

STATE OF CALIFORNIA

Energy Resources Conservation And Development Commission

DOCKET	
08-AFC-13	
DATE	SEP 17 2010
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In the Matter of:
 The Application for Certification
 for the Calico Solar Power Project
 Licensing Case

Docket No. 08-AFC-13

PREPARED DIRECT TESTIMONY OF DAVID MILLER Manager Engineering, BNSF Railway Company

September 17, 2010

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PREPARED DIRECT TESTIMONY

OF

David Miller

Manager Engineering, BNSF Railway Company

Q.1 Please state your name and occupation?

A.1 My name is David Miller. I am Manager Engineering with BNSF Railway Company ("BNSF"). I have been with BNSF for twenty-eight years and I have an engineering degree.

Q.2 What is your particular area of expertise?

A.2 I oversee construction for BNSF throughout southeastern California and all of New Mexico and Arizona. I am called upon to respond to emergency situations for the railroad. For example, I am called upon to respond to situations where high water erodes track embankment or bridges.

Q.3 What is the purpose of your testimony?

A.3 To outline the concerns that BNSF has regarding the current two alternatives being proposed by Applicant, Alternative 5.5 and 6, which completely eliminate the debris basins and detention basins that were critical safety features and mitigation measures of the proposed project for many months.

Q.4 Why did BNSF not question Calico Solar's hydrology witnesses at the hearings in August?

A.4 BNSF relied on Calico Solar's statements at the hearing in August and Calico Solar's stipulation that it agreed to put detention basins in the project, fund

additional studies, and fully mitigate the anticipated flood hazards associated with its project.

Q.5 In your opinion, given the recent change in alternatives, which delete the debris and retention basins, the current lack of a hydrological study to support the new alternatives, and new issues raised by Calico Solar, does BNSF have sufficient information to analyze and grant Calico Solar's four requests for licenses and crossings on the BNSF ROW?

A.5 No. As of last Friday, September 10, 2010 it was BNSF's understanding Calico Solar was going to again redesign its proposed facility and present an alternative 5.5 and an alternative 6. We received conceptual designs of those 2 alternatives on Friday night. On Monday we received additional reports and declarations by a number of Calico Solar's experts. The alternatives and the expert reports and declarations delete debris and retention basins, provide analyses and conclusions that contradict previous reports, declarations and testimony before the CEC and contain significant changes from what was BNSF's understanding of the potential hydrological impact of the proposed project on the BNSF ROW.

Understandably, our experts have only begun to analyze the new situation. Among Calico Solar's Monday declarations is one by Matt Moore of URS which states "Existing sedimentation and maintenance issues at railroad facilities represent an existing condition that would not be significantly altered by Scenario 5.5 or 6." BNSF does not know what this statement is referring to and will need to know the basis for this statement before it can proceed further with the Applicant's requests of BNSF. If Calico Solar has any concerns with the BNSF ROW, BNSF needs to know what they are at this time as Calico

Solar is requesting: (1) BNSF allow it to drive hundreds of trucks and cars over the ROW; (2) BNSF build a new temporary at-grade crossing for Calico Solar's use in the ROW; (3) BNSF allow it to build a bridge over the BNSF ROW; and (4) BNSF allow an expansion of an at-grade crossing's use to allow for emergency access to the Calico Solar site. BNSF must be advised of and allowed time to evaluate any concerns Calico Solar may have before BNSF can determine if such uses and infrastructure are compatible with railroad infrastructure and operations and where they might best be located. BNSF has asked for a precise location of all SunCatchers and related infrastructure so we can assess potential impacts on the ROW that need to be considered in processing Calico Solar's applications. These include hydrological impacts. To date BNSF has not been provided this information.

Because of the impact these changes may have on BNSF's analysis of the safety and protection of the ROW and whether Calico Solar's proposed uses are compatible with existing rail operations, BNSF has been delayed in processing Calico Solar's applications. There have been numerous changes to the Calico Solar project over the past year and the BNSF staff trying to process Calico Solar's applications has had to redirect its efforts several times. Given the 10 day old change in direction and the presentation of 2 alternatives, BNSF does not know which is the preferred alternative to analyze. Under these circumstances, BNSF is not able to process Calico Solar's four requests and is unable to grant the licenses, easements and crossings at this time.

Q.6 Is there a historical basis for BNSF's concerns relating to heavy rainfall and flooding in the area of the project site?

A.6 Yes. The BNSF Railway Company has experienced heavy rainfall events in this area with the water surface rising as high as the bridge girders. However, there is no record of historic floods overtopping the tracks. This historic flooding demonstrates that the current drainage system does not have additional capacity to spare and it is critical that the proposed Calico Solar development maintain historic flows. Any increases in flows or sediment to the railroad drainage could result in overtopping of the railroad tracks. Therefore the BNSF Railway Company requires more substantial analysis for the hydrology of the proposed development to demonstrate that the construction of 24,000 sun catcher, miles of maintenance roads, a 90 acre substation and the associated construction disturbance to the desert top soils will not change the existing drainage to the railroad structures.

I swear under penalty of perjury that this testimony is true and correct to the best of my knowledge and belief.

Dated: September 17, 2010



David Miller



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
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APPLICATION FOR CERTIFICATION

For the CALICO SOLAR (Formerly SES Solar One)

Docket No. 08-AFC-13

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(Revised 8/9/10)**

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DECLARATION OF SERVICE

I, Harriet Vletas, declare that on September 17, 2010, I served and filed copies of the attached Prepared Direct Testimony of David Miller, dated September 17, 2010. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [www.energy.ca.gov/sitingcases/solarone].

The documents have been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

(Check all that Apply)

FOR SERVICE TO ALL OTHER PARTIES:

- sent electronically to all email addresses on the Proof of Service list;
- by personal delivery;
- by delivering on this date, for mailing with the United States Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "email preferred."

AND

FOR FILING WITH THE ENERGY COMMISSION:

- sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (*preferred method*);

OR

- depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 08-AFC-13
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I declare under penalty of perjury that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

Signed By _____
Harriet Vletas