

CALIFORNIA ENERGY COMMISSION

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SACRAMENTO, CA 95814-5512
www.energy.ca.gov

**DOCKET****09-AFC-5C**

DATE JUN 20 2012

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DATE: June 15, 2012**TO:** Interested Parties**FROM:** Dale Rundquist, Compliance Project Manager**SUBJECT: Abengoa Mojave Solar Project (09-AFC-5C)**

Staff Analyses of Proposed Modifications to remove the wording in Condition of Certification BIO-7 requiring vehicular traffic during project construction and operation not to exceed a speed of 25 miles per hour on Harper Lake Road.

On March 30, 2012, Abengoa Solar Inc. filed a petition with the California Energy Commission (Energy Commission) to amend the Energy Commission Decision for the Abengoa Mojave Solar Project. Staff prepared analyses of this proposed change, and copies are enclosed for your information and review.

The Abengoa Mojave Solar project will be a 250 MW solar power plant located near the community of Hinkley in San Bernardino County. The project was certified by the Energy Commission on September 8, 2010, and is currently under construction.

The proposed modifications will reduce the public safety hazard caused by requiring project-related vehicles to drive at 25 MPH, which is substantially less than the posted 55 MPH speed limit on Harper Lake Road. Staff will continue to work with the project owner and San Bernardino County to insure the repair and maintenance of the road for posted speed limit conditions.

Energy Commission staff reviewed the petition and assessed the impacts of this proposal on environmental quality, public health and safety, and proposes revisions to existing conditions of certification for BIO-7. It is staff's opinion that, with the implementation of revised conditions, the project will remain in compliance with applicable laws, ordinances, regulations, and standards and that the proposed modifications will not result in a significant adverse direct or cumulative impact to the environment (Title 20, California Code of Regulations, Section 1769).

The amendment petition and staff's analyses have been posted on the Energy Commission's webpage at www.energy.ca.gov/sitingcases. The Energy Commission's Order (if approved) will also be posted on the webpage. Energy Commission staff intends to recommend approval of the petition at the August 8, 2012 Business Meeting of the Energy Commission. If you have comments on this proposed modification, please submit them to me at the address below prior to July 15, 2012.

Dale Rundquist, Compliance Project Manager
California Energy Commission
1516 9th Street, MS-2000
Sacramento, CA 95814

Comments may be submitted by fax to (916) 654-3882, or by e-mail to Dale.Rundquist@energy.ca.gov. If you have any questions, please contact me at (916) 651-2072.

For further information on how to participate in this proceeding, please contact the Energy Commission Public Adviser's Office, at (916) 654-4489, or toll free in California at (800) 822-6228, or by e-mail at publicadviser@energy.ca.gov. News media inquiries should be directed to the Energy Commission Media Office at (916) 654-4989, or by e-mail at mediaoffice@energy.ca.gov.

Enclosures
Mail List 7362

ABENGOA MOJAVE SOLAR PROJECT (09-AFC-5C)

BIOLOGICAL RESOURCE EVALUATION OF REQUEST FOR PETITION FOR MODIFICATION OF CONDITION OF CERTIFICATION BIO-7, TRAFFIC IMPACTS ON HARPER LAKE ROAD

Andrea Martine

Introduction

The Petition to Amend the Commission's Decision for the Abengoa Mojave Solar Power Project requests modification of condition of certification **BIO-7** (Impact Avoidance and Minimization Measures) line item #3 to delete the words "Harper Lake Road". The purpose of this change is to reduce the public safety hazard caused by requiring project-related vehicles to drive at 25 MPH, which is substantially less than the posted 55 MPH speed limit on Harper Lake Road that the general public travels. In addition, the California Energy Commission does not have the authority to reduce the speed limit on a public highway. This analysis addresses the proposed change which would allow project-related traffic to drive at the posted speed limit of 55 MPH on Harper Lake Road and potential impacts to the state and federally protected desert tortoise and other biological resources.

