

PLANNING DEPARTMENT

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RESOURCE MANAGEMENT AGENCY

DAVID PRICE III, RMA DIRECTOR
Community & Economic Development Department
Engineering & Survey Services Department
Environmental Health Services Department
Planning Department
Roads Department

April 13, 2009

File: Beacon Solar Energy
FPL

California Energy Commission
Attn: Eric Solorio
1516 Ninth Street MS-15
Sacramento, California 95814

DOCKET	
08-AFC-2	
DATE	APR 13 2009
RECD.	APR 17 2009

**RE: Kern County Planning Department Comments on Conditions
Preliminary Staff Assessment Beacon Solar Energy Application for Certification
(08-AFC-2) Kern County**

Dear Mr. Solorio ,

The Kern County Planning Department appreciates the participate in the permitting process and to provide comments on the recommended conditions of approval on the application for certification by Beacon Solar, LLC for a proposed 250 MW solar electric generating facility in unincorporated eastern Kern County. The following are staff comments and requests for clarification based on our review of the April 2009 Preliminary Staff Assessment :

MODIFICATIONS TO CONDITIONS

The following identification of the appropriate department is requested to ensure streamlined processing for the applicant :

Land Use

Page 4.5-9 LAND -1 Verification : “.. the project owner shall submit the proposed development plan to the Kern County Planning Department, Kern County Engineering and Survey Services Department Building Inspection Division and Kern County Engineering and Survey Services Department/ Floodplain Management Division for review and comment.... The project owner shall also provide the CPM with a copy of the transmittal to letter to the Kern County Planning Department, Kern County Engineering and Survey Services Department Building Inspection Division and Kern County Engineering and Survey Services Department/ Floodplain Management Division. “

“At least 30 calendar days prior to the start of construction,the project owner shall provide copies

of any comment letters received from the Kern County ~~Planning~~ Departments, along with any changes to the proposed development plan, to the CPM for review and approval. “

Soil and Water Resources

Page 4.9-51 SOIL & WATER – 1 Verification: “ The project owner will submit all necessary information and the appropriate fee to ~~the county of Kern~~ the Kern County Environmental Health Services Department to ensure that the project has complied with the county’s sanitary waste disposal facilities requirements. A written assessment prepared by Kern County Environmental Health Services Department of the project’s compliance with these requirements must be submitted to the CPM for review and approval prior to the start of operation. “

Page 4.9-53 SOIL&WATER -5 “... The project owner shall complete all necessary engineering plans, reports, and documents necessary for Kern County Engineering and Survey Services Department/ Floodplain Management Division, including submittal of appropriate review fees, to conduct a review of the proposed project and provide its written evaluation as to whether the proposed grading, drainage improvements, diversion channel design, and flood management activities comply with all county requirements.

Page 4.9-56 SOIL&WATER -5 Verification : “ No later than 90 days prior to the start of site mobilization, the project owner shall submit a copy of the DESCP to Kern County Engineering and Survey Services Department/ Floodplain Management Division with the appropriate review fee, and the LRWQCB for review and comment....”

Page 4.9-56 SOIL&WATER -6: “... The project shall not commence construction in the SFHA until the Kern County Engineering and Survey Services Department/ Floodplain Management Division receives from FEMA a CLOMR....”

Page 4.9-57 SOIL&WATER -6: (g)... Prior to mobilization the Project Owner shall receive confirmation from Kern County Engineering and Survey Services Department/ Floodplain Management Division FEMA has issued a CLOMR for the BSEP.

Page 4.9-58 SOIL&WATER -7:

In consultation with the County Administrative Office (CAO) and Kern County Engineering and Survey Services Department, Staff notes that Kern County has not established maintenance districts or county service areas for flood protection facilities by choice. Kern County Engineering and Survey Services Flood plain Management has reviewed the document and provides the attached memo dated September 2, 2008. The memo confirms the County’s concerns regarding the lack of an identified public entity to maintain the proposed new flood control channel. The liability for maintenance of such flood levees and channels in the event the assessments are not sufficient has been determined to be not in the best interests of the county , particularly during these times of fiscal constraints. Therefore this condition cannot be implemented.

Based on the recommendation of the CAO the following are recommended changes to the language:

“ The project owner shall ~~coordinate~~ consult with Kern County Engineering and Survey Services Department, to consider mechanisms for the establishment of a maintenance district for

maintaining the integrity , design and capacity of the Pine Tree diversion channel. If such a public maintenance district cannot be established through the Kern County Board of Supervisors than an alternative public entity other then Kern County shall be provided by the project owner.

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Traffic and Transportation

Page 4.10-15 TRANS- 2 Verification : “At least 90 days prior to the start of site mobilization, the project owner shall submit a mitigation plan focused on restoring Neuralia Road and California City Boulevard to it pre-project condition to the ~~city of~~ Kern County Roads Department and California City Public Works and Planning Department for review and comment and to the CPM for review and approval. Within 90 days following the completion of construction the project owner shall provide photo/videotape documentation to the Kern County Roads Department and California City Public Works and Planning Department and the CPM that the damage sections of Neuralia Road and California City Boulevard have been restored to their pre-project condition.”

