

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

***Request to Approve a Time Extension for the
Initial Term of the Regulatory Agreement¹***

**North Fork Community Power, LLC
Application No. 17-SM001**

Tuesday, June 15, 2021

Prepared By: *Matthew Jumps, Program Analyst*

SUMMARY

Applicant – North Fork Community Power, LLC

Location – North Fork, Madera County

Industry – Biomass Processing and Fuel Production

Project – Biomass Processing and Fuel Production Facility (Alternative Source)

Total Amount Qualified Property Approved– \$6,819,733

Estimated Sales and Use Tax Exclusion Amount at Approval² – \$574,222

Amount of Time Requested –

- Eleven months and fourteen days, until June 30, 2022, for the Initial Term of the Regulatory Agreement (five years, five months, and fourteen days from the date of initial CAEATFA Board approval)

Staff Recommendation – Approval

¹ All capitalized terms not defined in this document are defined in the Sales and Use Tax Exclusion Program's statutes and regulations.

² This amount is calculated based on the average statewide sales tax rate at the time of initial approval, which was 8.42%.

REQUEST

On January 17, 2017, the CAEATFA Board approved a sales and use tax exclusion (“STE”) for North Fork Community Power, LLC, (the “Applicant”) for the purchase of up to \$6,819,733 in Qualified Property to build a small-scale bioenergy facility to convert sustainably harvested forest biomass into syngas and biochar using a gasification process in North Fork (the “Project”). The Regulatory Agreement (“Agreement”) initial term provided the Applicant with three years from the date of Board approval to utilize its STE award. The CAEATFA Board can extend the initial term of the Agreement upon a finding that an extension is in the public interest and advances the purposes of the STE Program.

On December 17, 2019, the CAEATFA Board approved the Applicant for a one-year and six-month extension of the initial term of the Agreement from its original termination date of January 17, 2020 to accommodate project delays resulting from complications with executing contracts with Pacific Gas & Electric Company (“PG&E”) and securing financing due to PG&E’s bankruptcy and the then-recent wildfires.

As of December 31, 2020, the Applicant has used the STE to purchase \$3,132,567 of Qualified Property (46% of the total Qualified Property approved). The Applicant is requesting to extend the Agreement initial term by eleven months and fourteen days to accommodate construction delays due to the COVID-19 pandemic and the 2020 wildfire season as well as a delay in the interconnection to the grid through PG&E.

The Applicant states it is still enduring the repercussions from prior complications with executing contracts with PG&E – the stated reason for the Applicant’s first extension request. While those contracts are now complete, the Applicant states that those prior delays have compounded with more recent construction delays. According to the Applicant, construction delays resulted from the COVID-19 pandemic and the fact that the construction site was commandeered to serve as a fire base during the 2020 Creek Fire. Further, PG&E has revised the date for the interconnection to the grid to March 31, 2022, further delaying the Applicant’s ability to procure equipment to complete the Project.

The Applicant believes that an extension until June 30, 2022, will be sufficient time to recover from the aforementioned delays and allow the Applicant to make the remaining purchases under the STE Program. The Applicant states that the Project remains under construction with progress being made at the time of this request. The Applicant also states that it will be installing equipment to support a greater capacity to produce biochar in response to an increase in market demand.

THE APPLICANT

The Applicant is a California limited liability company established in 2013 by the North Fork Community Development Council and Phoenix Energy, Inc., to develop a biomass processing facility in North Fork. The North Fork Community Development Council is a non-profit organization established to encourage economic development after the closure of the local

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sawmill. Phoenix Energy, Inc., is a private power company that builds, owns, and operates biomass gasification plants in partnership with businesses in the agricultural, waste, and forestry industries.

The major shareholders (10.0% or greater) of North Fork Community Power are:

North Fork Community Development Council, Inc. (19%)
Phoenix Biomass Energy, Inc.(19%)
EQTEC plc (10%)
SCV North Fork, LLC (50%)

The officers of North Fork Community Power LLC are:

Wade Wheeler, Chairman
Gregory John Stangl, Co-CEO
David Palumbo, Co-CEO
Steve Robson, Managing member

The officers of North Fork Community Development Council, Inc., are:

Wade Wheeler, Managing Member

The officers of Phoenix Biomass Energy, Inc.,are:

Gregory John Stangl, Managing Member

The officers of EQTEC plc are:

David Palumbo, Managing Member

The officers of SCV North Fork, LLC, are:

Steve Robson, Investor

THE PROJECT

The Applicant has developed at a retired sawmill site in North Fork a small-scale bioenergy facility that will convert sustainably harvested forest biomass into syngas and biochar using a gasification process. The Applicant represents that the forest biomass is frequently piled and burned for disposal. In addition to mitigating fire risk, the Applicant states that the Project will help with the removal and consumption of dead and dying trees as a result of the destruction by the pine beetle and exacerbated by the drought. The syngas produced by the gasifiers will power a 2 MW engine that will produce electricity to sell back to the grid to PG&E.

