

Mount Shasta Bioregional Ecology Center

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September 29, 2003

Via e-mail and U.S. Mail

California Energy Commission
Re: Docket No. 03-RPS-1078
Docket Unit, MS-4
1516 Ninth Street
Sacramento, CA 95814-5504
E-Mail: docket@energy.state.ca.us

To whom It May Concern:

We did not receive the September 10, 2003 Notice of the September 29th 2003 Hearing of the California Energy Commission Committee on the Renewable Portfolio Standard [RPS] Phase II Implementation. No notice was received by e-mail or by U.S. mail despite our request made on August 22, 2003 for such Notice. [See attached e-mail correspondence with the Public Advisor for the California Energy Commission.]

It is only by chance that we become aware *today* of the Hearing on the Committee's Draft Decision for RPS Phase II Implementation issues [500 03 049 FD] which occurred *today* and it is too late to participate by teleconference. Our ability to comment on the Final Committee Draft Decision on the RPS Decision on Phase II Implementation Issues is limited by this lack of Notice. ¹

We believe that the Committee should issue a *strong position* that states they will *withhold funding and certification of those Projects that have a documented Environmental Justice impact*. We are disappointed that "the Committee has deferred consideration of the issue of whether it should provide preference to projects that provide tangible benefits to communities with a plurality of minority or low-income populations." [See 500 03 049 at page 2] Such a deferral and lack of *preference* for minority and low income populations, as well as failing to provide guidelines to prohibit CEC support of projects with documented Environmental Justice impacts could be seen as further evidence of discrimination by the California Energy Commission. [See 500 03 049 at page 24, outlining criteria for funding award and page 26 outlining certification criteria. The current criteria *does not prohibit* the CEC to fund or certify Projects with documented Environmental Justice impacts and does not contain provisions that give preference to minority and low income populations.]

The California Energy Commission is well aware of two geothermal projects that have documented Environmental Justice impacts that can not be mitigated. These two

¹ That Notice directed comments to be submitted by today, September 29, 2003.

geothermal projects are proposed by Calpine Corporation, who was noticed and attended the Workshops on RPS implementation. [See Appendix A –Participants in the RPS implementation Proceeding] ² The CEC has a legal provision [SB 1078 and SB 1038 codified in Public Utilities Code 383.5] that would allow the CEC to implement guidelines for projects that support minority and low-income populations. Nevertheless, the California Energy Commission is backing-away from such decisions knowing that the consequence is that projects, like Calpine’s two geothermal projects at the sacred Medicine Lake Highlands, could be funded and certified despite the significant and disproportionate impacts to a minority low-income population, the Native Americans. ³

Thank you for consideration of these comments and we ask to be on the U.S. mailing and e-mail list for further notices, workshops, and hearings on the RPS issue.

Sincerely,

Peggy Risch

Peggy Risch

Environmental Research Associate

Cc

Debbie Sivas, esq.

Michelle Berditshevsky, Native Coalition

Gene Preston, Pit River Tribe

Janie Painter, SMLC

Mike Boyd, CARE

Governor Gray Davis

Mary Nichols

DOJ

² The Fourmile Hill and the Telephone Flat Geothermal Development Projects are the name of these two geothermal development projects proposed by Calpine Corporation in the sacred Medicine Lake Highlands that a documented disproportionate impact to Native Americans.

³ See July 10, 2003 letter from EarthJustice to Darcy Houcks, CEC legal council as well as numerous transcripts and written comments over the years from the Native Coalition of Medicine Lake Highlands Defense, the Pit River Tribe, and the Ecology Center on numerous CEC funding solicitations.