

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

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

**ABEC #2 LLC dba West-Star North Dairy Biogas
Application No. 15-SM013**

Tuesday, December 15, 2015

Prepared By: *James Shimp, Analyst*

SUMMARY

Applicant – ABEC #2 LLC dba West-Star North Dairy Biogas

Location – Buttonwillow, Kern County

Industry – Dairy Biogas

Project – New biogas production facility

Value of Qualified Property – \$5,990,614

Estimated Sales and Use Tax Exclusion Amount² – \$504,410

Estimated Net Benefits – \$294,986

Application Score –

Fiscal Benefits Points:	1,227
<u>Environmental Benefits Points:</u>	<u>358</u>
Net Benefits Score:	1,585
<u>Additional Benefits Points:</u>	<u>100</u>
Total Score:	1,685

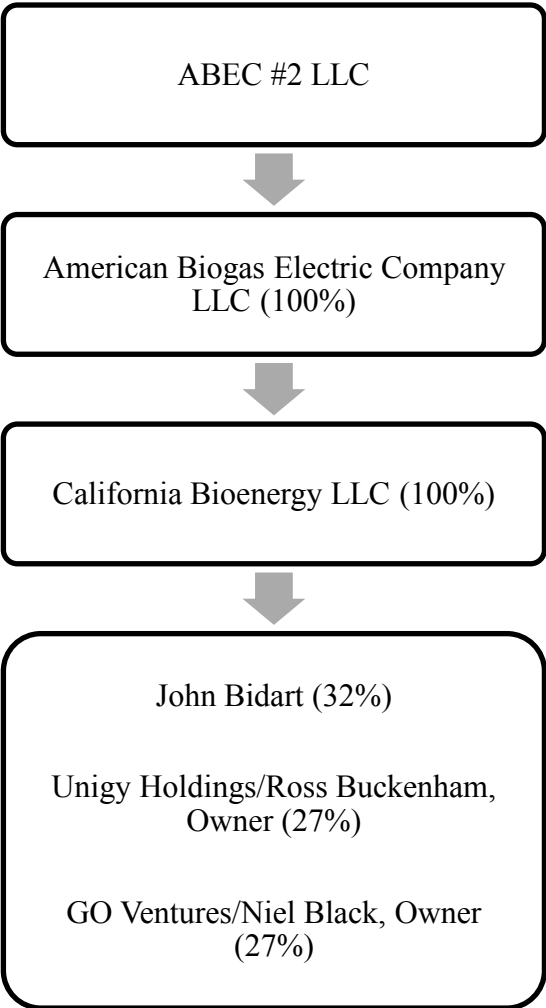
Staff Recommendation – Approval

¹ All capitalized terms not defined in this document are defined in the Program’s statute and regulations.
² This amount is calculated based on the average statewide sales tax rate of 8.42%.

THE APPLICANT

ABEC #2 LLC dba West-Star North Dairy Biogas (“ABEC #2” or the “Applicant”) is a California limited liability company established by California Bioenergy LLC (“CalBio”) to develop a biogas capture plant on the West-Star North Dairy located in Buttonwillow, California. CalBio was established to design, finance, develop and build California dairy biogas projects and then to own and operate them in partnership with the dairy farmers.

The ownership structure for ABEC #2 is as follows:



The corporate officers of ABEC #2 LLC are:

N. Ross Buckenham, CEO
Neil Black, President

THE PROJECT

ABEC #2’s biogas production and renewable energy generation facility will be located on the West-Star North Dairy in Buttonwillow, CA. The Applicant will install two large in-ground heated and mixed lagoon style anaerobic digester systems and one combined heat and power (“CHP”) unit (the “Project”). The AD systems will digest dairy cow manure and release biogas. The CHP units will then destroy the methane in the biogas to avoid its release into the atmosphere, and will generate energy in the form of heat for plant processing and electrical power for sale to Pacific Gas & Electric Company (“PG&E”). Waste heat from the CHP will be recovered and used as process heat in the plant.

