

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

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

**ZERO WASTE ENERGY DEVELOPMENT COMPANY LLC
Application No. 11-SM019**

Tuesday, November 15, 2011

Prepared By: *Heather Williams*

SUMMARY

Applicant – Zero Waste Energy Development Company LLC

Location – San Jose (Santa Clara County)

Industry – Biogas Capture & Production

Project – New Biogas Capture & Production Facility

Value of Qualified Property – \$17,156,875

Estimated Sales and Use Tax Exclusion Amount² – \$1,389,707

Estimated Net Benefits - \$2,199,291

Application Score³ -

Fiscal Benefits Points:	1,607
<u>Environmental Benefits Points:</u>	<u>975</u>
Net Benefits Score:	2,583

<u>Additional Benefits Points:</u>	<u>15</u>
Total Score:	2,598

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.

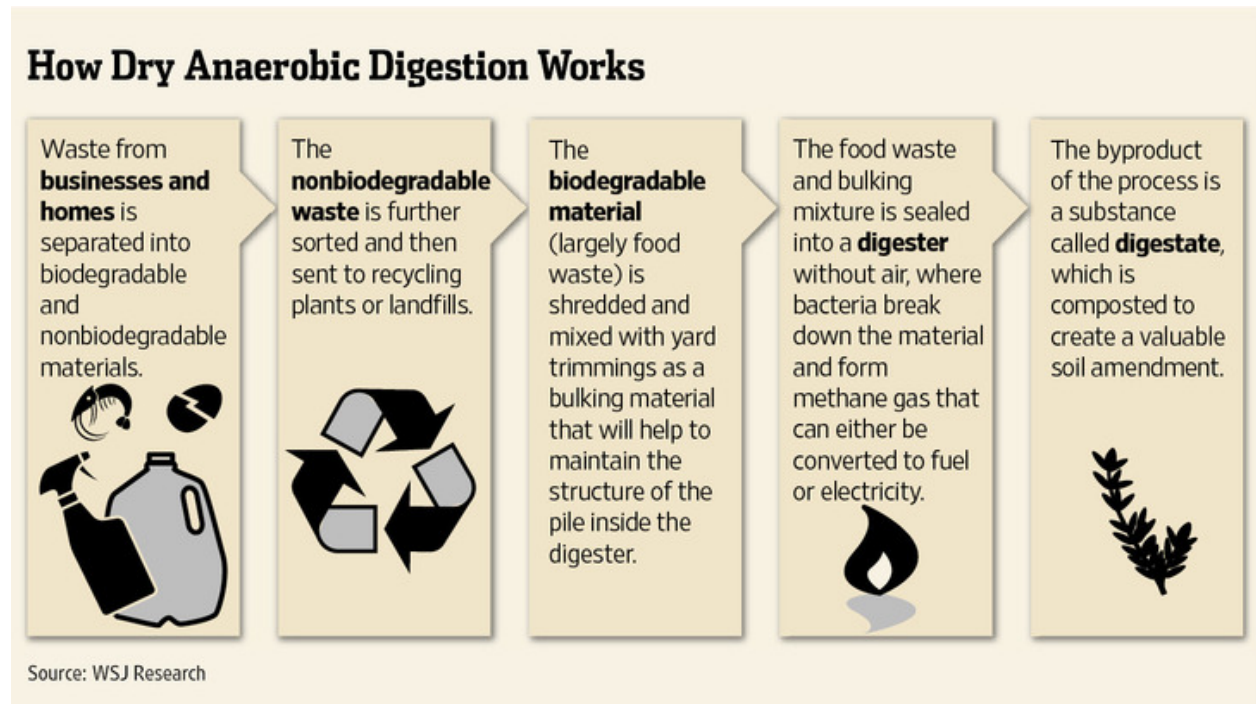
THE APPLICANT

Zero Waste Energy Development Company LLC (“Zero Waste” or “Applicant”) was established on February 20, 2009 in California and is headquartered in San Jose, California. Zero Waste is a development company that designs, builds, and operates integrated solid waste facilities throughout North America. Zero Waste recovers material for recycling and reuse, while transforming organic waste into green energy through an anaerobic digestion dry fermentation process.

The ownership structure of Zero Waste is described in Attachment A.

THE PROJECT

Zero Waste plans to construct a facility 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. The methane produced will fuel generators; the power from which will be used internally and the excess sold to PG&E. Organic materials for this project will include source separated organics, yard waste and organic mixed materials from mixed waste processing at a small materials recovery facility (MRF) on-site, as well as from other facilities. The first few stages of the process take place in an approximately 75,000 square foot enclosed process facility.



The biogas produced is captured and the air from the entire facility is processed through an air circulation and control system that effectively contains, circulates and exhausts air as necessary

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through a specially designed bio-filter to control odors. The project will be located adjacent to the Zanker Road Landfill on a site leased from the City of San Jose.



Mixing Hall and Anaerobic Digestion Tunnels



Facility Exterior Perspective

Consistent with CAEATFA policy, the Qualified Property in this Application will be used directly in relation to manufacturing the biogas and for the portion of the power generation used to power the facility. The cost of the excess portion of the power generation sold to PG&E is not included in this Application.⁴

Additionally, in June 2010 California Pollution Control Financing Authority (“CPCFA”) approved an initial resolution for Zero Waste for an issuance of Solid Waste Disposal Revenue Bonds to assist with the financing for the project. Zero Waste has submitted an application for a final resolution which it anticipates will be scheduled for the December 13th, 2011 CPCFA board meeting.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

AD System Construction	\$ 4,320,000
Building Systems	2,520,000
Air Handling Systems	660,000
Mechanical/Electrical Installation	1,296,000
In-Vessel Composting Tunnels Construction	1,800,000
Gas Conversion – Combined Heat and Power Biogas Fueled Engines	532,000

⁴ The engine cost represented herein equals 35% of the total project engine cost as it is equal to the amount of power and heat which is required for the Project itself. The balance of power produced will be sold to PG&E and therefore, the cost associated with that power production is not being included in the amount of expenditures subject to sales and use tax exclusion. This is consistent with CAEATFA evaluation and determination of qualified property.

