

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE
STATE OF CALIFORNIA**

IN THE MATTER OF:

**APPLICATION FOR CERTIFICATION FOR THE
SAN FRANCISCO ELECTRIC RELIABILITY
PROJECT**

DOCKET No. 04-AFC-1

RULING RE SUBPOENA FOR RWQCB WITNESS

I. BACKGROUND

On May 12, 2006, Intervenor Californians for Renewable Energy (CARE) filed a document entitled "Request for Subpoena of Nancy Katyl, California Regional Water Quality Control Board." The gist of this filing is to require that Ms. Katyl testify on the topic of "Alternatives" at the May 22, 2006, Evidentiary Hearing. In CARE's words, ". . . Ms. Katyl is needed to provide rebuttal testimony in the form of the description of the RWQCB's [Regional Water Quality Control Board] SLIC (Spills, Leaks, Investigations and Cleanups) program . . .". Ms. Katyl has apparently declined CARE's invitation to appear.

The RWQCB objected to the subpoena request on May 17, 2006.

II. DISCUSSION

CARE bases its request on the perceived need to rebut testimony on the topic of "Soil and Water Resources". This topic is not scheduled to be heard until May 22, 2006. Although CARE also apparently desires clarification of the RWQCB's SLIC program, it is not apparent that Ms. Katyl is the only person capable of providing this information. In its Response, the RWQCB effectively counters CARE's reasons for seeking to subpoena Ms. Katyl.

We conclude that CARE has not adequately supported its subpoena request. We realize, however, that the area of Soils and Water encompasses a role for the RWQCB. We also believe that the record could benefit from an explanation of this role and its relationship to proposed Conditions of Certification.

Therefore, we accept the RWQCB's offer of a witness in lieu of Ms. Katyl. Staff shall coordinate with the RWQCB to ensure that such witness is available during the Soil and Water Resources portion of the upcoming evidentiary hearings.

III. RULING

The Request to Subpoena Ms. Katyl is DENIED. Another knowledgeable RWQCB witness shall be available during the portion of the upcoming evidentiary hearings devoted to Soil and Water Resources.

Dated May 19, 2006, at Sacramento, California.

Original Signed by:

JAMES D. BOYD
Commissioner and Presiding Member
San Francisco Electric Reliability Project AFC Committee

Original Signed by:

JOHN L. GEESMAN
Commissioner and Associate Member
San Francisco Electric Reliability Project AFC Committee