As a byproduct of the gasification process, the Project will produce biochar: the solid carbon remains of the woody feedstock after the syngas is produced. Biochar has many applications and is commonly used as a soil amendment. When used in this manner, biochar sequesters carbon and mitigates greenhouse gas emissions, according to the Applicant.

Consistent with CAEATFA policy, the Qualified Property in this Application will be used to manufacture syngas; the Qualified Property also includes a portion of the power generation equipment used to power the Project. The Project's equipment will consume approximately 14 percent of the total amount of available energy generated from syngas combustion. Therefore, 14 percent of the power generation equipment is eligible for a sales and use tax exclusion. However,

86 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.

AGREEMENT INITIAL TERM EXTENSION REQUEST

North Fork Community Power, LLC, has requested that the initial term of the Agreement be extended from July 17, 2021, to June 30, 2022, in order to accommodate construction delays due to the COVID-19 pandemic and the 2020 wildfire season as well as a delay in the interconnection to the grid through PG&E.

Staff Evaluation

According to the Application, delays in construction of the Project were outside the Applicant's control as the delays were the results of the COVID-19 pandemic, the 2020 Creek Fire, and PG&E pushing out the interconnection to the grid to March 2022. The Applicant intends to use its remaining STE to finish purchasing equipment for the Project, which it is confident will happen before PG&E's interconnection date of March 31, 2022. The Applicant has already installed equipment for the Project and continues to make progress on installation, as detailed in the photographs provided by the Applicant in its request letter (Attachment A).

Based on this information, Staff believes extending the initial term of the Agreement will allow for the Project to be completed, and is, therefore, in the public interest and advances the purposes of the STE Program.

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 STE Program Regulations,³ the Applicant has paid an additional fee of \$2,000 because extending the initial term qualifies as a modification to the Applicant's Regulatory Agreement.

RECOMMENDATION

Staff recommends that the Board approve North Fork Community Power, LLC's request to extend the initial term of the Agreement by eleven months and fourteen days to June 30, 2022, as it is in the public interest and advances the purposes of the STE Program.

³ California Code of Regulations Title 4, Division 13, Section 10036(c)(1)(B)

Attachments

- Attachment A: North Fork Community Power, LLC's letter requesting waiver (May 13, 2021)
Attachment B: North Fork Community Power, LLC's staff summary at the time of approval

**RESOLUTION APPROVING A TIME EXTENSION FOR
NORTH FORK COMMUNITY POWER, LLC’S INITIAL TERM FOR
THE REGULATORY AGREEMENT**

June 15, 2021

WHEREAS, on January 17, 2017 the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority”), a public instrumentality of the State of California, approved a Sales Tax Exclusion (“STE”) in the amount of \$6,819,733 of Qualified Property for **North Fork Community Power, LLC** (the “Applicant”); and

WHEREAS, within three (3) years of approval by the Authority, the Applicant must make all Qualified Property purchases (STE Program regulations Section 10035(b)(1)); and

WHEREAS, upon a finding that it is in the public interest and advances the purposes of the Program, the Authority may waive the requirement that all purchases of Qualified Property be made within three (3) years of Application approval (STE Program regulations Section 10035(b)(1)(B)); and

WHEREAS, the Applicant previously had requested a waiver of the requirement to purchase all of the Qualified Property within three (3) years due to unexpected delays in the Project timeline, extending the term by one (1) year and six (6) months to July 17, 2021; and

WHEREAS, the Applicant has requested a waiver of the requirement to purchase all of the Qualified Property by July 17, 2021, due to unexpected delays in the Project timeline, extending the term by eleven (11) months and fourteen (14) days to June 30, 2022; and

WHEREAS, granting the waiver will allow the Project to proceed and the state to receive the anticipated environmental and economic benefits that justified the initial approval of the Project in accordance with the law, thereby advancing both the public interest and the purposes of the Program.

