

August 30, 2011

Siting Committee
Kourtney Vaccaro, Hearing Officer
Craig Hoffman, Project Manager
California Energy Commission
1516 Ninth Street, MS-15
Sacramento, CA 95814

DOCKET

08-AFC-13C

DATE AUG 30 2011

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BNSF Railway Co.
Cynthia Burch
Katten Muchin Rosenman LLP
2029 Century Park East,
Ste. 2700
Los Angeles, CA 90067-3012

**Re: Calico Solar Project Amendment (CSPA) (08-AFC-13C)
Calico's Objections to BNSF's Data Request No. 1**

Dear Members of the Siting Committee, Ms. Vaccaro, Mr. Hoffman, and Ms. Burch:

On May 27, 2011, BNSF submitted to Members of the Siting Committee and the Hearing Officer Data Request No. 1 from BNSF Railway Company to Calico Solar, LLC, which included 117 data requests. On July 26, 2011, the Committee issued the Committee Authorization and Denial of Specific Data Requests from BSNF Railway to Calico Solar, LLC. On August 10, 2011, BNSF served Calico Solar, LLC with BNSF's data requests.¹

Calico hereby submits its response to BNSF's August 10 Data Request to Calico Solar. In accordance with the Committee Order and Section 1716(f) of the Energy Commission's Regulations, Calico informs you, as set forth below, that it has already provided certain information requested, it will be unable to provide certain other information requested within 30 days of the Committee's Authorization and Denial, and it objects to providing certain information requested. On September 9, 2011, Calico will provide the information requested by BNSF for the data requests to which Calico does not object or respond in this letter.

To be entitled to propound data requests, BNSF was required to provide reasons for each and every request. 20 CCR § 1716(b) ("**All such requests shall include the reasons for the request.**"). Calico objects that BNSF has declined to do so, leaving Calico and the Committee to guess as to the purpose of almost all of the individual data requests. Instead of providing reasons for individual data requests, BNSF has provided an uninformative introduction that

¹ The August 10 Data Request omitted the individual data requests denied by the Committee Order, but retained the original numbering.

does not meet the requirements of Section 1716(b).² This objection applies to all of BNSF's data requests, and is discussed in more detail in the context of BNSF's individual data requests below.

Calico also objects that these data requests are excessive in number, particularly in light of the fact that BNSF has failed to provide valid explanations of their relationship to the Petition to Amend. Most of these data requests are propounded not for reasonable reasons related to findings that the Commission must make in evaluating the Petition to Amend; it appears that they are offered for the purposes of harassment and to cause Calico to incur unnecessary expense.

Calico also objects to BNSF's usage of data requests to make inflammatory misrepresentations to the Commission. Prior to the filing of the Petition to Amend, Calico was in active negotiations with BNSF to establish a mutually agreeable scope of work for studies in which BNSF purported to be interested. Calico only went forward with hiring consultants (including consultants that BNSF recommended) after it became clear that BNSF likely never had any interest in reaching an agreement, and instead was setting up an allegation that Calico had not complied with the Commission's Conditions of Certification. BNSF's statement that Calico has not "substantially complied with the Commission's Conditions of Certification prior to filing its Petition to Amend" is erroneous, irrelevant to BNSF's data requests, and egregious.

DEFINITIONS

Calico objects to several of the definitions which BNSF uses in its data requests as being overbroad. In some cases, the overbroad definitions render the data requests incoherent and preclude Calico from being able to respond.

1. APPLICANT. Calico objects to BNSF's definition of "APPLICANT" as being overbroad. By defining APPLICANT to include Calico Solar, LLC, its predecessors, its previous sister company and companies in its previous and current ownership chain as well as all of Calico's representatives, BNSF introduces ambiguity into its Data Requests. This overbroad definition renders Data Request # 17 (owner of APPLICANT) and #26 (contracts relating to APPLICANT's purchase of SunCatchers) meaningless. This overbroad definition makes Data Requests #44-67 duplicative as APPLICANT (#44-51), APPLICANT's attorney (#52-59) and anyone who communicates on APPLICANT's behalf (#60-67) are subsumed within the definition of APPLICANT. By defining the term broadly, but then separating out sub-parts of the defined term, BNSF creates confusion in its data requests.
3. CEC. Calico objects to BNSF's definition of "CEC" to the extent that it is ambiguous as applied. BNSF defines CEC to include the agency and its subparts and then uses the subparts of the defined term separately in requests. CEC is defined to mean the California

² Calico also objects to the cover letter that was attached to its May 27, 2011 submission, which also fails to meet the requirements of Section 1716(b), and which affirmatively reveals that BNSF did not submit its requests to obtain information that is relevant to these proceedings.

Energy Commission, the California Energy Commission staff, attorneys for the California Energy Commissioners and the Executive Director for the California Energy Commission, among other people, but then BNSF specifically refers to the CEC (#44, 45, 52, 53, 60, 61), Melissa Jones, Executive Director of the CEC, (#46, 47, 54, 55, 62, 63), CEC staff (#48, 49, 56, 57, 64, 65) and CEC Chief Counsel's Office (#50, 51, 58, 59, 66, 67). Inconsistent use of this defined term creates ambiguity and renders Data Requests #44-67 duplicative.

4. COMMUNICATION. Calico objects to BNSF's definition of "COMMUNICATION" or "COMMUNICATIONS" as overbroad. COMMUNICATION as defined is not limited to written materials in the possession of Calico or its representatives. Calico should not be required to create notes or other documents summarizing telephone calls, face-to-face conversations or other situations for which no writing was produced. The definition of COMMUNICATION must also explicitly exclude documents that are covered by attorney/client, attorney work product or other privilege. Calico also objects to BNSF's definition of COMMUNICATION in that BNSF defines COMMUNICATION to include telephone calls, but then separately requests "COMMUNICATIONS regarding any and all telephone communications," which causes these data requests (#52-57) to be duplicative. Calico also objects to the definition of "COMMUNICATION" as overbroad and unduly burdensome to the extent it purports to require Calico to produce communications without any reasonable limitation to the subject matter of the current proceedings on the Petition to Amend.
5. DELIVERABLE. Calico objects to BNSF's definition of "DELIVERABLE" as being overbroad. The only criteria that BNSF includes for a document to be considered a "DELIVERABLE" is that it be "related to the CALICO SOLAR PROJECT or the PV PROJECT." DELIVERABLES should be limited to items that have been or are required to be *submitted to the CEC*. Also, DELIVERABLES should not include items that were submitted to the CEC in connection with the approved CALICO SOLAR PROJECT, which is defined as the project that the CEC approved, because this proceeding is on the Petition to Amend.
6. DOCUMENT. Calico objects to BNSF's definition of "DOCUMENT" as overbroad, unduly burdensome, and vague and ambiguous, particularly to the extent the definition purports to include items in "constructive possession" of APPLICANT or its "attorneys, investigators, insurers, experts, or consultants who have any such information or knowledge." Calico objects on the grounds that a production based upon BNSF's definition would be unduly disruptive to Calico, particularly to the extent that it purports to require Calico to locate documents not currently nor ever in its possession, custody, or control, and would cause Calico to incur costs disproportionate to BNSF's need for the information. Calico further objects to the extent such definition encompasses information that is not readily accessible through reasonable means. Calico objects to the extent that the definition requires it to locate information already known to, possessed by or readily ascertainable by BNSF from other sources that are more convenient, less burdensome, or less expensive, including without limitation, public record materials. Calico also objects to the definition of "DOCUMENT" as overbroad and unduly burdensome to the extent it

purports to require Calico to produce documents without any reasonable limitation to the subject matter of the current proceedings on the Petition to Amend.

