

**CALIFORNIA ALTERNATIVE ENERGY AND
ADVANCED TRANSPORTATION FINANCING AUTHORITY**

Request to Approve Project for a Sales and Use Tax Exclusion¹

**ENV-THREE, LLC
Application No. 21-SM007**

Tuesday, March 16, 2021

Prepared By: *Matthew Jumps, Program Analyst*

SUMMARY

Applicant – ENV-THREE, LLC

Location – Corcoran, Kings County

Industry – Dairy Biogas Production

Project – New Dairy Biogas Production Facility (Alternative Source)

Value of Qualified Property	Estimated Sales and Use Tax Exclusion (“STE”) Amount ²
\$8,784,628	\$746,693

Estimated Net Benefit ³	Dollar Value	Points Earned ⁴
Estimated Fiscal Benefits	\$887,199	1,188
Estimated Environmental Benefits	\$169,593	227
Additional Benefits	N/A	127
Total	\$1,056,792	1,543
Estimated Quantifiable Net Benefit	\$310,098	

Competitive Criteria Score – 137

Staff Recommendation – Approval

¹ All capitalized terms not defined in this document are defined in the STE Program’s statutes and regulations.

² This amount is calculated based on the average statewide sales tax rate of 8.5%.

³ Applications that earn a Total Score of at least 1,000 points and an Environmental Benefits Score of over 20 points may be recommended for approval. (California Code of Regulations Title 4, Division 13, Section 10033(c)(6).)

⁴ Point values and dollar amounts in the staff summary may not add up correctly due to rounding in the Application worksheet.

THE APPLICANT

ENV-THREE, LLC (the “Applicant”), is a California limited liability company that formed in 2018 to construct and manage a new dairy biogas production facility in Corcoran. The Applicant’s parent company, Bennett Environmental, operates other dairy digesters for natural gas production and has two other Applications before the Board for consideration.

The major shareholders (10.0% or greater) of the Applicant are:

Bennett Environmental, LLC (100%)

The major shareholders (10.0% or greater) of Bennett Environmental, LLC, are:

Bennett Environmental, Inc. (57%)

Chris McCoy (23%)

Tom Hintz (10%)

Adam Sabourin (10%)

The major shareholders (10.0% or greater) of Bennett Environmental, Inc. are:

Tyler Bennett (80%)

John Schaap (20%)

The company officers of the Applicant are:

Tyler Bennett, Chief Executive Officer

John Schaap, Partner and Director of Engineering

THE PROJECT

ENV-THREE, LLC, is requesting an STE award to build a new dairy biogas production facility located in Corcoran (the “Project”). The Project will use an up-flow anaerobic sludge blanket tank based anaerobic digester, which mixes influent with organisms to convert dairy wastewater and manure into biogas. The biogas will then be captured and processed into renewable natural gas (“RNG”). The Applicant states that the RNG will be transported to a California Energy Exchange site, which includes existing infrastructure with the PG&E grid, and will be sold to BP Energy of North America for compressed natural gas vehicle use.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Fencing	\$592,252
System Startup Equipment	\$78,298
Foundation	\$338,898
Equalization Tank	\$77,124
Water Pumps, Piping, Valves	\$456,836
Heating System	\$515,117

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Up-flow Anaerobic Sludge Blanket Digester Tanks	\$3,420,473
Sludge Tank	\$83,718
Gas Pipeline Upgrades	\$2,800,581
Trucks	\$37,300
Automation Control System	\$103,480
Electrical	\$280,551
Total	<u>\$8,784,628</u>

Note: The Qualified Property purchases reported in the Application and shown here in staff's report are estimated costs. At the termination of the Regulatory Agreement, a finalized Project equipment list will be prepared detailing the value of the Project equipment actually acquired, and the estimated tax benefit realized pursuant to Revenue and Tax Code Section 6010.8. Variance from the costs shown in the Application and in this report may occur prior to the closing due to increased costs of certain components of the Project over original estimates, and other reasons. In addition, those costs may vary after closing due to increased costs, as well as common design and equipment modifications during construction, differences in equipment due to future changes in statute or regulation, or for other reasons.

TIMELINE

According to the Applicant, pre-development, site improvements, and long-lead material purchases will take place in Q2 2021, construction and commissioning will take place through Q4 2021, and operations are expected to start by the end of 2021.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

The Project will require land use and air quality permits. The Applicant states that Kings County has already approved and issued a land use permit for the Project, and that the San Joaquin Valley Air Pollution Control District is reviewing the air quality permit. The Applicant also states that because the dairy is covered under the Central Valley Regional Water Quality Control Board's General Order for Existing Milk Cow Dairies, no additional water permitting is required.

