

DATE July 04 2011

RECD. July 05 2011

7/4/2011

**From:** Don and Judie Decker  
625 W Ward Ave  
Ridgecrest, CA 93555

**To:** Eric Solorio  
Project Manager  
Siting, Transmission and Environmental Protection Division  
California Energy Commission  
1516 Ninth Street, MS-15  
Sacramento, CA 95814-5504  
[esolorio@energy.state.ca.us](mailto:esolorio@energy.state.ca.us)

**Subj:** Comments on the Solar Millennium's Request for Modification of Revised Scheduling order dated March 24, 2011, Docket Number 09-AFC-9, "Solar Millennium, Ridgecrest Solar Power Project"

Dear Mr. Solorio,

Thank you for your professional and skillful leadership as the CEC project manager for the Ridgecrest Solar Power Project Docket no. 09-AFC-9. We are writing these comments as members of the public who have been present as observers and contributors throughout the long and complicated path taken by Solar Millennium (SM) in their pursuit of certification of the RSPP. We submit to you that the request made by SM in their March 24, 2011 letter for suspension of the Ridgecrest Solar Power project (RSPP) for a period of 18 months, is totally unreasonable and unsupportable. This is so, if for no other reason, than the fact that this request does not include a Mojave ground squirrel (MGS) study. It was this very study, suggested by SM counsel Mr. Galati himself, which was the basis for the suspension agreement made between the CEC and SM in the Revised Scheduling Order dated August 26, 2010. In the January 25, 2011 request by SM for a withdrawal, it was made completely clear that SM was not going to perform a MGS study because "it would not be economically viable" and that the "project's success was unlikely". We submit that although the California Energy Commission, at some early point refused to accept the withdrawal request of the January document (apparently as a result of a failure to follow Title 20 signature provisions), the language contained in the January document is still part of the record and is a reference document for subsequent actions. At the Mandatory Status Conference on June 21, 2011, Mr. Scott Galati realized this very aspect and attempted to state the new SM position, claiming that SM did not really mean to withdraw - even though such a request was clearly stated in their January letter which he properly referenced multiple times. We observed his arguments were very weak, and not convincing at all. In requesting a suspension without a MGS study rather than a withdrawal, SM is in fact simply stalling.

As further evidence of the stalling tactic by SM, it is striking that the March letter was submitted two months after the January letter was turned back by the CEC. As SM very clearly stated in their January letter, "a review of the record strongly suggests that California Agencies staff is unlikely to be open to a recommendation of approval". Furthermore, the Desert Renewable Energy Conservation Plan (DRECP) "has identified Ridgecrest as a site to protect from development by amending the definition of eligible projects". There is no basis whatsoever for the CEC to approve an RSPP suspension as requested in the March letter from SM. The CEC appears to be conflicted by these discrepancies itself, as the CEC main web page for the project lists to this day the withdrawal of the project by SM on January 25, 2011.

There is another argument against approving the SM suspension request that comes from a higher level of scrutiny. The CEC regulations require that all applicants pursue their Application for Certification (AFC) with due diligence. The penalty to an applicant for failure to perfect their application in a professional and timely manner is forfeiture of their application (Title 20, sec 1720.2). In the case of Docket Number 09-AFC-9, the RSPP, the fact that SM has stalled out as a result of an inability to satisfy the environmental mitigation requirements of CEQA and NEPA is *prima facie* evidence for a lack of due diligence by SM in their pursuit of this project. No other solar project in the CEC list of large projects has fallen so far behind. A primary defect in the applicant's proposal is a lack of a viable alternative site. The record made during

the workshop and scoping phases of this project identified this defect but no significant changes to the AFC were pursued by the applicant. No other site was even cursorily identified or examined by the applicant. The applicant has doggedly stayed with the Ridgecrest site claiming that the site was unique and perhaps had the highest insolation in the world. The insolation claim is simply not true.

Even if the CEC legal staff were to reject the arguments we have just offered, there is still another damning circumstance hanging over the SM RSPP application. Since the Bureau of Land Management (BLM), the CEC's partner in the RSPP Application, has accepted the applicant's January 25'th letter requesting withdrawal and has returned the application money, it is very apparent that the CEC is in an untenable position of having an incomplete and damaged process. There are many accumulating and fatal defects with the Solar Millennium AFC. We strongly suggest that the CEC inform SM (STA) that they are ready to accept a properly signed and sworn version of the January 25'th letter which requests withdrawal.

Sincerely, (signed) Don Decker      Judie Decker

CC:      CEC Docket Unit  
          [docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

Janet Eubanks  
Project Manager  
California Desert District  
[janet\\_eubanks@ca.blm.gov](mailto:janet_eubanks@ca.blm.gov)