NOW, THEREFORE, BE IT RESOLVED by the California Alternative Energy and Advanced Transportation Financing Authority, as follows:

Section 1. The Authority finds that it is in the public interest and advances the purposes of the Program to extend the initial term of the Agreement to June 30, 2022.

Section 2. This resolution shall take effect immediately upon its passage.

Attachment A: North Fork Community Power, LLC's Letter Requesting Waiver (May 13, 2021)



13 May 2021

CAEATFA

RE: Extension Request for time to complete project 17-SM001

CAEATFA

Per your email of today, please receive our request for an extension of time to complete the North Fork Community Power project.

Given the bankruptcy of Pacific Gas & Electric (PGE), their prior refusal to obey CPUC orders to sign our contracts (now complete), the 2020 Creek Fire where our construction site was commandeered to serve as a fire base, together with the impacts of COVID-19 and the recent information from PGE that they are unable to procure certain equipment and have revised their interconnection date to 3/31/22, we find ourselves delayed beyond our ability to control.

We continue to work diligently to complete this project within the time frame, however, at this point prudence requires us to ask for an extension of time. At this point we are hopeful that an extension of time to June 30, 2022 would suffice for us to complete the acquisition of the plant equipment covered by your program. We believe we can meet this timeline as we have received a similar extension from the California Pollution Control Finance Authority from whom we are receiving the tax exempt bond allocation that is being used to finance this project. At this point in time the project remains in construction and we have attached a few photos from last week, that said we anticipate that in response to market changes for the byproduct we will be installing somewhat greater capacity to produce biochar.

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Picture from the May

4th 2021

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Picture from January 2021

Since the equipment covered by your program is all long lead time items in an essentially fully engineered plant, they would be all ordered and paid for fairly rapidly after reaching financial close. As such, we believe that this extension, would suffice for the full deployment of the CAEATFA award.

Please don't hesitate to contact me with any further questions at 415.286.7822

Best regards,


Gregory John Stangl
Managing Partner

**Attachment B: North Fork Community Power, LLC’s Staff Summary at the Time of
Approval**

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

Request to Approve Project for Sales and Use Tax Exclusion (STE)⁴

**North Fork Community Power, LLC
Application No. 17-SM001**

January 17, 2017

Prepared By: *Alejandro Ruiz, Program Manager*

SUMMARY

Applicant – North Fork Community Power, LLC

Location – North Fork, Madera County

Industry – New Biomass Processing and Fuel Production

Project – New Biomass Processing and Fuel Production Facility

Value of Qualified Property – \$6,819,733

Estimated Sales and Use Tax Exclusion Amount⁵ – \$574,222

Estimated Net Benefits – \$643,283

Application Score –

Fiscal Benefits Points:	1,638
<u>Environmental Benefits Points:</u>	<u>482</u>
Net Benefits Score:	2,120
 <u>Additional Benefits Points:</u>	 <u>102</u>
Total Score:	2,222

Staff Recommendation – Approval

⁴ All capitalized terms not defined in this document are defined in the Program’s statute and regulations.

⁵ This amount is calculated based on the average statewide sales tax rate of 8.42%.

THE APPLICANT

North Fork Community Power, LLC (“North Fork” or the “Applicant”) is a California limited liability company established in 2013 by the North Fork Community Development Council and Phoenix Energy, Inc. to develop a biomass processing facility in North Fork, California. North Fork Community Development council is a non-profit organization established to encourage economic development after the closure of the local mill. Phoenix Energy, Inc. is a private power company that builds, owns, and operates biomass gasification plants in partnership with businesses in the agricultural, waste, and forestry industries.

The major shareholders (10.0% or greater) of North Fork Community Power, LLC are:
North Fork Community Development Council (45%)
Phoenix Energy, Inc. (45%)

The officers of North Fork Community Development Council are:
Dan Rosenberg, Managing Director

The officers of Phoenix Energy, Inc are:
Gregory John Stangl, Managing Director

THE PROJECT

North Fork is developing a small-scale bioenergy facility at a retired sawmill site in North Fork, California that will convert sustainably harvested forest biomass into syngas and biochar using a gasification process (the “Project”). The Applicant represents that the forest biomass is frequently piled and burned for disposal. In addition to mitigating fire risk, North Fork states that the Project will help in the removal and consumption of dead and dying trees as a result of the pine beetle kill exacerbated by the drought. The syngas produced by the gasifiers will power a 2 MW engine that will produce electricity to sell back to the grid to Pacific Gas and Electric under the BioMAT tariff established by SB 1122 (Rubio, 2012).