7. GLARE/GLINT STUDY. Calico objects to BNSF's definition of "GLARE/GLINT STUDY" as being overbroad and vague. The GLARE/GLINT STUDY should be limited to include only studies commissioned by Calico. Calico has commissioned POWER Engineers to conduct a glint/glare study consistent with the scope of work discussed at the June 28, 2011 CEC workshop. Calico will respond to Data Requests #105-117 with respect to this glint/glare study.

GENERAL REQUESTS

Many of BNSF's general requests ask for information related to the CALICO SOLAR PROJECT, which is irrelevant to these proceedings on the Petition to Amend. BNSF has defined the "CALICO SOLAR PROJECT" as "the project approved by the California Energy Commission in its Final Decision, effective December 1, 2010." The Petition to Amend is before the Commission, not the approved CALICO SOLAR PROJECT. Pursuant to Section 1716(b), an applicant may be required to provide information that is relevant to the application proceedings or reasonably necessary to make a decision on the application. Data requests for information for portions of the project that have not changed from the approved CALICO SOLAR PROJECT, particularly where the Commission previously made findings that the Petition to Amend does not address, are neither relevant nor reasonably necessary. Additionally, many of BNSF's general requests ask for information that Calico previously provided in the proceedings for the approved Project or in these proceedings on the Petition to Amend. It would be cumulative, duplicative, and unduly burdensome to ask Calico to provide this information again.

1. AutoCAD files serving as the basis of project design. While Calico will provide the AutoCAD files requested on September 9, 2011, Calico objects to providing the AutoCAD files in Adobe PDF files. The information requested is not available in this format, and it would be unduly burdensome to present the information in this format. Calico also notes that providing this information in 1 inch=60 feet scale would result in print-outs of this information being hundreds of pages.
2. All studies and designs utilized by APPLICANT in the Petition to Amend. Everything relied upon in preparing the March 2011 Petition to Amend was docketed in the proceedings in which the original Project was approved or in these proceedings on the Petition to Amend. Calico will not provide this information separately in its data request responses on September 9, 2011, since to do so would be cumulative and duplicative. Moreover, BNSF's use of the term "designs" is vague and ambiguous. If BNSF uses "designs" to mean the layout and site plan, they were included in Section 2 of the Petition to Amend.
7. Studies, designs and reports provided by APPLICANT to contractors and consultants for the CALICO SOLAR PROJECT and/or the PV PROJECT. Calico objects to this data request as irrelevant to the extent that it asks Calico to provide studies, designs and reports provided

in connection with the CALICO SOLAR PROJECT. The CALICO SOLAR PROJECT, which BNSF has defined as the project approved by the CEC, is not at issue in the current proceedings on the Petition to Amend. Moreover, Calico objects to this request as cumulative, duplicative, and unduly burdensome. Further, as discussed above, BNSF's overbroad definition of APPLICANT includes its consultants and people acting on its behalf. This overbroad definition frustrates any reasonable attempt to respond to this data request. Calico also objects to "contractors and consultants" as being overbroad and narrows its response to contractors and consultants employed by Calico.

If BNSF intended to request copies of all studies, designs, and reports provided by Calico Solar for the Petition to Amend, everything that Calico Solar provided to its contractors and consultants that these contractors and consultants relied upon in preparing the March 2011 Petition to Amend was docketed in these proceedings on the Petition to Amend. Everything relied upon by Calico's contractors and consultants in preparing subsequent studies, designs and reports related to the March 2011 Petition to Amend has been or will be docketed in these proceedings on the Petition to Amend. Any other studies, designs or reports provided by APPLICANT to Calico's contractors and consultants are irrelevant and not reasonably necessary to make any decision on the notice or application.

11. Wind erosion calculations using Chepil wind erosion equations and modified Chepil wind erosion equations. Calico performed Chepil Wind Erosion Equations using Wind Erosion Prediction System (WEPS) software. All related quantitative calculations that have been calculated and relied upon to date have been docketed in the proceedings in which the original Project was approved or in these proceedings on the Petition to Amend. Calico will not provide this information separately in its data request responses, since to do so would be cumulative and duplicative.

13. Digital elevation model (DEM) data and 1-foot resolution topographic contour data for this SITE for both existing and proposed conditions. Calico objects to this request as unduly burdensome. On September 9, 2011, Calico will provide topographic contour data for existing conditions with 2-foot contour intervals. Otherwise, the information requested in this data request is not readily available to Calico through reasonable means. Calico could create the DEM for the existing conditions, but it would take several days to do so. Creating the DEM for the proposed conditions would be much more difficult, and Calico believes the relevant information in the DEM for the proposed conditions will be available in the AutoCAD files, which Calico will provide in response to Data Request #1. Calico does not have topographic contour data with 1-foot contour intervals for the existing conditions, but as stated above will provide the topographic contour data with 2-foot contour intervals.

Topographic contour data for the proposed conditions cannot be completed until the Grading and Drainage Plan and final engineering plans are finished. Even then, the

topographic contour data for the proposed conditions is not information that Calico would produce in its normal course of business.

14. Identify those DELIVERABLES that APPLICANT has allotted time to BNSF for review and time to the Commission for comment and approval before proceeding with the subsequent preparation or finalization of other DELIVERABLES. Calico has provided the schedule for its submission of DELIVERABLES related to the Soil & Water conditions, the glint/glare study and responses to Patrick Jackson Data Request Set 1 (Nos. 1-13). This schedule was most recently updated and docketed with the CEC on August 22, 2011. As set forth in the schedule, Calico has not identified, and has no obligation to identify, any DELIVERABLES as having a separate review period by BNSF. BNSF and any other party may provide comments to the CEC on any of the applicable deliverables, as provided in the Conditions of Certification for the CALICO SOLAR PROJECT.
15. Identify how much time APPLICANT has allotted to BNSF to review and comment on each study or report and to the Commission and BNSF to subsequently review and comment on each study or report. As set forth in Data Request #15, pursuant to the August 22, 2011 schedule, Calico has not provided, and has no obligation to provide, a separate review period for BNSF. BNSF and any other party may provide comments to the CEC on any of the applicable deliverables, as provided in the Conditions of Certification for the CALICO SOLAR PROJECT.
16. All COMMUNICATIONS between APPLICANT and the CEC regarding the topics covered by the Data Requests set forth in this section. Calico objects that BNSF has provided no reason for this data request as required by Section 1716(b), and objects to this data request as vague and ambiguous and unduly burdensome. Calico does not know what BNSF means by “topics covered by the Data Requests set forth in this section.” As discussed above, BNSF’s overbroad definition of APPLICANT includes its consultants and people acting on its behalf. This overbroad definition convolutes this data request. Similarly, BNSF’s overbroad definition of COMMUNICATIONS renders this data request unduly burdensome.

