

B. B. Blevins –Executive Director
California Energy Commission
1516 Ninth Street, MS-15
Sacramento, CA 95814
Phone: 916- 654-4206
E-mail: bblevins@energy.state.ca.us

DOCKET	
04-AFC-1	
DATE	<u>JUN 12 2006</u>
RECD.	<u>JUN 13 2006</u>

Bruce H. Wolfe
Executive Officer
San Francisco Bay Regional
Water Quality Control Board
1515 Clay St. Suite 1400
Oakland, CA 94612
Phone: (510) 622-2300
E-mail: BWolfe@waterboards.ca.gov

Demand to Correct or Cure Violations of the Bagley-Keene Open Meeting Act

CAlifornians for Renewable Energy, Inc. (CARE) respectfully demands that the San Francisco Bay Regional Water Quality Control Board (SFBRWQB) and the California Energy Commission (CEC)¹ cure or correct actions² alleged to have been taken in violation of California Government Code §§11120 et seq. the Bagley-Keene Open Meeting Act³ in that the SFBRWQB and the CEC failed to provide the public proper notice prior to the June 5, 2006 execution of the *Memorandum of Understanding between the California Energy Commission Staff and the Staff of the San Francisco Bay Regional Water Quality Control Board*.

In addition to doing what amounts to the public's business illegally in secret, such actions, denied the public an opportunity for meaningful and

¹ "§ 11121.2. As used in this article, "state body" also means any board, commission, committee, or similar multimember body which exercises any authority of a state body delegated to it by that state body."

² § 11122. Action taken; defined As used in this article "action taken" means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action.

³ The Act expressly prohibits the use of direct communication, personal intermediaries, or technological devices that are employed by a majority of the members of the state body to develop a collective concurrence as to action to be taken on an item by the members of the state body outside of an open meeting. (§ 11122.5(b).)

informed public participation in the MOU prior to its execution on June 5th. Additionally this action failed to meet the public notice requirements under the Bagley-Keene Open Meeting Act which requires 10 days advanced notice of the meeting. Additionally the Open Meeting Act requires that the public be given an opportunity to speak at the meeting while no agenda item allowing public participation is listed on any meeting agenda of either Agency.

The failure to provide proper notice to CARE and other members of the public violated the Bagley-Keene Open Meeting Act California Codes Government Code §§11120 et seq. which requires 10 days advanced notice be provided on the internet. § 11125(a) of which provides:

The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the Internet at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the Internet site where notices required by this article are made available."

Demands to Correct or Cure Violations

This acts as notice to call to your attention what CARE alleges was a substantial violation of central provisions of the Bagley-Keene Open Meeting Act to provide 10 days advanced notice of the June 5, 2006 execution of the *Memorandum of Understanding between the California Energy Commission Staff and the Staff of the San Francisco Bay Regional Water Quality Control Board*.

The cure CARE seeks is the immediate revocation of said MOU including proper 10 notice by said Agencies of said meeting with an opportunity to speak at said meeting prior to execution of said agreement in accordance with the Act, to provide CARE an opportunity to exercise our constitutionally protected due process and equal protection rights, and the public an opportunity for meaningful and informed public participation in accordance

with the First Amendment constitutional rights enjoyed by citizens of the United States.

Respectfully submitted,



By

Filed Electronically 6-12-06
Michael E. Boyd – President, CARE
5439 Soquel Drive
Soquel, California 95073
(408) 891-9677
E-mail: michaelboyd@sbcglobal.net

CC.

Docket 04-AFC-1, San Francisco Energy Reliability Project, Service List
San Francisco Bay Regional Water Quality Control Board NPDES PERMIT R2-
2006-0032, Service List

Verification

I am an officer of the complainant corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except matters, which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 12th, 2006 at Soquel, California



Michael E. Boyd – President, CARE
CALifornians for Renewable Energy, Inc. (CARE)
5439 Soquel Dr.
Soquel, CA 95073-2659
Tel: (408) 891-9677
Fax: (831) 465-8491
E-mail: michaelboyd@sbcglobal.net