Additional Comments

Land Use - Parcel Map Process

CEC Staff has requested information regarding the removal of various public and private easements from the property during the Land Division process to consolidate the power plant site onto one lot. Pursuant to the Subdivision Map Act and Section 18.25.030 6 (c) of the Kern County Land Division Ordinance , public streets or easements can be abandoned through the recordation of the final map pursuant to Section 66445(j) of the California Subdivision Map Act, if located and referenced on the tentative map. No public easement vested in another public entity shall be abandoned through this process if that public entity objects to the proposed abandonment. If the CEC requires the project consolidate the power plant onto one legal lot, then staff recommends that any remaining easements that affect the property be removed to clear the property from potentially conflicting uses.

Land Use – Circulation Amendment Process

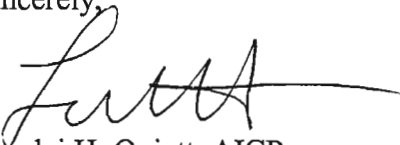
On March 12, 2009, the Kern County Planning Commission considered the application of Beacon Solar to delete arterial and collector alignments on the Kern County General Plan Circulation Element. After consideration of public testimony the Commission unanimously voted to recommend approval of the amendments. This matter is being considered by the Kern County Board of Supervisors at a noticed public hearing on Tuesday April 21, 2009 which is a General Plan Amendment Window. The final resolution and decision will be provided to CEC Staff after that hearing.

Consistency

Staff agrees with the analysis and considers the project consistent with the goals and policies of the Kern County General Plan for circulation, land use, resource management and energy development.

Kern County supports all forms of renewable energy if appropriately sited with mitigation that provided protection for existing property owners and Kern County interests. Thank you for your partnership on this opportunity for Kern County to be an important contribution to solar development in California.

Sincerely,



Lorelei H. Oviatt, AICP
Special Projects Division Chief

cc: Ted James, Planning Director
Supervisor Maben
Supervisor McQuiston
RMA
Roads Department
CAO – Adel Klein
Applicant – FPL

BEFORE THE PLANNING COMMISSION
COUNTY OF KERN, STATE OF CALIFORNIA

In the matter of:

RESOLUTION NO. 39-09

APPLICATION FOR GENERAL PLAN AMENDMENT CASE NO. 2, MAP NO. 133

Located along the California State Route 14 corridor, approximately ten miles northwest of California City
Beacon Solar, LLC by Pinnacle Civil Engineering, Inc. (PP08260)

FINDINGS AND DETERMINATION

I, Ted James, Secretary of the Planning Commission of the County of Kern, State of California, do hereby certify that the following resolution, proposed by Mr. Flores, seconded by Ms. Perez, was duly passed and adopted by said Planning Commission at an official meeting hereof this **12th** day of **March, 2009**, by the following vote, to wit:

AYES: Babcock, Flores, Perez, Sprague

NOES: None

ABSTAINED: None

ABSENT: Belluomini



**SECRETARY OF THE PLANNING COMMISSION
COUNTY OF KERN, STATE OF CALIFORNIA**

RESOLUTION

SECTION 1. WHEREAS:

(a) Pursuant to the California Government Code, Title 7, Sections 65354 and 65453 (known as the Planning and Zoning Law), the Kern County Planning Commission considers proposed amendments to the County's General and Specific Plans and must provide a recommendation on all such proposed amendments to the Kern County Board of Supervisors; and

(b) Pursuant to said Sections 65354 and 65453, such advisory actions shall be considered by the Planning Commission prior to consideration by the Board of Supervisors, following submission of an application containing the information specified in the applicable section of this title and a properly noticed public hearing; and

(c) The Kern County Planning Department has received an application pertaining to a parcel of real property which is located within that portion of the unincorporated area of the County for which an official Zoning Map has been adopted under Section 7297.204 of said Ordinance Code and for which precise land use and zoning regulations are in effect; and

(d) Said parcel of real property is described as follows:

APN: Various

Sections 32 and 33, T30S, R37E for Map 133; MDB&M, County of Kern, State of California
(A complete legal description is on file with the Kern County Planning Department); and

(e) Said application has been made in accordance with requirements of the Planning Department, and requests to amend the Circulation Element of the Kern County General Plan to eliminate future road reservations on section and midsection lines as major highway and secondary highway alignments in Sections 32 and 33, T30S, R37E; and

(f) The Planning Department has reviewed the matter and prepared a report containing detailed description and analysis of the proposed amendment to the General Plan, (copy of the report is on file with the Planning Department and incorporated herein by this reference as if set forth in full); and

(g) Said application has been made in the form and in the manner prescribed by the Planning Department and is on file with the Secretary of this Commission, designated as above, and reference is hereby made thereto for further particulars; and

(h) The Secretary of this Commission has caused notice to be duly given of a public hearing in this matter in accordance with law, as evidenced by the affidavit of publication and the affidavit of mailing on file with the Secretary of this Commission; and

(i) Additionally, the Planning Department has investigated possible environmental impacts of the requested actions and found this project qualifies as a special situation and does not require preparation of further environmental documents pursuant to the Public Resources Code Sections 21166 and 21083.3, and Section 15183 and 15271 of the State CEQA Guidelines; and

(j) Said public hearing has been duly and timely conducted, during which the proposal was explained by a representative of the Planning Department and all persons so desiring were duly heard; and

(k) During said hearing and prior to consideration of the merits of said matter, this Commission called for any objections to the dispensing with an environmental impact report; and

(l) This Commission has considered the recommendation of the Planning Department and all the testimony presented during said public hearing, after which said public hearing was concluded.

