

**Docket Optical System - RE: Calico Solar Project Comments**

**From:** "Burch, Cynthia Lea" <cynthia.burch@kattenlaw.com>  
**To:** <mmclean@energy.state.ca.us>  
**Date:** 7/16/2010 6:16 PM  
**Subject:** RE: Calico Solar Project Comments  
**CC:** <cmeyer@energy.state.ca.us>  
**Attachments:** Calico Solar Project.pdf

<b>DOCKET</b>
<b>08-AFC-13</b>

<b>DATE</b>	<u>JUL 16 2010</u>
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<b>RECD.</b>	<u>JUL 19 2010</u>
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Marie,

Following up on our discussion yesterday, I am forwarding BNSF's comment letter on the Calico Solar Project, which was submitted to CEC and BLM on July 1. It identifies BNSF's concerns with respect to: 1) Visual Resources - Glint and Glare; 2) Transmission Line Safety and Nuisance - Induction; 3) Hazardous Materials Management - Hydrogen; and 4) Geology and Paleontology - Water Supply. In addition to the issues addressed in the attached letter, BNSF also raised the following concerns in our call:

**1. Detention Basins.** The project incorporates detention basins that have been designed for a 100 year flood. Given the gradient of the project site, BNSF is concerned that the steps being proposed are not adequate to ensure protection of the tracks and their supporting structures or soil. Flash floods, over a sustained period of hours or days may cause the detention basins to overflow and cause a high volume of water to wash through the area, eroding the terrain around and supporting the tracks. Hydrology studies need to be performed to address this issue and it needs to be determined whether the applicant should be required to fund the reinforcement of rail infrastructure. In addition, BNSF has recently learned that the detention basins are likely to be relocated. Other than the comments above, BNSF lacks adequate information to provide meaningful comments on the detention basins at this time.

**2. Exclusionary Fencing.** The project includes the construction of an exclusionary fence on both sides of the BNSF right of way for approximately 3 miles, and on the south side alone for approximately 2 miles, for the protection of the desert tortoise. This fencing will use 72-inch steel posts buried 24 inches into the ground to hold galvanized fence material in place 12 inches below the ground and 18-24 inches above the ground. BNSF is concerned that the exclusionary fencing will impair the access of both maintenance and emergency vehicles which now use roadways across BLM land. An approach to ensuring rail access for these critical functions, needs to be developed. For example, determining the roadways BNSF currently uses and providing gates in the fence for access in situations such as derailments and maintenance.

**3. Access Roads.** Calico Solar has proposed to build a temporary access road, to be used by approximately 200 construction vehicles per day for one year, along 1-2 miles of the northern side of the BNSF right of way. In addition, Calico Solar has proposed to build a permanent access road along approximately 1 mile of the southern side of the BNSF right of way. The temporary access road could hinder BNSF's maintenance and emergency vehicles and would require disturbing habitat for the width of the new access road. The permanent access road could be approximately 1/2 the proposed length if an existing road (Hector Road) is utilized for access. BNSF requests the applicant be required to build the road across BLM land to access its facility at the commencement of the project and they fund and build a temporary grade crossing approximately 100' from their proposed bridge. This will avoid the impact to the BNSF right of way north of the mainline. BNSF also requests the applicant access the requested easement south of the mainline, east of Hector Road, by way of Hector Road to minimize the impact on the BNSF right of way.

BNSF believes that studies should be conducted to address each of these issues. We understand that the CEC may be addressing some of these issues in its Supplemental Staff Assessment, which will be published on Monday, July 19. However, BNSF will not see these analyses until that date, and it is not possible for them to conduct an adequate review by July 28th, the deadline for comments. Studies by appropriate experts may take several weeks to months to perform.

With respect to your email of this afternoon, under Rail Service, it should be clarified that the proposed project proposes to place over 34,000 SunCatchers both north and south of nearly five miles of the BNSF mainline railway, which is traversed by as many as 80 trains per day from the Ports of Los Angeles and Long Beach to Chicago. Finally, BNSF has reached no agreement with Calico Solar with respect to any of their requests for access on, over or across the BNSF right of way. BNSF is reviewing Calico Solar's requests and has begun to identify conditions which will need to be met for licenses and easements to be granted. Also, we believe the Permanent Access section is incorrect. Please let us know if we can answer any further questions, and we look forward to working with CEC, BLM and Calico Solar over the coming weeks and months, as necessary.

**CYNTHIA LEA BURCH**

Partner

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