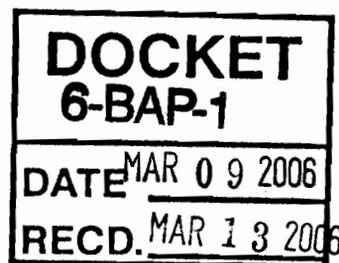


March 9, 2006

Commissioner James Boyd
California Energy Commission (CEC)
Attn: Docket No. 06-BAP-1
1516 Ninth St., MS-4
Sacramento, CA 95814-5512



Re: Draft Bioenergy Action Plan -
Interagency Working Group (06-BAP-1)

Dear Commissioner Boyd;

I have reviewed the Bioenergy Interagency Working Group draft Bioenergy Action Plan prepared by Navigant Consultants. This is a timely document that provides an excellent overview of the issues surrounding biofuels and renewable sources of energy. It also contains recommendations that Sustainable Conservation fully supports.

I have several observations and suggestions relevant to the draft Bioenergy Action Plan for consideration by the Interagency Working Group. They are as follows

It appears California is going in two different directions when it comes to bioenergy. Several recent reports, including the draft Bioenergy Action Plan, make insightful recommendations for policy directions in support of biofuels and renewable energy. However, based on my view from the trenches, I believe we are losing the battle on the ground and sectors of State government are part of the problem. Here are three examples.

1. More biomass generating capacity is closing than opening as the number of wood burning plants continues in decline; this is in large part due to the unwillingness of the investor owned utilities to provide better contracts to the power generators. And those interested in opening new capacity using other feedstocks are stymied by regulations.
2. EPA's oxygenate requirement, which has resulted in an average of 5.7% ethanol in California gasoline, goes away this year allowing petroleum refiners to decide how much ethanol to blend in gasoline; this has long been a goal of the Air Resources Board (ARB), and some sectors of California's environmentally community. However, the removal of ethanol could result in an additional 3.5 millions tons of CO2 being released annually in California, the 12th largest emitter of greenhouse gases in the world. It could also result in greater upstream air emissions in comparison to using ethanol to displace petroleum.
3. No new methane digesters have been approved since mid 2005 as the influential Region 5 Water Board (RB-5) has implemented new requirements effectively stopping construction of already funded digesters and threatening those that are planned. Tens of thousand of dollars spent on consultant and environmental studies have failed to gain approval. In ironic juxtaposition, a 2005 report prepared for the California Public Utilities Commission finds methane digester the highest ranked of all distributed generation technologies looking at social, economic and environmental measures.

The good intentions embedded in the report will have difficulty being realized in large part due to a regulatory environment that favors the status quo over innovation but also because of investor owned utilities (IOUs) do not see it in their current self interest to buy renewable energy, even where it can be purchased at below market rates (electricity from methane digesters on dairy farms being a prime example). The Renewable Portfolio Standard (RPS) has not significantly altered this situation. A divided environmental community exacerbates both of these problems with an influential minority working to prevent the growth of biomass energy in California. The latter is a consequence of both differences in environmental priorities and dissimilar interpretations of available data.

Here are some recommendations.

There needs to be a more collaborative regulatory approach where regulators have a major stake in solutions not just in the contingencies of potential impacts. If a new fuel, technology or practice addresses say five or ten existing environmental problems but increases slightly one or two pollutants, the pollution problems that are solved should be balanced against the impacts of the potential increases. Regulatory triggers in existing regulations don't do that. Criteria need to be revised so the net environmental benefit is evaluated, including the upstream impacts. That change is unlikely to occur without the leadership of the agencies having a vested interest in broader environmental goals and not just a source of emission under immediate scrutiny. Empowering Cal EPA with actual authority to overrule individual agencies decisions that do not comport with this outcome could change the current dynamic and shift the momentum toward innovation.

A divided environmental community, particularly on the biomass issues, is a significant barrier to implementing the goals of the report. Some of the differences are philosophical but others reflect a lack of information about new technologies and fuel strategies. More involved leadership by those held in positions of esteem might help tip the balance favor of renewable biomass. As a specific recommendation, CEC could hold a series of workshop on some of the key environmental issues. The goal would be to develop a set of principles for evaluating innovative approaches. In particular, a mutually agreed upon system of evaluation that treats existing approaches with the same critical eye as new ones, could allow for more objective evaluation while creating a forum to move beyond the existing divide. It could also compel undecided environmental sectors to take a position that clearly articulates tradeoffs of one approach over another. That would allow for a more thoughtful outcome than one where opposition to "new" is the easiest option.

The IOU's need to have a significant stake in renewable energy based on a distributed model of power generation and not just conventional centralized power stations. The Sacramento Municipal Utilities District (SMUD) provides such a model. They have aggressively pursued distributed generation focusing on renewable energy development while insuring the ratepayers get a fair price for electricity. The State has a role to play in moving the IOUs in that direction. The report would do well to recommend more active engagement on this issue by the State, including tax and other incentives for investing in renewable sources of electricity, particularly the neglected biomass sector.

Again let me complement the Interagency Working Group and Navigant Consulting on an excellent Bioenergy Action Plan and thank you for considering my suggestions.

Sincerely,

Allen J. Dusault
Program Director

Cc: Susan Brown, CEC