Calico has had communications with the CEC staff that are reflected in documents that have been docketed in the proceedings in which the original Project was approved or in these proceedings on the Petition to Amend, documents referencing procedural communications, and documents referencing statements made at status conferences or workshops at which BNSF was present. Calico further objects on the grounds that this request seeks information that is either irrelevant or duplicative. All communications between Calico and the CEC staff have been either disclosed in the public docket or relate purely to procedural matters.

Calico has not had any communications with CEC Commissioners regarding the Petition to Amend outside of public hearings and meetings. The CEC Commissioners are required to disclose any ex parte communications that relate to substantive matters, and to Calico’s

knowledge, the CEC Commissioners have complied fully with all of their regulatory requirements.

Any undisclosed communications relating to procedural matters are irrelevant and not necessary for the CEC to make a decision on the Petition to Amend. Section 1716(b). To the extent this data request is asking for COMMUNICATIONS about “topics” covered by the data requests set forth in this section to which Calico has objected in this letter, Calico objects to this data request for the same reasons.

Calico further objects that BNSF’s data request is attempting to thwart the procedures set forth in the Public Records Act for obtaining public records, including but not limited to the procedure that an agency’s staff be consulted about the release of agency communications, and the requirement that a Public Records Act applicant pay for duplication costs. Gov’t Code § 6253(b).

APPLICANT’S NEW OWNERSHIP AND FINANCIAL CAPACITY TO CONSTRUCT, OPERATE, MAINTAIN AND DECOMMISSION THE PV PROJECT

BNSF’s data requests regarding ownership of the APPLICANT are not relevant, and BNSF has provided no reason for them as required by Section 1716(b). As the Committee noted in its Order, BNSF’s explanation in its May 27, 2011 cover letter for its requests regarding “Financial Viability” does not explain how any of the requests relate to a CEQA analysis, LORS compliance, or findings under the Warren-Alquist Act. Furthermore, these data requests are calculated to be unduly burdensome.

17. All owner(s) of APPLICANT. Calico objects to this data request as being overbroad based upon the definition of APPLICANT. Calico Solar, LLC is a wholly owned subsidiary of K Road Sun LLC, which is a wholly owned subsidiary of K Road Power Holdings LLC. It is unduly burdensome for Calico to provide the owners of its predecessors, its former owners, its former sister company, its agents, attorneys, representatives, consultants and other PERSONS acting on its behalf, as BNSF’s definition of APPLICANT would require. Calico further objects to this data request as irrelevant to these proceedings on the Petition to Amend.
25. All COMMUNICATIONS between APPLICANT and the CEC regarding the topics covered by the Data Requests set forth in this section. Calico objects to this data request on the grounds that BNSF has offered no reason for this data request, on the grounds that the sought information is not relevant, and on the grounds set forth in the response to Data Request #16.

FEASIBILITY AND/OR AVAILABILITY OF PROPOSED SOLAR TECHNOLOGY

Calico objects that BNSF has failed to provide the reasons for these data requests as required pursuant to Section 1716(b). Calico objects that BNSF is explicitly seeking information regarding the “Commercial Availability of Solar Technology” solely to support the allegations in

its “Verified Complaint to Revoke Certification.” BNSF’s May 27, 2011 cover letter states, in full: “Calico Solar has acknowledged that its reason for abandoning the Original Project was the commercial unavailability of the SunCatcher technology. Moreover, Calico Solar has admitted that it was aware of this fact well before the certification of the Original Project was complete. The Data Requests in this category seek documents and information regarding the timing and disclosure of this information by Calico Solar.” BNSF’s data requests regarding “FEASIBILITY AND/OR AVAILABILITY OF PROPOSED SOLAR TECHNOLOGY” are explicitly improper attempts to obtain information related to another proceeding (Docket No. 11-CAI-01) in this proceeding.

The Project requires financing, and the Committee has already rejected BNSF’s argument that this somehow destroys the Commission’s jurisdiction over the Project. BNSF offers no other reason for its data request. In addition, the feasibility and availability of the SunCatcher technology was addressed during the proceedings for the approved Project. Photovoltaic technology is a well-established technology with a proven track record of efficiency and reliability, and Calico has many options when it comes to choosing a supplier for the components of the photovoltaic technology. Calico has provided information about the technology it proposes in its Petition to Amend. BNSF’s data requests for additional information are duplicative and unduly burdensome and in some cases ask for confidential or proprietary information that Calico is unable to provide.

Subject to all of these objections, Calico responds to BNSF’s data requests as follows.

26. All contracts or other agreements relating to APPLICANT’s purchase of SunCatchers. Calico objects to this data request as irrelevant to the current proceedings on the Petition to Amend. These documents are proprietary and/or confidential and therefore not reasonably available for production. In addition, the definition of APPLICANT is overbroad and unduly burdensome as applied to this request. BNSF’s broad definition of APPLICANT includes Stirling Energy Systems, Inc. (SES). SES builds SunCatchers. Under BNSF’s overbroad definition of APPLICANT, Calico would have to provide all of SES’s contracts and other agreements related to the SunCatchers. This information is not relevant to these proceedings on the Petition to Amend and not available to Calico.
27. All documents that confirm when SunCatchers will be commercially available. Calico objects to this data request for the reasons set forth in #26.
28. All contracts or other agreements relating to APPLICANT’s purchase of photovoltaic panels. Calico objects to this data request as irrelevant to these proceedings on the Petition to Amend. These documents are proprietary and/or confidential and therefore not reasonably available for production. Additionally, BNSF’s overbroad definition of APPLICANT would require Calico to provide the contracts and agreements of its former owner, its former sister company, its current owners and others, none of which are available to Calico for production.

29. All contracts or other documents relating to APPLICANT's purchase of tracks, rails, poles, and other infrastructure designed to allow APPLICANT to array photovoltaic panels at variable heights from the ground surface. Calico's explanation as to how photovoltaic panels will be installed at variable heights from the ground surface were included in the Petition to Amend. There are no contracts or agreements specifically related to purchase of infrastructure designed to allow photovoltaic panels at variable heights. Work to allow photovoltaic panels to be installed at variable heights will be performed in the field during construction. For all other information, Calico objects to this data request for the reasons set forth in #28.
30. All reports or documents which APPLICANT believes support the position that it can array photovoltaic panels at variable heights from the ground surface, and evaluate the impact on solar facility operations. Calico objects that this data request is vague. In the Petition to Amend, Calico proposes that "to account for minor ground surface differences, instead of grading, the steel posts would vary in height above the ground surface more than the 5 to 6 feet ... in order to create a level Tracker Block." (Petition to Amend, p. 2-4.) Calico has no written reports or documents regarding the placement of posts of variable heights in order to create a level Tracker Block. However, based upon conversations with firms experienced in the installation of large scale solar PV arrays, such as Suntech and Array Technologies, Calico understands that "conforming to land contours, without needing to grade the site, allows [a solar project developer] to minimize environmental impact." (<http://www.arraytechinc.com/duratrackhz-flexibility.php>)
31. All COMMUNICATIONS between APPLICANT and the CEC regarding the topics covered by the Data Requests set forth in this section. Calico objects to this data request on the grounds that BNSF has offered no reason for this data request, on the grounds that the sought information is not relevant, and on the grounds set forth in the response to Data Request #16.