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Anticipated Qualified Property purchases continued:

Nine Par Existing Conditions and Offsites	3,420,000
Passive Methane Collection/Monitoring	360,000
Conveyors and Screens (Bulk Handling Systems Sort System)	855,000
Rolling Stock	990,000
Decompactor and Conveyor	157,500
Screening Plant	225,000
Office Equipment	21,375
Total	<u>\$17,156,875</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

Zero Waste has started construction by grading and preparing the site and is currently ordering some equipment. Zero Waste anticipates completing the facility by October 2012.

PROJECT EVALUATION

NET BENEFITS

The total cost of the Qualified Property purchases is anticipated to be \$17,156,875 and the total net benefits are estimated at \$2,199,291 for the Project. The Project received a Total Score of 2,598 points, which exceeds the required 1,000 point threshold and a total Environmental Benefits Score of 975 points, which exceeds the 100 point threshold.

- A. Fiscal Benefits (1,607 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 an estimated \$2,233,575 resulting in a Fiscal Benefits Score of 1,607 points for the Project.
- B. Environmental Benefits (975 points).** The Project will result in an estimated \$1,355,423 of total pollution benefits over the life of the Facility resulting in an Environmental Benefits Score of 975 points for the Project. These benefits derive from (a) the production of biomass fuel, which offsets the need for fossil fuel derived sources

of energy and (b) a reduction of methane emissions from material that would otherwise be sent to a landfill.

C. Additional Benefits (15 of 200 points). Applicants may earn up to 200 additional points for their Total Score. The Applicant submitted information and received 15 additional points.

1. Permanent Jobs (0 of 40 points). The Applicant’s Project will support a total of 12 permanent jobs at its Facility. CAEATFA estimates that one (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 (15 of 20 points). The Applicant’s Project will support a total of 162 construction jobs at its Facility. CAEATFA estimates that approximately 16 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 15 points for the Project.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

All local necessary discretionary permits have been obtained.

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,⁵ the Applicant has paid CAEATFA an Application Fee of \$5,000 and will pay CAEATFA an Administrative Fee up to \$68,627.

RECOMMENDATION

Staff recommends approval of Resolution No. 11-SM019 for Zero Waste Energy Development Company LLC’s purchase of Qualified Property in an amount not to exceed \$17,156,875 anticipated to result in an approximate sales and use tax exclusion value of \$1,389,707.

⁵ California Code of Regulations Title 4, Division 13, Article 2, Section 10036

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A TITLE
CONVEYANCE AGREEMENT WITH ZERO WASTE ENERGY DEVELOPMENT
COMPANY LLC**

November 15, 2011

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) has received the Application of **Zero Waste Energy Development 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 \$17,156,875 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).

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

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.

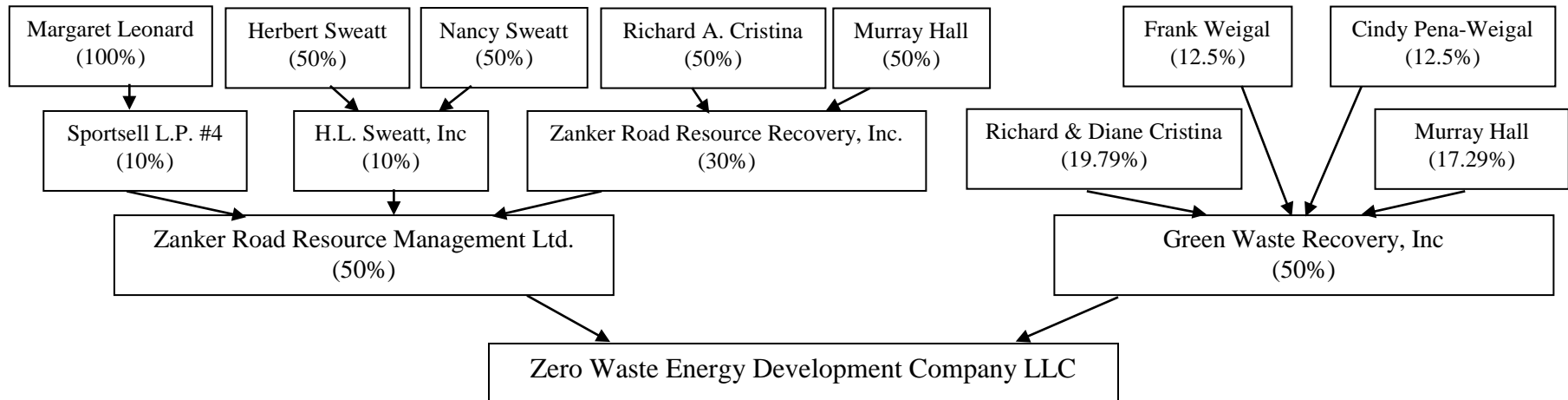
Section 8. The Agreement shall only apply to Qualified Property that the Applicant certifies will be installed, maintained and operated at facilities within the State of California.

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, including major shareholders (10.0% or greater) of Zero Waste Energy Development Company LLC is as follows:



The corporate officers of Zero Waste Energy Development Company LLC are:

- Don Dean, Chief Financial Officer
- Tracy Adams, Chief Administrative Officer