

Michael L. Rood  
County Counsel

Ruth B. Montenegro  
Assistant County Counsel

Katherine Kniec Turner  
Senior Deputy County Counsel

Geoffrey P. Holbrook  
Senior Deputy County Counsel



County Administration Center  
940 West Main Street, Suite 205  
El Centro, CA 92243  
Telephone (760) 482-4400  
Fax No. (760) 353-9347  
countycounsel@co.imperial.ca.us

Deputies:

Thomas V. Barrington  
Bianca P. Legaspi  
Kyle Sand  
Vahe Borzakian  
Monica Lepe-Negrete  
Haislip W. Hayes, II  
Rosario Gonzalez

September 16, 2011

California Energy Commission  
Docket Unit  
Attn: Docket No. 09-AFC-9  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512

<b>DOCKET</b>	
<b>09-AFC-9</b>	
DATE	SEP 16 2011
RECD.	SEP 16 2011

**Re: County Of Imperial's Letter In Support Of California State Association Of Counties' Brief Opposing Motion For Order Affirming Application Of Jurisdictional Waiver For The Ridgecrest Solar Power Project (Docket No. 09-AFC-9)**

Dear Honorable Members of the Energy Commission:

Pursuant to the Commission's Order of August 24, 2011 (Order No. 11-0824-8), the County of Imperial respectfully submits this letter in support of the arguments made by the California State Association of Counties (CSAC) in its brief opposing Applicant's Motion for Order Affirming Application of Jurisdictional Waiver for the Ridgecrest Solar Power Project (Docket No. 09-AFC-9).

The County of Imperial strongly opposes Applicant's request for an order allowing a developer of a photovoltaic electrical generating facility the discretion to voluntarily submit to the Commission's jurisdiction. The purpose of the Warren-Alquist Act ("Act") is to confer upon the Commission jurisdiction to site only thermal powerplants and related electric transmission lines. (*Public Resources Code* §25500.) Under the Act, "sites" are defined as "any location on which a facility is constructed or is proposed to be constructed" (*Pub. Res. Code* § 25119), and "facility" is defined as "any electric transmission line or thermal powerplant or both." (*Pub. Res. Code* § 25110.) The Act further defines "thermal powerplant" as "any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, or any facilities appurtenant thereto." (*Pub. Res. Code* § 25120.) By these definitions, photovoltaic facilities are specifically excluded from the Commission's jurisdiction. (*Pub. Res. Code* §§ 25110; 25120.)

As such, jurisdiction over photovoltaic facilities is instead exclusively vested in local land use authorities by their constitutionally conferred police powers. If the Commission grants Applicant's Motion for Order and affirms the Application of Jurisdictional Waiver, Kern County may, at the election of Applicant, be deprived of its constitutionally conferred police power to permit the Ridgecrest Solar Power Project.

Moreover, granting of the Motion and issuance of the requested Order Affirming Application of Jurisdictional Waiver would have far reaching effects. Other solar power plant developers will likely seek similar orders and other counties may, at the election of developers, be deprived of their constitutionally conferred police power to permit photovoltaic facilities.

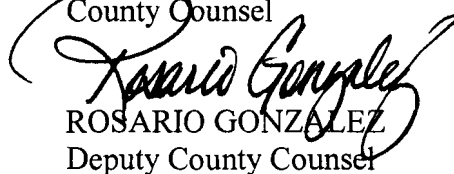
The County of Imperial fully supports and incorporates the arguments raised by CSAC in the Brief Opposing Motion for Order Affirming Application of Jurisdictional Waiver filed in this case. Therefore, the County of Imperial respectfully requests:

- 1) That the Commission deny Applicant's Motion For Order Affirming Application of Jurisdictional Waiver for the Ridgecrest Solar Power Project (Docket No. 09-AFC-9); and
- 2) That County of Imperial be added to the Proof of Service list as an Interested Agency for this Docket No. 09-AFC-9.

Thank you for your consideration of this matter. Should you have any questions concerning the County of Imperial's position, please contact me at (760) 482-4400.

Regards,

MICHAEL ROOD  
County Counsel



ROSARIO GONZALEZ  
Deputy County Counsel

cc: See Attached Proof of Service.