ACCESS TO THE SITE

As the Siting Committee noted in its Order of July 1, 2011, there is a new proposed access road south of the BNSF railroad tracks to reach the western portion of the Calico Solar Project. This road traverses N.A.P. Area 3 (Section 9). The road was not depicted in the figures provided in the Petition to Amend, but was presented at the informational hearing held on April 20, 2011 to Barstow, California, which BNSF and its consultants attended. This map is available on the Commission's website.³ The proposed new road does not cross the railroad tracks.

Calico's proposed access routes across the railroad tracks have not changed since the approved CALICO SOLAR PROJECT. Therefore, all of BNSF's data requests regarding access are irrelevant to these proceedings on the Petition to Amend.

³ http://www.energy.ca.gov/sitingcases/calicosolar/compliance/notices/2011-04-20_presentations/Applicant_Information_Hearing_Presentation.pdf

Calico also objects that BNSF is requesting information that is readily available to BNSF and to the public. Information regarding public and private crossings over the BNSF railroad is available not only from BNSF itself, but also from the Federal Railway Administration's crossing database. Information regarding existing BLM open routes is also public information, and the public lands themselves are readily available for BNSF's inspection. Calico's public testimony regarding the alternative routes and the various issues involved with them was also submitted in Calico's complaint proceedings against BNSF in the CPUC. BNSF has this testimony, which is also available to the public. Calico further objects that BNSF's purported reason for propounding data requests on the issue of "access" is calculated to be misleading. Whereas BNSF claims that Calico has "admitted" that it has "access" to the northern portion of the project site, Calico has provided un rebutted testimony before the CPUC regarding the nature of that access and why it is inadequate for the Project.

Calico further objects that BNSF offers no reason for any of its data requests related to the PEEVEY LETTER. Section 1716(b). The actual reason for the discovery request is improper. Before the CPUC, BNSF argued that the PEEVEY LETTER was an improper ex parte communication to the CPUC either from the CEC or from Calico. The Assigned ALJ rejected BNSF's argument that the CEC was an interested party before the CPUC as a matter of law, and denied BNSF's discovery request. The record in the CPUC complaint proceedings is now closed, but BNSF's counsel stated that he was not satisfied, and lectured the Assigned ALJ that he intended to pursue the matter further in other fora (CPUC Transcript May 19, 2011 ("And I can assure you that in the CEC proceeding and in other proceedings that we have there will be discovery on this matter, and it will be reported, but it needs to be dealt with in this Commission.")). BNSF's data requests seeking information related to the PEEVEY LETTER are not only irrelevant to these proceedings, but they are also an attempt by BNSF to use this forum inappropriately to sidestep the California Public Utility Commission's (CPUC) denial of BNSF's inflammatory discovery requests related to that letter (*see* CPUC Transcript May 19, 2011 at 428: 15-25, 429:7-11, 438:24-439:24).

Subject to all of these objections, Calico responds to BNSF's data requests as follows.

32. All public roads that APPLICANT considered for access to the portion of the SITE north of the BNSF railway. Calico objects to this data request as irrelevant to these proceedings on the Petition to Amend. The issue of access was addressed in the proceedings in which the original Project was approved. Calico has not proposed any new or alternative access routes across the BNSF tracks in the Petition to Amend.

Calico also objects that the term "access," as used in this data request, is vague and ambiguous, and indeed is calculated to be misleading to the extent that BNSF suggests that any access is sufficient for the Project. Calico further objects that the terms "considered" and "public roads" are vague and ambiguous. To the extent that BNSF is inquiring about public crossings and BLM open routes that lead from those public crossings to the project site, BNSF is aware that the reason why Calico has not proposed

to use public crossings for construction and operation of the Project is because this issue is the subject of Calico's testimony before the CPUC.

33. All public roads that APPLICANT intends to use to access the portion of the SITE south of the BNSF railway. Calico objects to this data request as irrelevant to these proceedings on the Petition to Amend. The issue of access was addressed in the proceedings in which the original Project was approved. Calico has not proposed any new or alternative access routes over public roads south of the BNSF railway in the Petition to Amend.
35. Communications with the Federal Bureau of Land Management regarding access. Calico has no documents in its possession, which are not protected by attorney/client privilege or attorney work product, or otherwise available to BNSF from BLM, that reference communications with the Federal Bureau of Land Management regarding access to the SITE in connection with the proceedings on the Petition to Amend.
36. Communications with the CEC regarding access to the SITE. Other than documents that have been docketed in the proceedings in which the original Project was approved or in these proceedings on the Petition to Amend, documents referencing procedural communications or coordination for site visits, and documents referencing statements made at status conferences or workshops at which BNSF was present, Calico has no documents in its possession, which are not protected by attorney/client privilege or attorney work product, that reference communications with the CEC regarding access to the SITE in connection with the proceedings on the Petition to Amend.
37. Communications with the California Public Utilities Commission regarding access to the SITE. Calico has no documents in its possession referencing communications with the CPUC, which are not protected by attorney/client privilege or attorney work product, regarding access to the SITE in connection with the proceedings on the Petition to Amend, other than those documents available in the pending CPUC proceeding (10-10-015), in which BNSF is a party. To require Calico to produce those documents here would be duplicative and unduly burdensome.
38. Communications with CALTRANS regarding access to the SITE. Calico has no documents in its possession, which are not protected by attorney/client privilege or attorney work product, that reference communications with CALTRANS regarding access to the SITE in connection with the proceedings on the Petition to Amend.
39. Communications with Newberry Springs regarding access to the SITE. Calico has no documents in its possession, which are not protected by attorney/client privilege or attorney work product, that reference communications with the Newberry Springs Community Service District regarding access to the SITE in connection with the proceedings on the Petition to Amend.

40. Communications with Ludlow regarding access to the SITE. Calico has no documents in its possession, which are not protected by attorney/client privilege or attorney work product, that reference communications with the City of Ludlow regarding access to the SITE in connection with the proceedings on the Petition to Amend.
41. Communications with the County of San Bernardino regarding access to the SITE. Calico has no documents, which are not protected by attorney/client privilege or attorney work product, in its possession that reference communications with the County of San Bernardino regarding access to the SITE in connection with the proceedings on the Petition to Amend.
42. Any request by APPLICANT to any private person or governmental agency to allow APPLICANT access to the SITE. Other than requests made to BNSF and documents provided to BNSF in connection with the pending CPUC proceeding (10-10-015), Calico has no documents in its possession referencing any request by Calico to any private person or governmental agency to allow Calico and its representatives to access the SITE in connection with the proceedings on the Petition to Amend.
43. All documents with any private person or governmental agency reflecting APPLICANT's consideration of alternative routes of access to and from the SITE. Calico objects that this data request is vague. Other than documents already provided to BNSF, Calico has no documents in its possession reflecting Calico's consideration of alternative routes of access to and from the SITE in connection with the proceedings on the Petition to Amend that were sent to or received from any private person or governmental agency.
44. DOCUMENTS and COMMUNICATIONS between APPLICANT and the CEC regarding the PEEVEY LETTER. Calico objects to this data request because it is irrelevant to these proceedings on the Petition to Amend. The PEEVEY LETTER was sent to the CPUC in connection with a pending CPUC proceeding, Calico Solar, LLC v. BNSF (10-10-015). As is set forth above, BNSF specifically requested discovery on the PEEVEY LETTER and was denied such discovery by the presiding Administrative Law Judge (CPUC Transcript May 19, 2011 at 428: 15-25, 429:7-11, 438:24-439:24).
45. DOCUMENTS and COMMUNICATIONS between APPLICANT and the CEC regarding CALICO's complaint before the PUC. Calico objects to this data request on the grounds that it is irrelevant to these proceedings on the Petition to Amend. As set forth in response to Data Request #44, BNSF is attempting to use the CEC's data request in lieu of discovery in the CPUC proceeding, within which such discovery request was denied.
46. DOCUMENTS and COMMUNICATIONS between APPLICANT and Melissa Jones regarding the PEEVEY LETTER. Calico objects to this data request as duplicative of Data Request #44. When these data requests were filed, Melissa Jones was the Executive Director of the CEC, a position specifically included in BNSF's definition of CEC. Thus, Calico objects on the same grounds as in Data Request #44.

