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March 17, 2006

DOCKET
06-BAP-1
DATE MAR 17 2006
RECD MAR 17 2006

VIA FEDERAL EXPRESS

California Energy Commission Dockets Unit
Attn: Docket No. 06-BAP-1
1516 Ninth Street, MS-4
Sacramento, CA 5814-5512

Re: Comments of Vulcan Power Company; Docket No. 06-BAP-1

Dear Sir or Madam:

Please find enclosed the Response of Vulcan Power Company to be offered into evidence as part of the record compiled for the above-captioned proceeding. These comments have been submitted by email to docket@energy.state.ca.us.

Thank you for your assistance with this matter.

Sincerely,

Kevin McSpadden

Enclosure

LA1:#6320027

In the Matter of:	)	Docket 06-BAP-1
	)	
Bioenergy Action Plan Development	)	
	)	

COMMENTS OF SIERRA BIOMASS LLC
ON BIOENERGY ACTION PLAN FOR CALIFORNIA

Sierra Biomass LLC ("Sierra Biomass"), pursuant to the notice of the California Energy Commission ("Commission") issued February 27, 2006, hereby files these comments on the Draft Consultant Report on Recommendations for a Bioenergy Action Plan for California (the "Plan").

About Sierra Biomass:

Sierra Biomass executed a Renewable Power Purchase Agreement with Southern California Edison Company on March 9, 2005 (the "PPA"), which was approved by the California Public Utilities Commission on May 13, 2005. The PPA provides for the delivery of up to 22.5 MW of renewable energy and capacity attributes (renewable energy credits, resource adequacy requirements) to Southern California Edison Company for a term of 20 years. The fuel for the biomass facility will be derived primarily from small diameter trees and forest thinning woodchips harvested pursuant to the "Healthy Forest Initiative."

The Healthy Forest Initiative:

On December 3, 2003 President Bush signed into law the Healthy Forests Restoration Act of 2003 (P.L. 108-148) (the "Healthy Forest Initiative") to reduce the threat of destructive wildfires on federal lands. The bipartisan legislation provided for expedited vegetation treatment, consistent with the National Environmental Policy Act,

on certain types of US Forest Service and US Bureau of Land Management lands that: (a) are at risk of wildland fire (b) have experienced windthrow, blowdown, or ice-storm damage, (c) are currently experiencing disease or insect epidemics, or (d) are at imminent risk of such epidemics because of conditions on adjacent land.

In passing this legislation, Congress noted that catastrophic fires, particularly those experienced in California, Arizona, Colorado, Montana, and Oregon over the past several years, burn hotter and faster than most fires. In the past 2 years, 147,049 fires burned nearly 11 million acres. In 2003, the year prior to the date the legislation was passed, nearly 4,800 structures in California were destroyed, 22 civilians lost their lives due to wildfires, and the cost to contain the fires was over $250 million dollars.

Removal of small diameter overgrown forest and rangeland biomass from federal lands pursuant to the Healthy Forest Initiative is subject to:

- Administrative review before decisions are issued on proposed Healthy Forest Initiative projects on Forest Service land;
- Requirements governing the maintenance and restoration of old-growth forest stands when the Forest Service and Bureau of Land Management carry out Healthy Forest Initiative projects in such stands;
- Requirements that Healthy Forest Initiative projects on Forest Service and Bureau of Land Management lands maximize retention of larger trees in areas other than old-growth stands, consistent with the objective of restoring fire-resilient stands and protecting "at-risk" communities and Federal lands;
- Requirements for collaboration between Federal agencies and local communities, particularly when Community Wildfire Protection Plans are prepared; and

- Requirements for ongoing monitoring of Healthy Forest Initiative projects.

Under the Healthy Forest Initiative, "stewardship project" concessions are granted by the US Forestry Service for periods of up to 10 years to small businesses, communities and non-profit organizations. These stewardship concessions permit private organizations or businesses to remove forest products, such as trees and undergrowth, in return for performing work to restore and maintain healthy forest ecosystems. Sierra Biomass intends to enter into such a stewardship concession with the US Forestry Service or US Bureau of Land Management for the supply of biomass to its renewable electric generating facility.

Current State and Commission Policies Creates a Regulatory Impediment to Use of Biomass harvested under the Healthy Forest Initiative:

According to the 2005 Biomass Resource Assessment there are 86 million bone dry tons (BDTs) of biomass materials currently accessible in California with over 31% of this material coming from forestry. Federal lands constitute 46% of California forests. Therefore, any biomass policy that intends to encourage biomass energy production must include biomass materials harvested from Federal land, which as we all know are inextricably interwoven with private and state forest land.

However, in California today, in order for wood and wood waste to qualify as biomass fuel, the Renewables Portfolio Standard ("RPS") Eligibility Guidebook requires that such wood and wood waste be harvested pursuant to an approved harvest plan prepared in accordance with the Z'Berg-Nejedly Forest Practice Act. This would exclude wood and wood waste derived from federal forests harvested pursuant to the Federal Healthy Forest Initiative.

Similarly, in order to qualify for Supplemental Energy Payments ("SEPs") from the Commission, Section 25743 of the Public Resources Code requires that such wood and wood waste be harvested pursuant to an approved harvest plan prepared in accordance with the Z'Berg-Nejedly Forest Practice Act. This would exclude facilities that utilize fuel derived from the Healthy Forest Initiative from qualifying for Supplemental Energy Payments.

California is the only State (we are aware of) that excludes biomass derived from Federal forests and rangelands from being eligible in all aspects of a State-mandated RPS program. This approach is illogical at best and is very counter-productive to maintaining forest health, in general, and the furtherance of the State's RPS goals. California requires more renewable base load power, healthier forests, and reduced wildfire risks to private land, State forests and homes in and adjacent to Federal forests. Federal forests need biomass electric generating plants to cleanly and efficiently dispose of biomass harvested from Federal forests, which are the same renewable generating plants which the RPS programs require. State and Federal policies, and State and Federal land ownership blocks, are fully complementary and policymakers should recognize this fact by correcting California policy now. Sierra Biomass submits that the Healthy Forest Initiative is aligned with State policy and, more importantly, supplements and advances State policies and interests.

Suggested Policy Revisions:

Sierra Biomass recommends that the Bioenergy Action Plan **NOW** be revised to:

- Recognize the potential biomass fuel that could be made available to California if fuel harvested pursuant to the Healthy Forest Initiative is allowed for purposes of the RPS and eligibility for SEPs funds;
- Recognize the regulatory impediments that are impeding the development of biomass facilities utilizing fuel harvested pursuant to the Healthy Forest Initiative; namely Section 25743 of the Public Resources Code and the Commission's RPS Eligibility Guidebook;
- Recommend to the Legislature and the Commission that these impediments be removed by amending legislation and revising Commission policy that would otherwise exclude this resource.

For all the foregoing reasons, Sierra Biomass requests that the Commission recognize that Federal and California policies are aligned, realize the biomass fuel that is available if State policies are corrected and fuel derived pursuant to the Healthy Forest Initiative qualifies for RPS and SEPs eligibility; and adopt and implement Sierra Biomass' recommendations as actions that the Commission can promptly take to eliminate existing regulatory impediments.

Respectfully submitted,

SIERRA BIOMASS LLC

By: Steve Munson

Steve Munson, CEO

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38230-00100 03/17/06

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Subject: Comments of Vulcan Power Company; Docket No. 06-BAP-1
CC: "McSpadden, Kevin" <kmcspadden@milbank.com>, <smunson@vulcanpower.com>

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