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA  
1516 NINTH STREET, SACRAMENTO, CA 95814  
1-800-822-6228 – [WWW.ENERGY.CA.GOV](http://WWW.ENERGY.CA.GOV)**

**APPLICATION FOR CERTIFICATION  
For the *RIDGECREST SOLAR POWER  
PROJECT***

**Docket No. 09-AFC-9  
PROOF OF SERVICE  
(Revised 8/15/2011)**

**APPLICANT**

STA Development, LLC  
Billy Owens  
Senior Director,  
Project Development  
1111 Broadway, 5th Floor  
Oakland, CA 94607  
[billy.owens@solartrustofamerica.com](mailto:billy.owens@solartrustofamerica.com)

STA Development, LLC  
Alice Harron  
Vice President,  
Project Development  
1111 Broadway, 5th Floor  
Oakland, CA 94607  
[alice.harron@solartrustofamerica.com](mailto:alice.harron@solartrustofamerica.com)

**CONSULTANT**

AECOM  
Elizabeth Copley, Project Manager  
2101 Webster Street, Suite 1900  
Oakland, CA 94612  
[elizabeth.copley@aecom.com](mailto:elizabeth.copley@aecom.com)

**APPLICANT'S COUNSEL**

Galati/Blek, LLP  
Scott Galati  
Marie Mills  
455 Capitol Mall, Suite 350  
Sacramento, CA 95814  
[sgalati@gb-llp.com](mailto:sgalati@gb-llp.com)  
[mmills@gb-llp.com](mailto:mmills@gb-llp.com)

Paul, Hastings, Janofsky & Walker,  
LLP  
Peter Weiner, Matthew Sanders  
55 2nd Street, Suite 2400-3441  
San Francisco, CA 94105  
[peterweiner@paulhastings.com](mailto:peterweiner@paulhastings.com)  
[matthewsanders@paulhastings.com](mailto:matthewsanders@paulhastings.com)

STA Development, LLC  
Jim Migliore, Associate  
Environmental Management  
1111 Broadway, 5th Floor  
Oakland, CA 94607  
*E-mail preferred*  
[jim.migliore@solartrustofamerica.com](mailto:jim.migliore@solartrustofamerica.com)

**INTERVENORS**

Desert Tortoise Council  
Sidney Silliman  
1225 Adriana Way  
Upland, CA 91784  
[gsilliman@csupomona.edu](mailto:gsilliman@csupomona.edu)

California Unions for Reliable Energy  
(CURE)  
Tanya A. Gulesserian  
Elizabeth Klebaner  
Marc D. Joseph  
Adams, Broadwell, Joseph  
& Cardozo  
601 Gateway Boulevard,  
Suite 1000  
South San Francisco, CA 94080  
[tgulesserian@adamsbroadwell.com](mailto:tgulesserian@adamsbroadwell.com)  
[eklebaner@adamsbroadwell.com](mailto:eklebaner@adamsbroadwell.com)

Basin and Range Watch  
Laura Cunningham  
Kevin Emmerich  
P.O. Box 70  
Beatty, NV 89003  
[bluerockiguana@hughes.net](mailto:bluerockiguana@hughes.net)

Western Watersheds Project  
Michael J. Connor, Ph.D.,  
California Director  
P.O. Box 2364  
Reseda, CA 91337-2364  
[mjconnor@westernwatersheds.org](mailto:mjconnor@westernwatersheds.org)

Kerncrest Audubon Society  
Terri Middlemiss, Dan Burnett  
P.O. Box 984  
Ridgecrest, CA 93556  
[catbird4@earthlink.net](mailto:catbird4@earthlink.net)  
[imdandburnett@verizon.net](mailto:imdandburnett@verizon.net)

Center for Biological Diversity  
Ileene Anderson  
Public Lands Desert Director  
PMB 447  
8033 Sunset Boulevard  
Los Angeles, CA 90046  
*E-mail preferred*  
[ianderson@biologicaldiversity.org](mailto:ianderson@biologicaldiversity.org)

Center for Biological Diversity  
Lisa Belenky  
Senior Attorney  
351 California Street, Suite 600  
San Francisco, CA 94104-2404  
*E-mail preferred*  
[lbelenky@biologicaldiversity.org](mailto:lbelenky@biologicaldiversity.org)

**INTERESTED AGENCIES/  
ENTITIES/PERSONS**

California ISO  
*E-mail Preferred*  
[e-recipient@caiso.com](mailto:e-recipient@caiso.com)

U.S. Department of the Interior,  
Bureau of Land Management  
Janet Eubanks, Project Manager,  
California Desert District  
22835 Calle San Juan de los Lagos  
Moreno Valley, California 92553  
[janet\\_eubanks@ca.blm.gov](mailto:janet_eubanks@ca.blm.gov)