47. DOCUMENTS and COMMUNICATIONS between APPLICANT and Melissa Jones regarding the PUC complaint. Calico objects to this data request as duplicative of Data Request #45. When these data requests were filed, Melissa Jones was the Executive Director of the CEC, a position specifically included in BNSF's definition of CEC. Thus, Calico objects on the same grounds as in Data Request #45.
48. DOCUMENTS and COMMUNICATIONS between APPLICANT and the CEC staff regarding the PEEVEY LETTER. Calico objects to this data request as duplicative of Data Request #44. "CEC staff" is specifically included in BNSF's definition of CEC. Thus, Calico objects on the same grounds as in Data Request #44.
49. DOCUMENTS and COMMUNICATIONS between APPLICANT and the CEC staff regarding the PUC complaint. Calico objects to this data request as duplicative of Data Request #45. "CEC staff" is specifically included in BNSF's definition of CEC. Thus, Calico objects on the same grounds as in Data Request #45.
50. DOCUMENTS and COMMUNICATIONS between APPLICANT and the CEC Chief Counsel's Office regarding PEEVEY LETTER. Calico objects to this data request as duplicative of Data Request #44. "CEC Chief Counsel's Office" consists of the attorneys for the CEC Commissioners, the Hearing Officers and the staff or attorneys for the Hearing Officers, which are included in BNSF's definition of CEC. Thus, Calico objects on the same grounds as in Data Request #44.
51. DOCUMENTS and COMMUNICATIONS between APPLICANT and the CEC Chief Counsel's Office regarding the PUC complaint. Calico objects to this data request as duplicative of Data Request #45. "CEC Chief Counsel's Office" consists of the attorneys for the CEC Commissioners, the Hearing Officers and the staff or attorneys for the Hearing Officers, which are included in BNSF's definition of CEC. Thus, Calico objects on the same grounds as in Data Request #45.
52. DOCUMENTS and COMMUNICATIONS regarding telephone communications between Bingham and the CEC regarding the PEEVEY LETTER. Calico objects to this data request as duplicative of Data Request #44. BNSF requests that Calico provide "any and all DOCUMENTS and COMMUNICATIONS regarding any and all telephone communications between APPLICANT's counsel at Bingham McCutchen LLC [sic]." "Telephone calls" are included in BNSF's definition of "COMMUNICATIONS" so it is unclear what "telephone communications" would not have been included in Data Request #44. Bingham McCutchen LLP, as BNSF identifies, is APPLICANT's counsel and therefore included in BNSF's definition of "APPLICANT." This data request asks for the same information as Data Request #44. Additionally, Calico objects to this data request to the extent that it calls for the work product of Calico's attorney as protected by Section 2018.030 of the California Code of Civil Procedure. Calico also objects to this data request as unduly burdensome to the extent it asks Calico to produce information which is not in the

possession of Calico or its representatives. Thus, Calico objects on the same grounds as in Data Request #44.

53. DOCUMENTS and COMMUNICATIONS regarding telephone communications between Bingham and the CEC regarding the PUC complaint. Calico objects to this data request as duplicative of Data Request #45. As set forth in the objections to Data Request #52, BNSF's definition of "COMMUNICATIONS" and BNSF's definition of "APPLICANT" render this data request identical to Data Request #45. Additionally, Calico objects to this data request to the extent that it calls for the work product of Calico's attorney as protected by Section 2018.030 of the California Code of Civil Procedure. Calico also objects to this data request as unduly burdensome to the extent it asks Calico to produce information which is not in the possession of Calico or its representatives. Thus, Calico objects on the same grounds as in Data Request #45.
54. DOCUMENTS and COMMUNICATIONS regarding telephone communications between Bingham and Melissa Jones regarding the PEEVEY LETTER. Calico objects to this data request as duplicative of Data Requests #44 and 46. As set forth in response to Data Requests #46 and 52, BNSF's definitions of "COMMUNICATIONS," "APPLICANT" and "CEC" render this data request identical to Data Requests #44 and 46. Additionally, Calico objects to this data request to the extent that it calls for the work product of Calico's attorney as protected by Section 2018.030 of the California Code of Civil Procedure. Calico also objects to this data request as unduly burdensome to the extent it asks Calico to produce information which is not in the possession of Calico or its representatives. Thus, Calico objects on the same grounds as in Data Requests #44, 46, and 52.
55. DOCUMENTS and COMMUNICATIONS regarding telephone communications between Bingham and Melissa Jones regarding the PUC complaint. Calico objects to this data request as duplicative of Data Requests #45 and 47. As set forth in response to Data Requests #47 and 52, BNSF's definitions of "COMMUNICATIONS," "APPLICANT" and "CEC" render this data request identical to Data Requests #45 and 47. Additionally, Calico objects to this data request to the extent that it calls for the work product of Calico's attorney as protected by Section 2018.030 of the California Code of Civil Procedure. Calico also objects to this data request as unduly burdensome to the extent it asks Calico to produce information which is not in the possession of Calico or its representatives. Thus, Calico objects on the same grounds as in Data Requests #45, 47, and 52.
56. DOCUMENTS and COMMUNICATIONS regarding telephone communications between Bingham and the CEC staff regarding the PEEVEY LETTER. Calico objects to this data request as duplicative of Data Requests #44 and 48. As set forth in response to Data Requests #48 and 52, BNSF's definitions of "COMMUNICATIONS," "APPLICANT" and "CEC" render this data request identical to Data Requests #44 and 48. Additionally, Calico objects to this data request to the extent that it calls for the work product of Calico's attorney as protected by Section 2018.030 of the California Code of Civil Procedure. Calico also objects to this data request as unduly burdensome to the extent it asks Calico

to produce information which is not in the possession of Calico or its representatives. Thus, Calico objects on the same grounds as in Data Requests #44, 48, and 52.