COMPETITIVE CRITERIA SCORE

In the event that the Applications received by CAEATFA requesting \$2 million or less in STE by the deadline for a particular Board meeting represent STE in excess of the \$20 million set-aside for that calendar year, the Applications submitted for that particular Board meeting will be reviewed and presented to the CAEATFA Board for approval in the order in which they are ranked based on Competitive Criteria.

The Applicant received 137 Competitive Criteria points as follows:

1. **Environmental Benefits (100 of 100 points).** The Applicant's Project earned more than zero environmental benefits points, as calculated pursuant to the method for calculating points for environmental benefits for Advanced Transportation, Alternative Source, and Recycled Resource Extraction Applications in Section 10033(c)(4), and, therefore, 100 points are awarded.
2. **Unemployment (22 of 50 points).** The Applicant's Project is located in Kings County, which has an average annual unemployment rate of 11.1%.⁵ When compared to the statewide average annual unemployment rate of 9.1%, the Project location earned the Applicant 22 points.
3. **Job Creation (0 of 75 points).** The Applicant anticipates the Project will support a total of two production-related jobs at its Facility. CAEATFA estimates that approximately 0.25 of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned zero points.
4. **California Headquarters (15 of 15 points).** The Applicant has a California Corporate Headquarters, and, therefore, 15 points are awarded.
5. **Natural Disaster Relief (0 of 50 points).** The Project is not to rebuild or relocate the Applicant's Facility due to a fire, flood, storm, or earthquake identified in a state of emergency proclaimed by the Governor within two years of the time of application, and, therefore, zero points are awarded.
6. **Eligibility for Manufacturing and Research and Development Equipment Exemption (0 of 50 points).** The Applicant is eligible to use one or more of the exemptions established pursuant to Section 6377.1 of the Revenue and Taxation Code, and, therefore, zero points are awarded.

PROJECT EVALUATION

PROJECT BENEFITS

The Project received a Total Score of 1,543 points, which exceeds the required 1,000-point threshold, and a total Environmental Benefits Score of 227 points, which exceeds the 20-point threshold.

- A. **Fiscal Benefits (1,188 points).** The net present value of the total fiscal benefits over the lifetime of the Qualified Property is derived from the Applicant's sales and use

⁵ Unemployment rates are based on data available in October 2020.

taxes, personal income taxes paid by the firm's employees, firm taxes on profits, property taxes, and other indirect fiscal benefits of the Applicant. The total fiscal benefits amount to \$887,199, resulting in a Fiscal Benefits score of 1,188.

- B. Environmental Benefits (227 points).** The Project is anticipated to result in \$169,593 of total pollution benefits over the life of the Project, resulting in an Environmental Benefits Score of 227 points. These benefits derive from the production of dairy biogas, which offsets the need for the use of fossil methane.
- C. Additional Benefits (127 points).** Applicants may earn additional points for their Total Score. The Applicant received 127 additional points.
- 1. Production Jobs (0 of 75 points).** The Applicant anticipates the Project will support a total of two production-related jobs at its Facility. CAEATFA estimates that approximately 0.25 of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned zero points.
 - 2. Construction Jobs (55 of 75 points).** The Applicant anticipates the Project will support a total of 45 construction jobs at its Facility. CAEATFA estimates that approximately 5.67 of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned 55 points.
 - 3. Unemployment (22 of 50 points).** The Applicant's Project is located in Kings County, which has an average annual unemployment rate of 11.1%.⁶ When compared to the statewide average annual unemployment rate of 9.1%, the Project location earned the Applicant 22 points.
 - 4. Research and Development Facilities (25 of 25 points).** The Applicant has verified that it has a facility located in California that performs research and development functions related to dairy biogas production.
 - 5. Benefits and Fringe Benefits (25 of 25 Points).** The Applicant states it provides medical, health, dental, vision, bonuses, transportation subsidies, and paid leave to its employees, earning the Applicant 25 points.

LEGAL QUESTIONNAIRE

Staff reviewed the Applicant's responses to the questions contained in the Legal Status portion of the Application. The responses did not disclose any information that raises questions concerning the financial viability or legal integrity of this Applicant.

⁶ Unemployment rates are based on data available in October 2020.

CAEATFA FEES

In accordance with CAEATFA Regulations,⁷ the Applicant has paid CAEATFA an Application Fee of \$4,392.31, and will pay CAEATFA an Administrative Fee of up to \$35,138.51.