**INTERESTED AGENCIES/ENTITIES  
PERSONS (Cont.)**

Naval Air Warfare Center Weapons Division  
Michael Owens, Energy Coordinator  
1 Administration Circle  
China Lake, CA 93555-6100  
E-mail preferred  
[michael.t.owens@navy.mil](mailto:michael.t.owens@navy.mil)

Naval Air Warfare Center Weapons Division  
Michael Owens, Energy Coordinator  
575 "I" Avenue, Suite 1  
Point Mugu, CA 93042-5049  
E-mail preferred  
[michael.t.owens@navy.mil](mailto:michael.t.owens@navy.mil)

Naval Air Weapons Station, China Lake  
CAPT Jeffrey Dodson, Commanding Officer  
1 Administration Circle, Stop 1003  
China Lake, CA 93555-6100  
E-mail preferred  
[jeffrey.dodson@navy.mil](mailto:jeffrey.dodson@navy.mil)

Naval Air Weapons Station, China Lake  
Tim Fox  
Community Plans & Liaison Officer  
429 E Bowen Rd, Stop 4003  
China Lake, CA 93555-6100  
E-mail preferred  
[timothy.h.fox@navy.mil](mailto:timothy.h.fox@navy.mil)

**ENERGY COMMISSION  
DECISION MAKERS**

JAMES D. BOYD  
Vice Chair and Presiding Member  
[jboyd@energy.state.ca.us](mailto:jboyd@energy.state.ca.us)

Kourtney Vaccaro  
Hearing Officer  
[kvaccaro@energy.state.ca.us](mailto:kvaccaro@energy.state.ca.us)

Tim Olson  
Adviser to Commissioner Boyd  
[tolson@energy.state.ca.us](mailto:tolson@energy.state.ca.us)

**ENERGY COMMISSION STAFF**

Jared Babula  
Staff Counsel  
[jbabula@energy.state.ca.us](mailto:jbabula@energy.state.ca.us)

Eric Solorio  
Project Manager  
[esolorio@energy.state.ca.us](mailto:esolorio@energy.state.ca.us)

**ENERGY COMMISSION –  
PUBLIC ADVISER**

Jennifer Jennings  
Public Adviser  
E-mail preferred  
[publicadviser@energy.state.ca.us](mailto:publicadviser@energy.state.ca.us)

**DECLARATION OF SERVICE**

I, Priscilla Chavarria, declare that on September 16, 2011, I served and filed copies of the attached COUNTY OF IMPERIAL'S LETTER IN SUPPORT OF CALIFORNIA STATE ASSOCIATION OF COUNTIES' BRIEF OPPOSING MOTION FOR ORDER AFFIRMING APPLICATION OF JURISDICTIONAL WAIVER FOR THE RIDGECREST SOLAR POWER PROJECT (DOCKET NO. 09-AFC-9) dated September 16, 2011. The original document, filed with the Docket Unit or the Chief Counsel, as required by the applicable regulation, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [\[www.energy.ca.gov/sitingcases/solar\\_millennium\\_ridgecrest/index.html\]](http://www.energy.ca.gov/sitingcases/solar_millennium_ridgecrest/index.html)

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

***(Check all that Apply)***

**For service to all other parties:**

- Served electronically to all e-mail addresses on the Proof of Service list;
- Served by delivering on this date, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "e-mail preferred."

**AND**

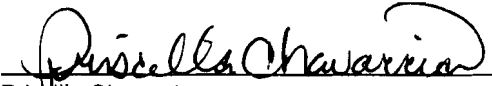
**For filing with the Docket Unit at the Energy Commission:**

- by sending an original paper copy and one electronic copy, mailed with the U.S. Postal Service with first class postage thereon fully prepaid and e-mailed respectively, to the address below (preferred method); **OR**
- by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

**CALIFORNIA ENERGY COMMISSION – DOCKET UNIT**  
Attn: Docket No. 09-AFC-9  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512  
docket@energy.state.ca.us

**CALIFORNIA ENERGY COMMISSION—CHIEF COUNSEL**  
Michael J. Levy, Chief Counsel  
1516 Ninth Street MS-14  
Sacramento, CA 95814  
mlevy@energy.state.ca.us

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

  
\_\_\_\_\_  
Priscilla Chavarria

\*indicates change