57. DOCUMENTS and COMMUNICATIONS regarding telephone communications between Bingham and the CEC staff regarding the PUC complaint. Calico objects to this data request as duplicative of Data Requests #45 and 49. As set forth in response to Data Requests #49 and 52, BNSF's definitions of "COMMUNICATIONS," "APPLICANT" and "CEC" render this data request identical to Data Requests #45 and 49. Additionally, Calico objects to this data request to the extent that it calls for the work product of Calico's attorney as protected by Section 2018.030 of the California Code of Civil Procedure. Calico also objects to this data request as unduly burdensome to the extent it asks Calico to produce information which is not in the possession of Calico or its representatives. Thus, Calico objects on the same grounds as in Data Requests #45, 49, and 52.
58. DOCUMENTS and COMMUNICATIONS regarding telephone communications between Bingham and the CEC Chief Counsel's Office regarding the PEEVEY LETTER. Calico objects to this data request as duplicative of Data Requests #44 and 50. As set forth in response to Data Requests #50 and 52, BNSF's definitions of "COMMUNICATIONS," "APPLICANT" and "CEC" render this data request identical to Data Requests #44 and 50. Additionally, Calico objects to this data request to the extent that it calls for the work product of Calico's attorney as protected by Section 2018.030 of the California Code of Civil Procedure. Calico also objects to this data request as unduly burdensome to the extent it asks Calico to produce information which is not in the possession of Calico or its representatives. Thus, Calico objects on the same grounds as in Data Requests #44, 50, and 52.
59. DOCUMENTS and COMMUNICATIONS regarding telephone communications between Bingham and the CEC Chief Counsel's Office regarding the PUC complaint. Calico objects to this data request as duplicative of Data Requests #45 and 51. As set forth in response to Data Requests #51 and 52, BNSF's definitions of "COMMUNICATIONS," "APPLICANT" and "CEC" render this data request identical to Data Requests #45 and 51. Additionally, Calico objects to this data request to the extent that it calls for the work product of Calico's attorney as protected by Section 2018.030 of the California Code of Civil Procedure. Calico also objects to this data request as unduly burdensome to the extent it asks Calico to produce information which is not in the possession of Calico or its representatives. Thus, Calico objects on the same grounds as in Data Requests #45, 51, and 52.
60. Date, time and identity of all individuals who communicated on APPLICANT's behalf with the CEC regarding the PEEVEY LETTER and the manner and substance of such communications. Calico objects to this data request as irrelevant to these proceedings on the Petition to Amend. As explained in response to Data Request #44, the PEEVEY LETTER was sent to the CPUC in connection with a pending CPUC proceeding, Calico Solar, LLC v. BNSF (10-10-015). As is set forth in response to Data Request #44, BNSF specifically

requested discovery on the PEEVEY LETTER and was denied such discovery by the presiding Administrative Law Judge (CPUC Transcript May 19, 2011 at 428: 15-25, 429:7-11, 438:24-439:24). BNSF is attempting to use the CEC's data request process as a substitute for discovery in the CPUC proceeding.

61. Date, time and identity of all individuals who communicated on APPLICANT's behalf with the CEC regarding the PUC complaint and the manner and substance of such communications. Calico objects to this data request as irrelevant to these proceedings on the Petition to Amend. As set forth in response to Data Requests #44 and 60, BNSF is attempting to use the CEC's data request process as a substitute for discovery in the CPUC proceeding during which such discovery request was denied.
62. Date, time and identity of all individuals who communicated on APPLICANT's behalf with Melissa Jones regarding the PEEVEY LETTER and the manner and substance of such communications. Calico objects to this data request as duplicative of Data Request #60. As set forth in the response to Data Request #46, when these data requests were filed, Melissa Jones was the Executive Director of the CEC, a position specifically included in BNSF's definition of CEC. Thus, Calico objects on the same grounds as in Data Request #60.
63. Date, time and identity of all individuals who communicated on APPLICANT's behalf with Melissa Jones regarding the PUC complaint and the manner and substance of such communications. Calico objects to this data request as duplicative of Data Request #61. As set forth in the response to Data Request #46, when these data requests were filed, Melissa Jones was the Executive Director of the CEC, a position specifically included in BNSF's definition of CEC. Thus, Calico objects on the same grounds as in Data Request #61.
64. Date, time and identity of all individuals who communicated on APPLICANT's behalf with CEC staff regarding the PEEVEY LETTER and the manner and substance of such communications. Calico objects to this data request as duplicative of Data Request #60. As set forth in the response to Data Request #48, "CEC staff" is specifically included in BNSF's definition of CEC. Thus, Calico objects on the same grounds as in Data Request #60.
65. Date, time and identity of all individuals who communicated on APPLICANT's behalf with CEC staff regarding the PUC complaint and the manner and substance of such communications. Calico objects to this data request as duplicative of Data Request #61. As set forth in the response to Data Request #48, "CEC staff" is specifically included in BNSF's definition of CEC. Thus, Calico objects on the same grounds as in Data Request #61.
66. Date, time and identity of all individuals who communicated on APPLICANT's behalf with the CEC Chief Counsel's Office regarding the PEEVEY LETTER and the manner and

substance of such communications. Calico objects to this data request as duplicative of Data Request #60. As set forth in the response to Data Request #50, “CEC Chief Counsel’s Office” consists of the attorneys for the CEC Commissioners, the Hearing Officers and the staff or attorneys for the Hearing Officers, which are included in BNSF’s definition of CEC. Thus, Calico objects on the same grounds as in Data Request #60.

67. Date, time and identity of all individuals who communicated on APPLICANT’s behalf with the CEC Chief Counsel’s Office regarding the PUC complaint and the manner and substance of such communications. Calico objects to this data request as duplicative of Data Request #61. As set forth in the response to Data Request #50, “CEC Chief Counsel’s Office” consists of the attorneys for the CEC Commissioners, the Hearing Officers and the staff or attorneys for the Hearing Officers, which are included in BNSF’s definition of CEC. Thus, Calico objects on the same grounds as in Data Request #61.
68. Any and all drafts of the PEEVEY LETTER that APPLICANT received. Calico objects to this data request on the grounds that it is irrelevant to these proceedings on the Petition to Amend. As set forth in responses to Data Requests #44-67, BNSF is attempting to use the CEC’s data request procedure in lieu of discovery in the CPUC proceeding within which such discovery request was denied. Thus, Calico objects on the same grounds as in Data Requests #44-67.
69. Any and all drafts of the PEEVEY LETTER that APPLICANT sent to CEC, Melissa Jones, CEC staff or the CEC Chief Counsel’s Office. Calico objects to this data request on the grounds that it is irrelevant to these proceedings on the Petition to Amend. As set forth in response to Data Requests #44-68, BNSF is attempting to use the CEC’s data request procedure in lieu of discovery in the CPUC proceeding within which such discovery request was denied. Thus, Calico objects on the same grounds as in Data Requests #44-68.
70. All COMMUNICATIONS between APPLICANT and the CEC regarding the topics covered by the Data Requests set forth in this section. Calico objects to this data request on the grounds that BNSF has offered no reason for this data request, on the grounds that the sought information is not relevant, and on the grounds set forth in the response to Data Request #16.

DRAINAGE, EROSION, AND SEDIMENT CONTROL PLAN

Calico objects that BNSF has failed to provide the reasons for these data requests as required pursuant to Section 1716(b). Calico has provided its scope of work for certain hydrological analyses that Calico commissioned Tetra Tech to conduct. This scope of work was discussed at the June 28, 2011 CEC workshop. Calico has also provided the schedule for its submission of certain studies, reports and analyses related to the Soil & Water conditions. This schedule was most recently updated and docketed with the CEC on August 22, 2011. The information that

BNSF has requested in Data Requests #73-76 will be completed consistent with this scope of work and as reflected on Calico's most recently updated schedule.

