presented and to consider this program, specifically in light of the fiscal conditions of the State, as well as other programs that the Administration is considering at the same time. From the DOF and Administration's perspective, they are not in a position to provide direction to Staff and would like the option to defer this item until the Administration and Governor's office can be fully briefed with the different options that are being presented to the Board.

Ms. Aronberg agreed with Mr. Clanon and Ms. Ignenito's comments and respects the DOF's request to defer the matter until a later date.

Mr. Lemei, of the CEC, also requested time to further consider the pros and cons of the program and commended Staff for their diligence in putting together a program so that the parties involved have something concrete to look at. He wanted to know if there was any feedback from any local governments, cities or counties at the January 19, 2011 workshop.

Ms. Carrillo answered that no local governments attended in person; there was an entity that had phoned in, but did not provide any comments at the workshop. Historically from Staff's experience with the implementation of SB 71, local governments have had concerns with the impact that the STE's had on the local entities. She offered to provide public comment letters from local governments and other entities to the CEC for their review.

Ms. Solich stated that Staff is expecting additional comments as the program develops and those comments will be shared with the Board members.

Mr. Lemei acknowledged that the CEC is mindful of the impact on local governments. He again thanked Staff for their development of the program options and the Board for granting members a chance to take more time to assess the program before providing

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Staff with further direction.

Ms. Redway stated that she agreed with Ms. Aronberg and will put the item over until next month to give the new Administration additional time to consider the program. The Treasurer is mindful of the State's fiscal position and is not inclined to think of expanding the short-term program at this time, and is committed to a program funding cap and wants to be very cautious before proceeding.

Ms. Solich requested Board direction on Staff possibly holding a February workshop that had been considered.

Ms. Redway advised Staff not to hold another workshop until the Board has time to consider the item further.

Mr. Clanon agreed with Ms. Redway and stated that Staff should hold off on holding another workshop.

Ms. Redway confirmed that Staff should pause on holding another workshop.

Ms. Redway asked if there were any comments from the public.

James Aidukas, representing Montauk Energy Capital, thanked Staff for putting together a program. He felt that project limits are the way to go. He discouraged Staff from considering a dollar per megawatt breakdown which would enable larger projects to obtain all the funding, while other worthy projects would not be able to get any funds. He also felt that the RPS standard, CEC pre-certification, a technology neutral program is appropriate. He addressed the PPA, stating that it is the appropriate way to proceed; however, having a signed PPA at the time an application is submitted is unrealistic because of the time it may take to get the PPA. He suggested that if a party is in the process of executing the PPA at the time of the application that should be efficient enough evidence that a PPA will be signed in the near future. He advised that most utilities have a definition of what they consider to be utility scale, and Staff should follow up with some of those utilities to get a better understanding of the definition of utility scale. He also suggested that something be put into the program to encourage buying California made products and equipment, possibly an additional benefit to companies that buy California made equipment to jumpstart these industries within the State.

Steve Evans, Vice President of Taxation for Cal Energy, stated he was pleased to see things moving forward. He stated that Cal Energy had first applied to CAEATFA for funding back in 2004 and re-submitted in 2010. He felt that the company could be beneficial to the State by providing greater returns on investments than many other companies and could provide green energy and jobs for up to 20 years. He stated that if there is to be a short-term program or one that is capped, the Board should consider grandfathering projects that had made submissions prior to this deliberation or perhaps a second tier for larger projects. He also stated that there should be some type of recapture

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penalty, if a larger project did not meet requirements they would pay that money back to the State.

John Wong, on behalf of Bright Source Energy, commended Staff for putting together a program and listening to input from stakeholders. He agrees with Mr. Evans and Mr. Clanon on considering a different criteria; for example, the per megawatt or the second tier that Mr. Evans suggested or a tiered system for larger projects.

Ms. Ingenito thanked the Board and Staff for providing the Administration more time. There was a recent appointment in the DOF, and along with staff from the Governor's office, they will be coming up to speed on the project.

Mr. Lemei asked if it is Staff's understanding that utility scale is mutually exclusive with anything distributed.

Ms. Carrillo stated that the statute that Staff is operating under at this time for emergency rulemaking ability requires a preference to utility scale, but Staff does not have a solid answer as to how "utility scale" will interplay.

Ms. Solich added that Staff is still in the fact finding stage about utility scale and is still working on developing the specific definition.

Mr. Lemei added that in regard to Mr. Aidukas's comment on the PPA, a PPA is not required to get a permit from the CEC.

Ms. Redway confirmed that the item will be put over until next month and Staff will not hold any workshops.

### 5. PUBLIC COMMENT

Ms. Redway asked if there were any further comments from the public. There were none.

### 6. ADJOURNMENT

There being no further business, public comments, or concerns, the meeting adjourned at 12:35 p.m.

**Respectfully submitted,**

Christine Solich  
Executive Director