SECTION 2. NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the County of Kern, as follows:

(a) This Commission finds that the facts recited above are true and that this Commission has jurisdiction to consider the subject of this resolution; and

(b) After careful consideration of all facts and evidence as presented at said hearing, it is the decision of the Planning Commission that the application herein described be recommended for APPROVAL, as recommended by Staff, by the Board of Supervisors, for the reasons specified in this Resolution; and

(c) The findings of this Commission upon which its decision is based are as follows:

- (1) The applicable provisions of the California Environmental Quality Act, the State CEQA Guidelines, and the Kern County Guidelines have been duly observed in conjunction with said hearing in the consideration of this matter and all of the previous proceedings relating thereto.

- (2) This Planning Commission has determined that pursuant to Public Resources Code Section 21166 and 21083.3, and Section 15183 of the State CEQA Guidelines, said project qualifies as a special situation and does not require preparation of further environmental documents under the requirements of the Environmental Quality Act of 1970.

County Staff has reviewed the Environmental Information Form submitted by the applicant, and it has been determined there are no project-specific significant effects for the Beacon Solar, LLC circulation amendment request by Pinnacle Civil Engineering, Inc. (PP08260) project. Pursuant to the California Environmental Quality Act (CEQA) and the Guidelines for the Implementation of CEQA, Section 15183, after a review of the proposed project and in light of the evidence in the record, Staff has made the determination that the requested actions for the Beacon Solar, LLC by Pinnacle Civil Engineering, Inc. (PP08260) project do not require the preparation of subsequent environmental documentation based on the following:

- As a result of the requested actions, no substantial changes are proposed in the project that will require major revisions to the Kern County General Plan Final Environmental Impact Report (State Clearinghouse No. 2002071027) because of the involvement of new significant environmental effects or a substantial increase in the severity of previously identified effects.
- As a result of the requested actions, no substantial changes will occur with respect to the circumstances under which the project will be undertaken that will require major revisions to the Kern County General Plan Final Environmental Impact Report (State Clearinghouse No. 2002071027) because of the involvement of new significant environmental effects or a substantial increase in the severity of previously identified effects.
- There is no new information of substantial importance that was not known or could not have been known at the time the Kern County General Plan Final Environmental Impact Report (State Clearinghouse No. 2002071027) was certified, and no new significant effects as a result of the requested actions will occur that were not addressed in the Kern County General Plan Final Environmental Impact Report (State Clearinghouse No. 2002071027).

The project is also exempt per Section 15271 for the following reasons:

- The California Energy Commission is acting as the Lead Agency for the determination of whether the proposed development of a solar energy facility may have a significant effect on the environment in the area including the proposed removal of road reservations on section and midsection lines.
- The action requested by the applicant to be taken by the County is limited to the circulation element maps that will not result in any physical change to the environmental resources present within the area of reservations for future development of Circulation Element roadways on section and midsection lines.

- (3) This Commission has found the project to be exempt from the requirement for preparation of environmental documents pursuant to Section 15183 and 15271 of the State CEQA Guidelines.
- (4) The elimination of future road reservations along the section and midsection lines in this area for which no known existing or future need for construction of such roads has been identified is consistent with the goals and policies of the Land Use and Energy Elements of the Kern County General Plan to encourage development of alternative sources of energy.
- (5) Existing and anticipated future development patterns in the general vicinity are not anticipated to require future construction of Arterial and Collector roadways in the project area as adequate access is provided by Neuralia Road to the east, Munsey Road to the north, and State Route 14 to the west.
- (6) It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and, therefore, under the provisions of Section 15061(b)(3) of the State CEQA Guidelines, such activity is not covered by the requirements set forth in the California Environmental Quality Act, and the State CEQA Guidelines concerning the evaluation of projects and the preparation and review of environmental documents do not apply thereto, for which reasons an environmental impact report was not required for consideration of such matter.
- (7) The effect upon the environment of such project and the activities and improvements which may be carried out thereunder will not be substantial and will not interfere with maintenance of a high-quality environment now or in the future.

- (8) Implementation of the request is consistent with the goals and policies of the Circulation Element of the Kern County General Plan.
- (9) Implementation of the request is compatible with existing map code designation and development patterns in the vicinity.
- (10) Implementation of the request would lessen the impact on public safety and improve future traffic patterns along the Union Pacific Railroad Line and State Route 14 alignments; and

(d) The Secretary of this Commission shall cause copies of this resolution to be transmitted to the following:

Beacon Solar, LLC by Pinnacle Civil Engineering, Inc. (PP08260) (agent) (1)
Beacon Solar, LLC (applicant/owner)
California Energy Commission (1)
File (3)

jc:sc