73. Analyses demonstrating how pre- and post-construction site conditions will affect the Time of Concentration. This information will be included in the Infiltration Report that Calico anticipates it will submit to the CEC on September 2, 2011, per Applicant's Updated Schedule, which was docketed on August 22, 2011. Therefore, Calico will not provide this information separately on September 9, 2011, since to do so would be cumulative and duplicative.
74. Hydrologic model input and output files predicting peak flows. This information will be included in the Infiltration Report that Calico anticipates it will submit to the CEC on September 2, 2011, per Applicant's Updated Schedule, which was docketed on August 22, 2011. Therefore, Calico will not provide this information separately on September 9, 2011, since to do so would be cumulative and duplicative.
75. Sediment transport analysis. This information will be included in the Geomorphic and Hydraulic Analysis and Geomorphic and Biologic Analysis that Calico anticipates it will submit to the CEC on September 9, 2011, per Applicant's Updated Schedule, which was docketed on August 22, 2011. Therefore, Calico will not provide this information in its response to BNSF's First Set of Data Requests to Calico Solar on September 9, 2011, since to do so would be cumulative and duplicative.
77. All COMMUNICATIONS between APPLICANT and the CEC regarding the topics covered by the Data Requests set forth in this section. Calico objects to this data request on the grounds that BNSF has offered no reason for this data request, on the grounds that the sought information is not relevant, and on the grounds set forth in the response to Data Request #16.

GEOMORPHIC AND HYDRAULIC ANALYSIS; GEOMORPHIC AND BIOLOGIC ANALYSIS; GEOTECHNICAL REPORT DETENTION BASIN DESIGN

Calico objects that BNSF has failed to provide the reasons for these data requests as required pursuant to Section 1716(b). Calico has provided its scope of work for certain hydrological analyses that Calico commissioned Tetra Tech to conduct. This scope of work was discussed at the June 28, 2011 CEC workshop. Calico has also provided the schedule for its submission of certain studies, reports and analyses related to the Soil & Water conditions. This schedule was most recently updated and docketed with the CEC on August 22, 2011. The information that BNSF has requested in Data Requests #85-88 and #91-92 either has already been submitted to the CEC or will be completed consistent with this scope of work and as reflected on Calico's most recently updated schedule.

85. Flood routing calculations for design storms. This information will be included in the Infiltration Report that Calico anticipates it will submit to the CEC on September 2, 2011,

per Applicant's Updated Schedule, which was docketed on August 22, 2011. Therefore, Calico will not provide this information separately on September 9, 2011, since to do so would be cumulative and duplicative.

87. Existing biological surveys. All biological surveys that have been completed and relied upon to date have been docketed in the proceedings in which the original Project was approved or in these proceedings on the Petition to Amend. Calico will not provide this information separately in its data request responses, since to do so would be cumulative and duplicative.
88. DESCP data used to determine whether detention basis are needed. BNSF's data request is vague as to what information it is requesting. Information related to the DESCP for the approved project is irrelevant to these proceedings on the Petition to Amend. Calico anticipates submitting the DESCP in these proceedings on the Petition to Amend on September 30, 2011, per Applicant's Updated Schedule, which was docketed on August 22, 2011. Calico will not provide this information separately in its data request responses, since to do so would be cumulative and duplicative.
91. All boring information. BNSF's data request is vague as to what information it is requesting. To the extent BNSF is requesting boring information collected this year in connection with producing an Updated Geotechnical Report in these proceedings on the Petition to Amend as contemplated in the materials docketed on May 26, 2011, this information was included in the Updated Geotechnical Report that Calico submitted to the CEC on August 23, 2011. Calico will not provide this information separately in its data request responses, since to do so would be cumulative and duplicative. To the extent that BNSF is requesting other information, Calico requests clarification on this data request.
92. Analysis of subsurface soil, rock and water conditions. BNSF's data request is vague as to what information it is requesting. All of Calico's analyses of subsurface soil, rock and water conditions have been docketed in the proceedings in which the original Project was approved or in these proceedings on the Petition to Amend, including the Updated Geotechnical Report that Calico submitted to the CEC on August 23, 2011. Calico will not provide this information separately in its data request responses, since to do so would be cumulative and duplicative.
93. All COMMUNICATIONS between APPLICANT and the CEC regarding the topics covered by the Data Requests set forth in this section. Calico objects to this data request on the grounds that BNSF has offered no reason for this data request, on the grounds that the sought information is not relevant, and on the grounds set forth in the response to Data Request #16.

INFILTRATION REPORT

Calico objects that BNSF has failed to provide the reasons for these data requests as required pursuant to Section 1716(b). Calico has provided its scope of work for certain hydrological analyses that Calico commissioned Tetra Tech to conduct in connection with the Petition to Amend. This scope of work was discussed at the June 28, 2011 CEC workshop. Calico has also provided the schedule for its submission of certain studies, reports and analyses related to the Soil & Water conditions. This schedule was most recently updated and docketed with the CEC on August 22, 2011. Except as specified below, the information that BNSF has requested in Data Requests #97-103 either has already been submitted to the CEC or will be completed consistent with this scope of work and as reflected on Calico's most recently updated schedule.

97. Soil survey and land cover maps. This information has been docketed in the proceedings in which the original Project was approved or in these proceedings on the Petition to Amend. Calico will not provide this information separately in its data request responses, since to do so would be cumulative and duplicative.
99. Rainfall temporal histograms for 6-hour and 24-hour – 100-year design storms. This information will be included in the Infiltration Report that Calico anticipates it will submit to the CEC on September 2, 2011, per Applicant's Updated Schedule, which was docketed on August 22, 2011. Therefore, Calico will not provide this information separately on September 9, 2011, since to do so would be cumulative and duplicative.
100. Mapping of the spatial distribution and estimates of directly-connected and indirectly-connected impervious surfaces. Calico objects to this request as unduly burdensome. Calico does not have this information compiled in the form requested. However, all the information required to create the requested maps and estimates have been docketed in the proceedings in which the original Project was approved or in these proceedings on the Petition to Amend.
101. Pre-grading topographic maps and a detailed site grading plan. Calico will not be able to provide this information on September 9, 2011. This information will be included in the Grading and Drainage Plan that Calico anticipates it will submit to the CEC on September 30, 2011, per Applicant's Updated Schedule, which was docketed on August 22, 2011 and in the 30% Construction Plan Set to be submitted to the CEC as required under SOIL&WATER-8.
102. Watershed and sub-watershed drainage area map(s). This information has been docketed in the proceedings in which the original Project was approved or in these proceedings on the Petition to Amend. This information will also be included in the Infiltration Report that Calico anticipates it will submit to the CEC on September 2, 2011, per Applicant's Updated Schedule, which was docketed on August 22, 2011. Therefore, Calico will not provide this information separately on September 9, 2011, since to do so would be cumulative and duplicative.

