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May 18, 2004

California Energy Commission
Re: Docket No. 03-RPS-1078
Docket No. 02-REN-1038
Docket Unit, MS-4
1516 Ninth Street
Sacramento, CA 95814-5504

Sent on May 18, 2004 via e-mail to docket@energy.state.ca.us

Re: The California Energy Commission [CEC] will consider adopting revisions to the Renewables Portfolio Standard Eligibility Guidebook and the New Renewable Facilities Program Guidebook. These Guidebooks were adopted at the April 21, 2004 Business Meeting. The Committee recommends these proposed changes pursuant to Public Resources Code section 25747, which authorizes the Energy Commission to approve substantive changes to the Guidebooks upon providing 10 days public notice.

Dear California Energy Commissioners,
The Public Notice for the May 19th Business Meeting states that the proposed revisions are based on oral and written comments received at the April 21, 2004 Business Meeting, the Energy Commission's Renewables Committee (Committee). Unfortunately, none of proposed revisions include any of our recommendations that were submitted in writing on April 19, 2004 or at the April 21st Business Meeting.[1] The following is a summary of those issues that were previously raised:

1) The CEC decisions on RPS pre-certification and certification, SEPs awards, and other funding decisions are an *agency action* subject to the California Environmental Quality Act [CEQA]. There was extensive oral testimony on this issue at the April 21st Business Meeting. The CEC has not responded.

2) The current Guidebook acknowledges that the CEC "may give preferential support for projects that provide tangible beneficial benefits to communities with a plurality

[1] We incorporate by reference those written and oral comments as well as the multitude of our written and oral comments submitted to the CEC on the funding of geothermal developments at the Medicine Lake Highlands since 1998. We also incorporate by reference those comments made by the Native Coalition for Medicine Lake Highlands Defense, Mike Boyd of CARE and Janie Painter of the Save Medicine Lake Highlands Coalition.

of minority and low income populations." [2] However, there are absolutely no provisions for how the CEC will specifically achieve this. Instead, the CEC has deferred this to some unknown future time "as needed" on a "case-by-case basis". However, the time is now when these provisions are needed. The CEC acknowledges that once the Guidebooks are adopted there will be many projects applying for RPS pre-certification and certification, and solicitations for funding through SEPs and other awards. The CEC should not ignore or defer guidebook criteria that understandable would affect minorities, religious freedom, cultural resources, and sacred lands. Your decisions will affect today's Native Americans and future generations' ability to practice their land based religion. This lack of action by the CEC is a form of discrimination against minority and low-income populations.

3) We recommended that the CEC include criteria certification language in each of the three Guidebooks that would:

a) Eliminate projects that have documented Environmental Justice Impacts that cannot be mitigated to less than significant;
b) eliminate projects that are within eligible Traditional Cultural Districts or affect known sacred sites; and
c) Require all projects to complete NEPA, CEQA, and NHPA Section 106 process *prior* to submission of an application in order to avoid prejudicing the Section 106 process.
d) Eliminate projects that have documented environmental impacts that can not be mitigated to less than significant.

We ask the California Energy Commission to seriously consider the very real consequences of their individual and collective decisions today that will influence how sacred lands, Native Americans and other minorities, and land based religious freedoms will be affected in the future by renewable projects. The three RPS guidebooks lack clearly defined enforceable criteria that would implement the "preferential support for projects that provide tangible beneficial benefits to communities with a plurality of minority and low income populations". The RPS program overview is to 'secure for California the environmental and reliable benefits' of renewable power. However, this reliable benefit of renewable power must not be at *all* costs. [3]

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[2] See page 2 of Guidebook 500-04-001FD

[3] We have specifically asked that any application for RPS pre-certification, certification, or SEPs for geothermal power production from the Medicine Lake Highlands, also known as the Glass Mountain KGRA, be denied for the many reasons that have been well documented over time, including the *documented* Environmental Justice impacts that can not be mitigated to less than significant at *both* the proposed Fourmile Hill and Telephone Flat Projects. As the Commissioners are well aware, the Telephone Flat project is located within the heart of the Traditional Cultural District, which would be seriously degraded by geothermal development. Given these *documented* facts, these types of projects should be ineligible for RPS certification and SEPs. By approving financial incentives for such projects the CEC will knowingly promote and encourage the *documented* Environmental Justice impacts to a minority and low income population.

We thank you for considering these comments and our recommendations.

Sincerely,
Peggy Risch
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Environmental Research Associate

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