

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to
Continue Implementation and
Administration of California Renewables
Portfolio Standard Program.

Rulemaking R.11-05-005

**COMMENTS OF THE GREEN POWER INSTITUTE
ON THE APRIL 29, 2014, CALFIRE STAFF WHITE PAPER**

June 20, 2014

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**COMMENTS OF THE GREEN POWER INSTITUTE
ON THE APRIL 29, 2014, CALFIRE STAFF WHITE PAPER**

Pursuant to the April 8, 2014, *Administrative Law Judge's Ruling (1) Issuing Staff Proposal to Reform Procurement Review Process for the Renewables Portfolio Standard Program, (2) Setting Comment dates, and (3) Entering Staff Proposal into the Record*, in Proceeding R-11-05-005, the **Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program**, the Green Power Institute (GPI), the renewable energy program of the Pacific Institute for Studies in Development, Environment, and Security, provides these *Comments of the Green Power Institute on the April 29, 2014, CalFIRE Staff White Paper*.

The April 29, 2014, CalFIRE Staff White Paper (White Paper), which is an Attachment to the May 9, 2014, *Placer County Air Pollution Control District Motion to Supplement the Record to Summarize Previously Filed CalFIRE White Paper within the Phase of this Proceeding Concerning the Implementation of SB 1122 (the Bioenergy FIT Program)*, is an update to their more extensive 2013 *White Paper*, incorporating changes resulting from previous rounds of comments. Our *Comments* here are focused on the issue of eligibility requirements for biomass fuels for SB 1122 biomass generators.

SB 1122 provides statutory language that identifies the kinds of forest fuels that are eligible to be used in facilities developed under the provisions of the legislation. Fuels that can be used in SB 1122 facilities in the forest fuels category must be the byproducts of sustainable forest management derived from Fire Threat Treatment Areas as designated by CalFIRE. The Fire Threat Treatment Areas are defined in a 2005 CalFIRE report. This leaves it to this Commission to determine what constitutes sustainable forest management practices for purposes of compliance with SB 1122.

The GPI has argued consistently in this proceeding that California's Z'berg-Nejedly Forestry Practices Act already provides the regulatory framework for sustainable forestry

practices in the state, and that all forestry operations that are conducted in conformance with the act, or in conformance with equivalent federal laws and regulations on federal lands, should be deemed sustainable. Other parties have argued for a more prescriptive definition of sustainable forest management. One of the problems with a prescriptive definition is that it is too easy to leave off the list activities that ought to be qualified.

We are also concerned that an overly restrictive interpretation of the statute has the potential to put the Commission in the position of having to regulate forestry practices, a position that, we believe, is outside of both its jurisdiction and areas of expertise. In the opinion of the GPI, the language in SB 1122 does not imply a desire for the establishment of restrictive specifications for fuel that limits fuel sources to only a subset of the potential sources of fuel that are produced by forestry activities conducted in accordance with all applicable state and federal environmental laws and regulations. It simply calls for fuels that are derived from activities that are conducted in accordance with sustainable forest-management practices. We believe that the Forest Practices Act already provides for that.

The definition of sustainable forest management that is proposed in the White Paper is presented on page 4 of the document:

Qualifying byproducts from sustainable forest management include materials derived from projects that are conducted to reduce fuels which pose a threat to public and the environment in and around communities as well as projects that can be demonstrated to contribute to restoration of forests, enhance the resilience of forests through reduction in fire threat, contribute to restoration of unique forest habitats or maintains or restores forest biodiversity, productivity and regeneration capacity.

In our opinion this definition is incomplete, because it does not explicitly include the residuals of commercial forestry activities that are conducted according to sustainable management practices on private or public land. The residuals of sustainable commercial forest harvesting are cut regardless of whether they are used as fuel, and they represent a significant fire hazard if they are left in place. As a result, sustainable forestry management plans in California require that they be collected and either burned in piles, or removed from the site. In our opinion, commercial harvesting residuals should be eligible fuels for

SB 1122 generators. In addition, the residuals of restoration activities following a wildfire clearly should be eligible fuels under SB 1122, as should the removal of invasive species.

On page 5 of the White Paper, four categories of forestry activities are presented that CalFIRE believes provide adequate qualification as sustainable under SB 1122:

- Fire Threat Reduction
- Fire Safe Clearance Activities
- Infrastructure Clearance Projects
- Other Sustainable Forest Management

The fourth category is a catchall category that can include a variety of activities, including forest management activities that comply with all applicable environmental laws and regulations. This would include the Z'berg-Nejedly Forest Practice Act for state and private lands in California, and applicable laws and regulations relating to sustainable practices on federal lands in the state. We believe that language to that effect should be added to the list proposed in the White Paper. We offer our amended version as follows (additions and changes highlighted):

- IV. Other Sustainable Forest Management – biomass feedstock derived from sustainable forest management activities that accomplish one or more of the following: 1) removal of forest management residues produced by activities conducted in accordance with applicable state and federal environmental laws and regulations, and which lead to significant risks of wildfire and air pollution when left in place or burned in piles; 2) forest management applications that maintain biodiversity, productivity, and regeneration capacity of forests in support of ecological, economic and social needs, 3) contributes to forest restoration and ecosystem sustainability, 4) reduces fire threat through removal of surface and ladder fuels to reduce likelihood of active crown fire and/or surface fire intensity that would result in excessive levels of mortality and loss of fire cover or, 5) contributes to restoration of unique habitats within forested landscapes.

We are also concerned about the White Paper's proposed requirements for verification of the source of the fuel wood used for these small generators. As we have argued in previous pleadings, and as demonstrated in the Black and Veatch report that has been entered into the record of this proceeding, small (< 3 MW) biomass generators will be expensive to build and operate, and any regulation that adds unnecessary expenses to the operation only exacerbates the situation. In order to minimize costs to the maximum extent possible,

these small biomass generators will need as much fuel-procurement flexibility as possible, so that when odd lots of relatively inexpensive material become available from time-to-time in the marketplace, the generator will be able to snap them up. If a generator has to go through the analysis recommended in the White Paper, including the Appendix C – 2 analysis performed by a qualified third party (professional forester) for every load of fuel that is used, it is likely that many opportunity fuels will have to be foregone, which is to the detriment of the generator and the ratepayer.

Third party verification, which is mentioned as a possibility in the White Paper, would be cumbersome and expensive, and could limit the flexible that fuel purchasers have to act on. We strongly resist imposing third-party verification as a requirement for participation in the SB 1122 program. We believe that an annual attestation that all fuel is procured from qualified and permitted activities should be sufficient.

Dated June 20, 2014
Respectfully Submitted,

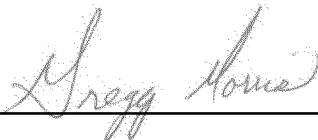


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VERIFICATION

I, Gregory Morris, am Director of the Green Power Institute, and a Research Affiliate of the Pacific Institute for Studies in Development, Environment, and Security. I am authorized to make this Verification on its behalf. I declare under penalty of perjury that the statements in the foregoing copy of *Comments of the Green Power Institute on the April 29, 2014 CalFIRE Staff White Paper*, filed in R.11-05-005, are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

Executed on June 20, 2014, at Berkeley, California.



Gregory Morris