103. Infiltration/runoff calculations. This information will be included in the Infiltration Report that Calico anticipates it will submit to the CEC on September 2, 2011, per Applicant's Updated Schedule, which was docketed on August 22, 2011. Therefore, Calico will not provide this information separately on September 9, 2011, since to do so would be cumulative and duplicative.
104. All COMMUNICATIONS between APPLICANT and the CEC regarding the topics covered by the Data Requests set forth in this section. Calico objects to this data request on the grounds that BNSF has offered no reason for this data request, on the grounds that the sought information is not relevant, and on the grounds set forth in the response to Data Request #16.

TRAFFIC AND TRANSPORTATION AND VISUAL RESOURCES

Calico has provided its scope of work for the glint/glare study that Calico commissioned POWER Engineers to conduct. This scope of work was discussed at the June 28, 2011 CEC workshop. Except as specified below, the information that BNSF has requested in Data Requests #105-111 and 114-115 will be provided with the glint/glare study or by BNSF as requested in the letter dated July 22, 2011 from POWER to BNSF.

105. Description of all work for GLARE/GLINT STUDY. The scope of work for the glint/glare study that Calico commissioned POWER Engineers to conduct was discussed at the June 28, 2011 CEC workshop. The glint/glare study shall be performed consistent with this scope of work. The methodology will be included in the glint/glare study that Calico anticipates it will submit to the CEC on November 1, 2011, per Applicant's Updated Schedule, which was docketed on August 22, 2011. This submission date is contingent on BNSF providing the information requested in the letter dated July 22, 2011 from POWER to BNSF and docketed in these proceedings. Therefore, Calico will not provide additional information separately on September 9, 2011, since to do so would be cumulative and duplicative.
106. Detailed timeline for GLARE/GLINT STUDY. The tasks, work plan and time estimates for the glint/glare study were included in POWER's scope of work, which was discussed at the June 28, 2011 CEC workshop. Calico anticipates it will submit the glint/glare study to the CEC on November 1, 2011. Calico will not provide this information separately, since to do so would be cumulative and duplicative.
107. Bibliography for GLARE/GLINT STUDY. The bibliography will be included in the glint/glare study that Calico anticipates it will submit to the CEC on November 1, 2011, per Applicant's Updated Schedule, which was docketed on August 22, 2011. This submission date is contingent on BNSF providing the information requested in the letter dated July 22, 2011 from POWER to BNSF and docketed in these proceedings. Therefore, Calico will not provide this information separately on September 9, 2011, since to do so would be cumulative and duplicative.

108. Plans that are being modeled for GLARE/GLINT STUDY. Other than the information to be provided in connection with Data Requests #1 and 13, which will be provided on September 9, 2011, and information to be provided by BNSF in response to the letter request dated July 22, 2011 from POWER to BNSF, this information has been docketed in the proceedings in which the original Project was approved or in these proceedings on the Petition to Amend. Calico will not provide this information separately in its data request responses, since to do so would be cumulative and duplicative.
109. Date(s) when the designs being modeled were finalized for GLARE/GLINT STUDY. BNSF's data request is vague as to what information it is requesting. All relevant information on the model will be included in the glint/glare study that Calico anticipates it will submit to the CEC on November 1, 2011, per Applicant's Updated Schedule, which was docketed on August 22, 2011. As noted above, this submission date is contingent on BNSF providing the information requested in the letter dated July 22, 2011 from POWER to BNSF and docketed in these proceedings. Therefore, Calico will not provide this information separately on September 9, 2011, since to do so would be cumulative and duplicative.
110. Technical specifications for the model. Relevant technical specifications for the model will be included in the glint/glare study that Calico anticipates it will submit to the CEC on November 1, 2011, per Applicant's Updated Schedule, which was docketed on August 22, 2011. As noted above, this submission date is contingent on BNSF providing the information requested in the letter dated July 22, 2011 from POWER to BNSF and docketed in these proceedings. Therefore, Calico will not provide this information separately on September 9, 2011, since to do so would be cumulative and duplicative.
111. Sources for technical specifications described in Data Request #110. Sources for relevant technical specifications for the model will be included in the glint/glare study that Calico anticipates it will submit to the CEC on November 1, 2011, per Applicant's Updated Schedule, which was docketed on August 22, 2011. As noted above, this submission date is contingent on BNSF providing the information requested in the letter dated July 22, 2011 from POWER to BNSF and docketed in these proceedings. Therefore, Calico will not provide this information separately on September 9, 2011, since to do so would be cumulative and duplicative.
114. Electronic copies of the model for GLARE/GLINT STUDY. Calico objects to responding to this data request on the grounds that it would require production of proprietary information belonging to POWER, its consultant.
115. Quantitative data leading to conclusions. Calico objects to this data request as vague and ambiguous and unduly burdensome. To the extent BNSF is requesting quantitative data leading to conclusions in the glint/glare study, this information will be included in the glint/glare study that Calico anticipates it will submit to the CEC on November 1, 2011, per Applicant's Updated Schedule, which was docketed on August 22, 2011. This submission date is contingent on BNSF providing the information requested in the letter dated

July 22, 2011 from POWER to BNSF and docketed in these proceedings. Therefore, Calico will not provide this information separately on September 9, 2011, since to do so would be cumulative and duplicative. To the extent that BNSF is requesting other information, Calico requests clarification of this data request.

117. All COMMUNICATIONS between APPLICANT and the CEC regarding the topics covered by the Data Requests set forth in this section. Calico objects to this data request on the grounds that BNSF has offered no reason for this data request, on the grounds that the sought information is not relevant, and on the grounds set forth in the response to Data Request #16.

I certify under penalty of perjury that the foregoing is true, correct, and complete to the best of my knowledge

Sincerely,

A handwritten signature in blue ink, appearing to read "Daniel J. O'Shea". The signature is stylized with a large, sweeping initial "D" and "O".

Daniel J. O'Shea,
On behalf of K Road Calico Solar LLC formerly
known as Calico Solar, LLC

cc: Helen Kim
Anne Alexander
Ella Gannon



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
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**FOR THE CALICO SOLAR PROJECT
AMENDMENT**

**Docket No. 08-AFC-13C
PROOF OF SERVICE
(Revised 8/1/2011)**

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DECLARATION OF SERVICE

I, Marsha Curtis, declare that on August 30, 2011, I served and filed copies of the attached **Calico's Objections to BNSF's Data Request No. 1**, dated August 30, 2011. The original document, filed with the Docket Unit or the Chief Counsel, as required by the applicable regulation, 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/calicosolar/compliance/index.html]**.

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

(Check all that Apply)

For service to all other parties:

Served electronically to all e-mail addresses on the Proof of Service list;

Served by delivering on this date, either personally, or for mailing with the U.S. 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 "e-mail preferred."

AND

For filing with the Docket Unit at the Energy Commission:

by sending an original paper copy and one electronic copy, mailed with the U.S. Postal Service with first-class postage thereon fully prepaid and e-mailed respectively, to the address below (preferred method); **OR**

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Attn: Docket No. 08-AFC-13C
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:

Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first-class postage thereon fully prepaid:

California Energy Commission
Michael J. Levy, Chief Counsel
1516 Ninth Street, MS-14
Sacramento, CA 95814
mlevy@energy.state.ca.us

I declare under penalty of perjury under the laws of the State of California 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.