RECOMMENDATION

Staff recommends the approval of Resolution No. 21-SM007 for ENV-THREE, LLC's purchase of qualifying tangible personal property in an amount not to exceed \$8,784,628, anticipated to result in an approximate STE value of \$746,693.

⁷ California Code of Regulations Title 4, Division 13, Section 10036.

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A
REGULATORY AGREEMENT WITH ENV-THREE, LLC**

March 16, 2021

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority”) has received the Application of **ENV-THREE, LLC** (the “Applicant”), for financial assistance under the Sales and Use Tax Exclusion Program, as established in Public Resources Code Section 26011.8; and

WHEREAS, the Applicant qualifies as a Participating Party under Public Resources Code Section 26011.8 and Revenue and Taxation Code Section 6010.8; and

WHEREAS, the Applicant’s qualifying tangible personal property meets the requirements of a Project under Public Resources Code Section 26011.8 and Revenue and Taxation Code Section 6010.8 (the “Project”); and

WHEREAS, after the Authority approves an Application, the Authority enters into a Regulatory Agreement, as described in Authority Regulations Section 10030(a), with the Applicant for the Project; and

WHEREAS, the Applicant has estimated the Project has an estimated cost not to exceed \$8,784,628 over a period of three years; and

WHEREAS, the Applicant asserts that this form of financial assistance will enable it to avail itself of the benefits of an exclusion from sales and use taxes relative to the Project pursuant to Revenue and Taxation Code Section 6010.8; and

WHEREAS, the approval of the terms of the Regulatory Agreement and authority for the Executive Director or Chair of the Authority to execute the necessary documents to effectuate the Regulatory Agreement is now sought;

NOW, THEREFORE, BE IT RESOLVED by the California Alternative Energy and Advanced Transportation Financing Authority, as follows:

Section 1. The Regulatory Agreement includes a Project within the meaning of Public Resources Code Section 26003(a)(8)(B).

Section 2. The Regulatory Agreement constitutes financial assistance within the meaning of Public Resources Code Section 26003(a)(6).

Section 3. The Applicant is a participating party within the meaning of Public Resources Code Section 26003(a)(7).

Section 4. The Executive Director or Chair of the Authority (the “Authorized Signatories”) are hereby authorized for and on behalf of the Authority to approve any changes to the Project as the Authorized Signatories deem appropriate, provided that the amount of the

qualifying tangible personal property to be purchased for the Project may not be increased above the amount approved by the Authority.

Section 5. The proposed form of the Regulatory Agreement between the Applicant and the Authority, as filed with the Authority prior to this public meeting, is hereby approved. For, on behalf and in the name of the Authority, the Authorized Signatories are hereby authorized and directed to execute, acknowledge, and deliver to the Applicant the Regulatory Agreement in substantially the form filed with or approved by the Authority.

The Regulatory Agreement may contain insertions, deletions or changes as the Authorized Signatories executing the Regulatory Agreement may require or approve, including particular information inserted in substantial conformance with the staff summary and in the Application to the Authority. The approval of the Regulatory Agreement will be conclusively evidenced by the execution and delivery of the final Regulatory Agreement.

The Authority understands and agrees that, pursuant to the terms of the Regulatory Agreement, the obligations of the Applicant, under some circumstances, may be carried out or assumed by a successor or assignee entity, or by an affiliate of the Applicant.

Section 6. Each of the Authorized Signatories, acting alone, is hereby authorized and directed to do any and all ministerial acts, including, without limitation, the execution and delivery of any and all documents and certificates they may deem necessary or advisable to consummate the Regulatory Agreement and otherwise effectuate the purposes of this Resolution.

Section 7. The Applicant shall ensure that all of the qualifying tangible personal property acquired as part of the Project that is listed in the semi-annual reports provided to the Authority pursuant to the Regulatory Agreement will be installed, maintained and operated in compliance with all applicable local, state and federal laws.

Section 8. The Regulatory Agreement shall only apply to qualifying tangible personal property acquired as part of the Project that the Applicant certifies will be installed, maintained and operated at facilities physically located within the State of California.

Section 9. Neither the adoption by the Authority of this Resolution for the Applicant nor the Regulatory Agreement may be referred to in any application before any governmental agency as evidence of the feasibility, practicality or suitability of the Project and may not be referred to in any application for any required permission or authority to acquire, construct or operate the Project.

Section 10. This Resolution is effective immediately and will remain in full force and effect unless the Regulatory Agreement is not executed within thirty (30) days of the date of this Resolution. The Executive Director may extend the thirty (30) days if necessary.