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LAW OFFICE OF
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September 3, 2009

joseph.giove@hq.doe.gov
United States Department of Energy
Joseph Giove
Office of Fossil Energy (FE-22)
1000 Independence Ave., SW
Washington D.C. 20585

FOIA-CENTRAL@hq.doe.gov
FOIA Officer, Department of Energy
1000 Independence Ave, S.W.
Washington, D.C. 20585

Re: FREEDOM OF INFORMATION ACT REQUEST (RESPONSE DEADLINE 20 WORKING DAYS): Records Regarding Responses to Amendment to Funding Opportunity Announcement Round 3 for the Clean Coal Power Initiative.

Dear Mr. Giove and FOIA Officer:

This letter is a request for information under the Freedom of Information Act ("FOIA") 5 U.S.C. § 552 and its implementing regulations and is made on behalf of San Juan Citizens Alliance ("SJCA"), P.O. Box 2461, Durango, CO 81302, the Center for Energy Efficiency and Renewable Technologies ("CEERT"), 1100 11th Street, Suite 311, Sacramento, CA 95814, Sevier Citizens For Clean Air And Water, Inc., P.O. Box 182, Richfield, Utah 84701, Powder River Basin Resource Council, 934 N. Main St., Sheridan, WY 82801, and Citizens for Dixie's Future P.O. Box 161, Hurricane, Utah 84737. Please provide your written confirmation (preferably by e-mail) upon the receipt of the electronic version of this request.

This FOIA request seeks proposals submitted to the DOE under the Clean Coal Power Initiative ("CCPI"). The Department of Energy's website states the following:

"The American Recovery and Reinvestment Act of 2009 (Recovery Act) added an additional $800 million to funding for Round 3. On June 9, 2009 the Department of Energy issued an amendment to the FOA for Round 3 of the CCPI. The purpose of the amendment is to re-open the FOA and provide a second Application Due Date (closing date) of August 24, 2009. The amendment also incorporates special provisions of the Recovery Act." *See*, http://fossil.energy.gov/programs/powersystems/cleancoal/.

This request is for all records or documents that you or any DOE office received in response to the amendment to the Funding Opportunity Announcement ("FOA") for Round 3 of the CCPI.

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Further, we request a fee waiver of all search and copying fees associated with this request. 5 U.S.C. § 522(a)(4)(A)(iii); 43 C.F.R. § 2.19(b). FOIA mandates that agencies waive search and copying fees where disclosure is "in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii). We provide the following information relating to the public benefits associated with our request and the entitlement of the parties listed above to a fee waiver in this matter.

Information is requested for public education purposes

We request the information for public education purposes. The requested information will be used to fulfill the tax-exempt educational purposes of the organizations by informing members and the broader public about natural resource issues.

San Juan Citizens Alliance ("SJCA") is a grassroots, non-profit organization dedicated to social, economic, and environmental justice in the San Juan Basin. SJCA organizes residents to protect their water, air, public lands, rural character, and unique quality of life while embracing the diversity of the region's people, economy and ecology.

CEERT is a nonprofit public benefit organization that advances solutions to global warming and promotes increased reliance on renewable energy in the west.

Powder River Basin Resource Council (PRBRC) is a leading nonprofit environmental organization in Wyoming. PRBRC has nearly 1,000 members. One mission of PRBRC is to educate the public about environmental issues.

Sevier Citizens for Clean Air and Water and Citizens for Dixie's Future are Utah based environmental organizations. These nonprofits groups have members throughout Utah and educate the public on environmental issues.

The organizations are leading environmental conservation groups in New Mexico, Wyoming, Utah, and California. The members, media representatives, and the broader public often depend on information the organizations provide to help the public understand government activities and functions related to the development of resources. Fee waivers are essential to "watch-dog" organizations which "rely heavily and frequently on FOIA and its fee waiver provision to conduct the investigations that are essential to the performance of certain of their primary institutional activities - publicizing governmental choices and highlighting possible abuses that otherwise might go undisputed and thus unchallenged." Better Gov't Ass'n v. Department of State, 780 F.2d 86, 93-94 (D.C. Cir. 1986).

The organizations will extract and analyze the substantive content of the records

The organizations plan to extract and analyze the substantive contact of the agency records by reviewing the materials provided, consulting with technical experts to the extent needed, and

creating a dialogue with the agency to answer any follow-up questions we may have about the information.

The nature of the specific activity or research in which the agency records will be used and the specific qualifications we possess to utilize information for the intended use

As mentioned above, we will be using the information obtained for educational purposes (including newsletter articles and communication with members, the media, and the broader public). The organizations' staff members are especially qualified to analyze and use information gained from this request for those purposes. In particular, the organizations have scientists, lawyers, media experts and other staff members capable of analyzing the information.

The organizations strong history of experience in taking raw information and data from agency records and condensing it into a form that the public can understand. FOIA requests are an integral part of how these organizations obtain information from agencies that can then be analyzed and disseminated to the public.

The likely impact on the public's understanding of the subject

Any disclosure of this information and its keys results will increase the understanding of the public about government activities regarding clean coal projects. Our broad dissemination of this information will significantly improve the degree of public information on this topic by helping the public to easily understand information they have not previously been aware of or had access to.

The size and nature of the public to whose understanding a contribution will be made

Most of the organizations have at least 1,000 members in various states in the western United States. In addition to mailing information through newsletters, action alerts, and other mechanisms, the organizations' websites are regularly viewed by a broad portion of the public and by industry representatives and policy-makers. Additionally, the organizations frequently hold public informational meetings where information is disseminated to members and the broader public.

The intended means of dissemination to the general public

The organizations will disseminate information through organizational newsletters, meetings and correspondence with members and the broader public, press releases and other communication with the media, list-serves and electronic communication with members and partner organizations through the nation, websites, and other mechanisms.

If findings resulting from the information provided are news-worthy, the organizations will speak with reporters or issue press releases to disclose the information to the broader public.

Information will be provided free of charge

The public will have access to the information free of charge. The organizations do not charge fees to access any publications, newsletters, website information, or other materials that are provided to the public.

The organizations do not have commercial interest in the requested information

The organizations do not have a commercial interest in any information obtained from this request. The organizations do not engage in any commercial or for-profit enterprises. Instead, they seek the records solely for purposes consistent with their educational mission.

If a decision is made to deny the fee waiver request, please immediately inform undersigned of the cost of disclosing the above-described records if fees exceed $50.00 and we can discuss appropriate next steps.

Please contact me should you have any questions regarding this request. As provided by the FOIA, 5 U.S.C. § 552(a)(6)(A), we look forward to a reply within twenty working days. Thank you in advance for your assistance.

Sincerely,

s/ John M. Barth

John M. Barth

cc: Mike Eisenfeld, SJCA
V. John White, CEERT
James Kennon, SCCCA
Shannon Anderson, PRBRC
Citizens for Dixie's Future