Consistent with CAEATFA policy, the Qualified Property in this Application will be used to manufacture biogas; the Qualified Property also includes a portion of the power generation equipment used to power the facility. The Project’s equipment will consume 52 percent of the total amount of available energy generated from biogas combustion; therefore 52 percent of the power generation equipment is eligible for a sales and use tax exclusion under SB 71. However, 48 percent of the power generation equipment is not included in this Application, as it represents the proportion of available energy in the form of electricity that will be sold to PG&E.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Turnkey Digester and Biogas System Installed	\$4,332,704
Combined Heat and Power (CHP) Package	342,825
Slurry Heater	29,000
Manure pumps	15,000
Heat Recovery	41,000
Gen-Tec (Paralleling Equipment)	162,000
Exhaust	29,412
Biogas Generator	278,250
Biogas Generator	22,423
Selective Catalytic Reduction (SCR) System	188,000
Sensors, Motors, Pumps, Controllers, and Meters	250,000
Combined Heat and Power & Digester Parts and Materials	300,000
Total	<u>\$5,990,614</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 master regulatory agreement a finalized project equipment list will be prepared detailing the value of the Project equipment acquired and detailing the actual tax benefit realized pursuant to Revenue and Tax Code Section 6010.8. Variance 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) over 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 Applicant anticipates construction to begin in January 2016, with testing and PG&E interconnect to be finalized in the fourth quarter of 2016. The Project is expected to come online by the end of 2016.

PROJECT EVALUATION

NET BENEFITS

The total cost of the Qualified Property purchases is anticipated to be \$5,990,614 and the total net benefits are valued at \$294,986 for the Project. The Project received a Total Score of 1,685 points, which exceeds the required 1,000 point threshold and a total Environmental Benefits Score of 358 points, which exceeds the 100 point threshold.

- A. Fiscal Benefits (1,227points).** 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 \$618,883 resulting in a Fiscal Benefits score of 1,227 points for the Project.
- B. Environmental Benefits (358 points).** The Project will result in \$180,513 of total pollution benefits over the life of the Facility resulting in an Environmental Benefits Score of 358 points for the Project. These benefits derive from the production of biogas, which offsets the need for use of fossil fuel and the avoidance of methane emissions that would otherwise be released by the manure.
- C. Additional Benefits (100 points).** Applicants may earn additional points for their Total Score. The applicant submitted information and received 100 additional points.

 - 1. Permanent Jobs (0 of 75 points).** The Applicant represents that its Project will support a total of two permanent jobs at its Facility. CAEATFA estimates that none 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 (35 of 75 points).** The Applicant represents that its Project will support a total of 12 construction jobs at its Facility. CAEATFA estimates that approximately two 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 (40 of 50 points).** The Applicant’s Project is located in Kern County which has an average annual unemployment rate of 11%. This is above 110% of the statewide average annual unemployment rate which is currently 7.5% resulting in an Unemployment Score of 40 points for this Project.
4. **Research and Development Facilities (25 points).** The Applicant has verified that it has a facility located in California that performs research and development functions related to water conservation and management.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

The Applicant has completed all requirements for permits from the San Joaquin Valley Unified Air Pollution Control District and Kern County, and is currently awaiting permit issuance. PG&E has also completed its System Impact Study prior to offering the Project an interconnection agreement. PG&E will be launching its BioMAT feed in tariff program, through which the Project will obtain a power purchase agreement. If the BioMAT program is delayed the project may enter into a net metering arrangement with PG&E instead.

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,³ the Applicant has paid CAEATFA an Application Fee of \$2,995.31 and will pay CAEATFA an Administrative Fee up to \$23,962.46.

RECOMMENDATION

Staff recommends approval of Resolution No. 15-SM013 for ABEC #2 LLC’s purchase of Qualified Property in an amount not to exceed \$5,990,614 anticipated to result in an approximate sales and use tax exclusion value of \$504,410.

³ California Code of Regulations Title 4, Division 13, Section 10036

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A MASTER
REGULATORY AGREEMENT WITH ABEC #2 LLC DBA WEST-STAR NORTH
DAIRY BIOGAS**

December 15, 2015

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) has received the Application of **ABEC #2 LLC dba West-Star North Dairy Biogas** (the “Applicant”), for financial assistance in the form of a master regulatory agreement (the “Agreement”) regarding tangible personal property utilized in an Advanced Manufacturing process or 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 to acquire Project equipment with an estimated cost not to exceed \$5,990,614 over a period of three years; 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(a)(8)(B).

Section 2. The requested master regulatory agreement constitutes “financial assistance” within the meaning of Public Resources Code Section 26003(a)(6).

Section 3. The Applicant is a “participating party” within the meaning of Public Resources Code Section 26003(a)(7).

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.

Agenda Item – 4.A.1
Resolution No. 15-SM013
Application No. 15-SM013

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 listed in the semi-annual reports 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.