As a byproduct of the gasification process, the Project will produce biochar: the solid carbon remains of the woody feedstock after the syngas is produced. Biochar has many applications and is commonly used as a soil amendment. When used in this manner, biochar sequesters carbon and mitigates greenhouse gas emissions, according to the Applicant.

Consistent with CAEATFA policy, the Qualified Property in this Application will be used to manufacture syngas; the Qualified Property also includes a portion of the power generation equipment used to power the facility. The Project’s equipment will consume approximately 14 percent of the total amount of available energy generated from syngas combustion; therefore 14 percent of the power generation equipment is eligible for a sales and use tax exclusion under SB 71. However, 86 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.

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The Project also received \$4,965,420 in grant funding from the California Energy Commission's Electric Program Invest Charge Program on August 26, 2015 (PON-14-305). In addition to this funding, the Applicant also received \$900,000 in New Markets Tax Credits, a tax credit offered by the U.S. Treasury to assist distressed communities with economic growth and development.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:⁶

Gasification Equipment	\$3,724,794
Water Treatment Equipment	284,100
Fuel Handling System	694,375
Power Generation Equipment	452,106
Controls and Electrical Equipment	800,667
Leasehold Improvements	863,691
Total	<u>\$6,819,733</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 represents that construction has already begun, with installation and testing scheduled for February 2017. The Project is expected to come online in April 2017.

PROJECT EVALUATION

NET BENEFITS

The total cost of the Qualified Property purchases is anticipated to be \$6,819,733 and the total net benefits are valued at \$643,283 for the Project. The Project received a Total Score of 2,120 points, which exceeds the required 1,000 point threshold and a total Environmental Benefits Score of 482 points, which exceeds the 20 point threshold.

- A. Fiscal Benefits (1,638 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

⁶ Values in the staff summary may not add up correctly due to rounding in the Application worksheet.

taxes and other indirect fiscal benefits of the Applicant which amounts to \$940,730 resulting in a Fiscal Benefits score of 1,638 points for the Project.

- B. Environmental Benefits (482 points).** The Project will result in \$276,774 of total pollution benefits over the life of the Project resulting in an Environmental Benefits Score of 482 points for the Project. These benefits derive from the production of syngas, which offsets the need for use of fossil fuel.
- C. Additional Benefits (102 points).** Applicants may earn additional points for their Total Score. The applicant submitted information and received 102 additional points.
- 1. Permanent Jobs (30 of 75 points).** The Applicant represents that the Project will support a total of 11 permanent 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 resulting in a Permanent Jobs Score of 30 points for the Project.
 - 2. Construction Jobs (35 of 75 points).** The Applicant represents that the Project will support a total of 13 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 resulting in a Construction Jobs Score of 35 points for the Project.
 - 3. Unemployment (37 of 50 points).** The Applicant's Project is located in Madera County which has an average annual unemployment rate of 10%. This is above 110% of the statewide average annual unemployment rate which was 7.5% in 2014, the dataset used in the application. This results in an Unemployment Score of 37 points for this Project.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

The Applicant represents that it has acquired its Conditional Use Permit, RPS Eligibility Certificate, and passed CEQA. Building and air permits are still pending.

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,⁷ the Applicant has paid CAEATFA an Application Fee of \$3,410 and will pay CAEATFA an Administrative Fee of \$27,279.

RECOMMENDATION

Staff recommends approval of Resolution No. 17-SM001 for North Fork Community Power, LLC's purchase of Qualified Property in an amount not to exceed \$6,819,733 anticipated to result in an approximate sales and use tax exclusion value of \$574,222.

⁷ California Code of Regulations Title 4, Division 13, Section 10036

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A
REGULATORY AGREEMENT WITH NORTH FORK COMMUNITY POWER, LLC**

January 17, 2017

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) has received the Application of **North Fork Community Power, LLC** (the “Applicant”), for financial assistance in the form of a master regulatory agreement (the “Agreement”) regarding tangible personal property utilized to process Recycled Feedstock, 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 \$6,819,733 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.

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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.