

From: "Martin, Andrea" <amartin@nrdc.org>
To:
Date: 7/15/2011 5:28 PM
Subject: Letter regarding Calico
Attachments: 7.15.11 ltr re Calico from NRDC.pdf

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DATE 7-15-11
RECD. 7-19-11

Hi,

Please accept the attached letter regarding CEQA Review of the Calico Solar Project from Johanna Wald and Helen O'Shea of NRDC.

Thank you,

Andrea

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NATURAL RESOURCES DEFENSE COUNCIL

July 15, 2011

Chairman Robert Weisenmiller, Ph.D.
Commissioner Karen Douglas
California Energy Commission
1516 Ninth Street, MS-2000
Sacramento, CA 95814

John McCamman
Acting Director
Department of Fish and Game
1416 Ninth Street, 12th floor
Sacramento, CA 95814

Via US mail and electronic mail

Re: CEQA Review of the Calico Solar Project

Dear Chairman Weisenmiller, Commissioner Douglas and Director McCamman:

As you know, the Natural Resources Defense Council (NRDC) is committed to facilitating environmentally responsible renewable energy generation and transmission in California in order to achieve the state's RPS goal. We are writing now regarding a specific solar project, the Calico Solar Project, and the need for review under the California Environmental Quality Act (CEQA) of the new photovoltaic (PV) portion of that project.

NRDC, like many other organizations, was extremely concerned about the environmental impacts of the original Calico Project and we remain concerned about the impacts of the revised project, given the resources at stake. We understand that your agencies are now trying to decide which agency should be the lead agency to conduct the necessary CEQA review of the revised project. We specifically endorse the legal analysis and conclusions set forth in the letter you recently received from the Sierra Club and other groups, including their conclusion that the California Department of Fish and Game (CDFG) should serve as the lead agency over the new PV portion of the project.

The original Calico project, as you know, was 100% solar thermal utilizing Sun Catchers, a Stirling dish technology. Then as now the project area consists of more than 6,000 acres of mostly undisturbed public lands that are habitat for diverse wildlife species, including the threatened Mojave desert tortoise and Nelson's bighorn sheep, as well as numerous sensitive plants. In addition, the area supports essential connectivity corridors between three separate recovery units for the desert tortoise. After the project was approved by the California Energy Commission (CEC), it was sold and the new owner replaced approximately 85% of the project by acreage with PV.

As the result of this change, the project currently lacks state permits for more than three-quarters of the project area, i.e., the area covered by the PV component, including but not limited to an incidental take permit from DFG under §2081 of the California Endangered Species Act (CESA). The CEC lacks jurisdiction over the new PV part of this project, as it has previously acknowledged. *See Committee Ruling on Sierra Club's Motion to Dismiss Calico Solar LLC's Petition to Amend, etc.*, July 1, 2011 at 7. Under the circumstances,

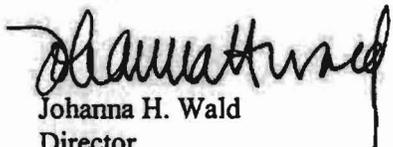
permitting of the new PV component must be preceded by a thorough CEQA review and full mitigation of its potential significant impacts as required by that statute, rather than review pursuant to the CEC's certified regulatory program, for at least three reasons.

First, as detailed in the Sierra Club letter referenced above, review under the CEC's certified regulatory program would be inappropriate and unauthorized. Second, we believe that at least some of the potential impacts of this new component will differ from the impacts of the original projects but neither we nor others will know what those differences are without a new analysis. And third, stakeholders and regulators alike now know that developers may make significant changes to their projects *after* they receive their permits. It is critically important for all concerned, including solar developers, that clear procedures for dealing with such changes are established now and adhered to going forward.

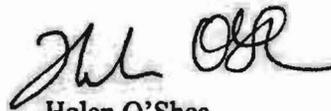
From our perspective, CDFG should be the lead agency for this review, because of its duty under CESA. That is, CDFG's obligation to review the application for an incidental take statement for the PV component of the project triggers review under CEQA. A CEQA review led by CDFG will provide multiple benefits, including the opportunity for broad public participation in the process.

Thank you all in advance for considering our views. We look forward to learning of your decision on this important issue. If you have any questions, please do not hesitate to contact Helen O'Shea at 415.875.6100.

Sincerely,



Johanna H. Wald
Director
Western Renewable Energy Project



Helen O'Shea
Deputy Director
Western Renewable Energy Project

cc:

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