

BEFORE THE CALIFORNIA ENERGY COMMISSION

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**COMMENTS OF
SUSTAINABLE CONSERVATION
ON DRAFT 2011 BIOENERGY ACTION PLAN
(DOCKET NO. 10-BAP-01)**

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For SUSTAINABLE CONSERVATION

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Sustainable Conservation is pleased to submit these comments on the staff draft report of the 2011 Bioenergy Action Plan (“Plan”).¹ Sustainable Conservation has participated before the California Energy Commission (“CEC”) for many years on issues related to bioenergy, with a focus on how to better engage the agriculture and food processing industries in energy production. The draft Plan includes many elements that can, if appropriately implemented, advance the deployment of bioenergy in California. There are, however, a few areas that would benefit from a more aggressive approach, and we are deeply concerned about the timetable for the Senate Bill (“SB”) 32 feed-in tariff. Several new bioenergy facilities currently under construction are dependent on an SB 32 tariff going into effect the first half of 2011 (already 18 months late). If that doesn’t happen it will be very damaging to farm scale bioenergy development in California.

For many years now Sustainable Conservation has testified to the benefits that bioenergy, particularly methane digesters, can provide. No one disputes these benefits. As the draft Plan details, there is great potential for methane digesters, biomass gasification, and other farm scale renewable energy facilities to be deployed across California’s agricultural and food production sectors.² The draft Plan relays that since 2006, seven dairy manure digesters with a combined capacity of 60 MW have gone idle. In part to address this problem, the draft Plan calls for the establishment of an Interagency Working Group that will meet quarterly to develop solutions to permitting and related issues for the range of bioenergy technologies, across sectors.

What the draft Plan does not report are the number of dairy digesters that have not been built because farmers are acutely aware of the challenges they face in successfully building and

¹ California Energy Commission for the Bioenergy Interagency Working Group, *2011 Bioenergy Action Plan*, December 2010, publication CEC-300-2010-012-SD.

² Draft Plan, pp. 10-12.

interconnecting digesters to both the natural gas and electricity grids in the current environment. As we have documented in prior filings, these challenges include obtaining permitting from a number of agencies, financing the project, ensuring that energy from the project can be sold at a price that allows the farmer to recover costs, and interconnecting the project with the energy grid. Perhaps one of the reasons there is no data available in the draft Plan on proposed anaerobic digester gas projects, as well as farm scale gasification, is the lack of market interest currently in pursuing these projects, given the challenges discussed above. The metrics that are used by the Interagency Working Group to measure progress must include indicators for specific bioenergy technologies, including methane digesters, and industry sectors employing those technologies. The Interagency Working Group also should look to states and countries with more robust bioenergy sectors to determine what policies and programs are contributing to their success. Note that there have been many efforts involving interagency coordination on biogas digesters, dating back ten years. They have all been ineffective. This one can be different.

The draft Plan correctly identifies problems with price (including a Feed-in Tariff) and interconnection as barriers to greater deployment of methane digesters. The California Public Utilities Commission (“CPUC”) is identified as the lead agency for resolving these issues. Sustainable Conservation is an active participant in the CPUC’s proceedings on these issues. We find distressing in the draft Bioenergy Action Plan the target date for completing work on these key barriers: December 31, 2012. That is, quite simply, disastrous.

In October 2009, the Governor signed Senate Bill 32, which directs the CPUC to develop a different price structure for renewable energy projects under 3 MW. The CPUC has done nothing to date to implement this legislation. Are we now to understand that it will take the CPUC three years to implement SB 32? At this rate, the next Bioenergy Action Plan will likely

have similarly dismal results to report for agricultural participation in solving energy and environmental problems. The most urgent task for the Interagency Working Group, one on which it needs to start immediately, is to persuade the CPUC to develop and implement the SB 32 feed-in tariff right away. Nothing the Working Group will do can come close to that in importance. Without success in this effort, the financial markets may give up on California. We have had three years hiatus in digester construction, in large part because of regulatory barriers. That came to an end in 2010 as we began finding ways to surmount those hurdles. Several new facilities are now planned or in construction (also true for gasification). They are all relying on the SB 32 tariff going into effect in the first half of 2011. If that does not happen, we will have demonstrated to the financial markets that investing in bioenergy in California is too risky.

The draft Plan also notes potential actions at the Federal level that could have adverse impacts on California's efforts to deploy more bioenergy. The Plan would benefit from greater specificity on which departments and agencies within California State government are responsible for advocating California's interests on these matters. The CEC should consider inviting Regional Administrators from these federal agencies, particularly the U.S. Environmental Protection Agency, to serve on the Interagency Working Group.

Sustainable Conservation commends the CEC for taking a greater leadership role in convening the Interagency Working Group. The CEC must also establish robust targets and more aggressive schedules for resolving the challenges that currently confront bioenergy in California. Unless results are achieved, this will be one more failed interagency effort.