

## MINUTES

**California Alternative Energy and Advanced  
Transportation Financing Authority  
915 Capitol Mall, Room 587  
Sacramento, California  
November 15, 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 11:15a.m.

Members Present: Bettina Redway for Bill Lockyer, State Treasurer  
Alan Gordon for John Chiang, State Controller  
Pedro Reyes for Ana J. Matosantos, Director,  
Department of Finance  
Paul Clanon for Michael R. Peevey, President,  
Public Utilities Commission  
Eileen Allen for Robert B. Weisenmiller, 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 October 25, 2011 meeting minutes. There were none.

Ms. Redway asked if there was a motion.

Mr. Reyes moved approval of the minutes; upon a second, the minutes were unanimously approved.

### 3. EXECUTIVE DIRECTOR'S REPORT

Ms. Solich began her report by informing the Board that November marks the one year anniversary of the Senate Bill 71 (SB 71) Program. On November 17, 2010, 12 projects were approved by the Board under the program. Under the program the applicants are required to purchase 25% of the qualified property within the first year to show readiness and to jump-start job activity in California.

## Agenda Item 2.

She continued to report that not all of the projects would meet the 25% purchase requirement due to various economic and market conditions. Of these initial projects, one is requesting a waiver of the time requirement, Bowerman Power LFG, LLC, which is on the November 2011 agenda. She further indicated that there are three other projects that were also approved in November 2010 – Stion, Calisolar and Gallo Cattle Company – that will not meet the requirement and are not requesting waivers. Therefore, those regulatory agreements will be terminated but the companies can re-apply in the future.

With regard to Agenda Item 3 – the pipeline report of the SB 71 Program applications – Ms. Solich reported that Staff would be presenting one SB 71 project for approval. The project is Zero Waste, a biogas capture and production facility, located in San Jose, California. To date the Board has approved \$104 million in sales and use tax exclusions (STE). Staff will be revising the pipeline report to reflect projects that are not moving forward.

Mr. Clanon asked if Staff had been in contact with applicants that are nearing their one year anniversary.

Ms. Solich explained that Staff has been in contact with the applicants verbally and in writing regarding the 25% purchase requirement.

Mr. Clanon asked if the basic criteria for the extension requests were the viability of the projects.

Ms. Solich explained that yes, in some instances, that was the case – and that the original project approved by the Board must remain substantially intact. Some of the projects mentioned earlier changed substantially and were not going to produce the economic and environmental benefits anticipated by the program's evaluation process or meet the 25% purchase requirement.

Mr. Reyes commented that it is important that the project is viable and does not fundamentally change from what was originally approved by the Board. He then thanked Staff for ensuring the projects remain intact.

#### **4. BUSINESS ITEMS**

##### **A. DISCUSSION AND CONSIDERATION OF APPLICATION FOR SB 71 SALES AND USE TAX EXCLUSION (STE)**

- 1) Zero Waste Development Company, LLC  
Presented by Heather Williams, Analyst

Staff introduced Tony Cone of Westhoff, Cone & Holmstedt, who represented the applicant.

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Staff recommended approval of Zero Waste Development Company, LLC, a biogas capture and production facility located in San Jose, California. The project will have a value of \$17,156,875 in anticipated qualified property purchases, which will result in approximately \$1,389,707 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 this applicant, Staff estimated that approximately \$1.4 million in STE will assist in creating environmental benefits valued at approximately \$1.4 million and fiscal benefits valued at approximately \$2.2 million. This resulted in approximately \$3.6 million in total benefits and a net benefit value of approximately \$2.2 million.

This project is anticipated to create 174 jobs (12 permanent jobs and 162 temporary construction or installation jobs). CAEATFA staff calculated that approximately 17 of these jobs (one permanent job and 16 construction jobs) can be attributed to the Program, based on the estimation methodology embodied in the regulations.

This is a new biogas capture and production facility project, which will use an anaerobic digestion system to take organic materials, and using a dry fermentation process, produce and capture methane from the controlled composting of those materials.

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

Mr. Gordon asked where the waste stream was coming from.

Mr. Cone explained that the waste stream would be coming from different areas, mainly food waste from the city of San Jose. This project is being completed in conjunction with a contract with the city. The waste will be picked up by Republic Services, a waste management company, and delivered to the site.

Mr. Gordon asked who would be purchasing the energy.

Mr. Cone explained that there would be an energy contract with Pacific Gas and Electric (PG&E).

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

Ms. Redway asked if there was a motion.

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

**B. DISCUSSION AND CONSIDERATION OF APPLICANT’S REQUEST FOR WAIVER OF TIME REQUIREMENT TO PURCHASE AT LEAST 25% OF QUALIFIED PROPERTY UNDER SB 71 PROGRAM**

- 1) Bowerman Power LFG, LLC (“Bowerman”)  
Presented by: Cheryl Ide, Analyst

Staff introduced James Aidukas of JTA & Associates, who represented the applicant.

Bowerman was approved by the CAEATFA Board on November 17, 2010 for the purchase of \$9,240,000 in qualified property for a landfill gas facility in Irvine, Orange County. The SB 71 Program requires that Bowerman purchase 25% (\$2,310,000) of the total approved qualified property within the first year, the “25% Purchase Requirement.” This requirement serves as an indicator of readiness and assists in incentivizing timely economic activity. The 25% Purchase Requirement can be waived by the Board upon a finding that a waiver is in the public interest and advances the purposes of the program.

As of November 4, 2011 Bowerman had not conveyed any qualified property. On September 9, 2011, CAEATFA staff sent the Applicant a courtesy reminder of the 25% Purchase Requirement. Bowerman responded by requesting an extension of the 25% Purchase Requirement to November 17, 2012 to accommodate unforeseen delays in the Project’s permitting process.

Bowerman has requested a waiver of the 25% Purchase Requirement due to delays in permitting. According to the Applicant, the project was moving forward at the end 2010, with a plant site selected, civil engineering performed, and environmental studies completed. However, permit delays ensued when the land was surveyed and revealed the selected site was inhabited by the California Gnatcatcher, recognized as a species of special concern by the California Department of Fish and Game (CDFG) and listed as a threatened species by the United States Fish and Wildlife Service (USFWS).

Bowerman has represented that a one year time extension will allow the project to move forward. Bowerman has further represented that the permitting delays were unanticipated and could not be reasonably avoided. Granting the waiver will allow the project to proceed in accordance with the law and in a manner designed to avoid impacts on endangered or threatened species. Based on the foregoing, staff believes that extending

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the 25% Purchase Requirement is consistent with the intent of the Program, is in the public interest, and advances the purposes of the Program.

Staff recommended that the Board find it is in the public interest and advances the purposes of the Program to extend the 25% Purchase Requirement to November 17, 2012.

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

Mr. Clanon asked if the underlying project has remained the same as when approved.

Mr. Aidukas explained that the project is the same and that the delay involved a bird called the gnat catcher. It took a year before a proper solution was agreed upon by the CDFG and the USFWS. All necessary permits are now in place and the project will move forward.

Ms. Redway commented that Staff was looking for unanticipated issues in regard to recommending approval of the 25% extensions.

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.

### **5. PUBLIC COMMENT**

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

### **6. ADJOURNMENT**

There being no further business, public comments, or concerns, the meeting adjourned at 11:26 a.m.

**Respectfully submitted,**

Christine Solich  
Executive Director