Analysis

Staff has reviewed the Abengoa Mojave Solar Project Commission Decision (CEC 2010a), the Abengoa Mojave Solar Staff Assessment (CEC 2010b) and the Abengoa Mojave Solar Supplemental Staff Assessment - Part B (CEC 2010c), to determine if the petition request would have any further impacts to desert tortoise along Harper Lake Road if project-related traffic is allowed to drive at the posted speed limit. The analyses discuss the potential impacts to desert tortoise along Harper Lake Road during construction and operations. The analyses take into account that the majority of Harper Lake Road already has desert tortoise exclusion fencing which significantly reduces the potential of desert tortoise being hit by a vehicle on Harper Lake Road. In addition, the Abengoa Mojave Solar Project Commission Decision includes the requirement for environmental awareness training for workers, following posted speed limits along Harper Lake Road, and Designated Biologists or Biological Monitors to monitor for desert tortoise along Harper Lake Road during construction and moving desert tortoise out of the right of way to help reduce the potential for collisions and mortality. Conditions of Certification **BIO-5** (Worker Environmental Awareness Program) and **BIO-7** (Impact Avoidance and Minimization Measures) were developed and are currently being implemented as impact avoidance and minimization measures to reduce impacts to desert tortoise and other wildlife from construction traffic to less than significant levels.

Conclusion

According to staff's analysis, worker environmental awareness training, adherence to posted speed limits, and desert tortoise monitoring along Harper Lake Road during construction will reduce impacts to less than significant levels and are included in Conditions of Certification **BIO-5** and **BIO-7**. The increase in speed from 25 MPH to the posted speed limit of 55 MPH on Harper Lake Road was evaluated in staff's analysis, but the Condition of Certification **BIO-7** line item #3 did not reflect the posted speed limit. Therefore the change to allow project-related vehicles to drive the posted speed limit on Harper Lake Road will not cause any additional impacts to desert tortoise.

Amended Condition of Certification

The following Biological Resources condition of certification should be modified to reflect staff's analysis. Project-related traffic on Harper Lake Road should be allowed to drive at the posted speed limit. The required condition of certification changes are shown in ~~strikethrough~~ and **bold underline**.

IMPACT AVOIDANCE AND MINIMIZATION MEASURES

BIO-7 The project owner shall implement the following measures during construction and operation to manage their project site and related facilities in a manner to avoid or minimize impacts to the local biological resources:

3. Minimize Traffic Impacts. Vehicular traffic during project construction and operation shall be confined to existing routes of travel to and from the project site, and cross country vehicle and equipment use outside designated work areas shall be prohibited. The speed limit shall not exceed 25 miles per hour on ~~Harper Lake Road~~ and within fenced areas that have been cleared of tortoises and other wildlife. The speed limit shall not exceed 15 miles per hour within unfenced areas and secondary unpaved access roads **(except public roads)** associated with the project site.

References

CEC 2010a. California Energy Commission. Commission Decision for Abengoa Mojave Solar Project (09-AFC-5). September 2010.

CEC 2010b. Staff Assessment for Abengoa Mojave Solar Project. March 2010.

CEC 2010c. Supplemental Staff Assessment - Part B for Abengoa Mojave Solar Project. May 2010.

ABENGOA MOJAVE SOLAR PROJECT (09-AFC-5C)

TRAFFIC AND TRANSPORTATION EVALUATION OF REQUEST FOR PETITION FOR MODIFICATION OF CONDITION OF CERTIFICATION BIO-7, TRAFFIC IMPACTS ON HARPER LAKE ROAD

Steven Kerr

Introduction

The Petition to Amend the Commission's Decision for the Abengoa Mojave Solar Power Project requests modification of Condition of Certification **BIO-7** (Impact Avoidance and Minimization Measures) line item #3 to delete the words "Harper Lake Road". The purpose of this change is to reduce the public safety hazard caused by requiring project-related vehicles to drive at 25 MPH, which is substantially less than the posted 55 MPH speed limit on Harper Lake Road that the general public travels. In addition, the California Energy Commission does not have the authority to reduce the speed limit on a public highway. This analysis addresses the proposed change which would allow project-related traffic to drive at the posted speed limit of 55 MPH on Harper Lake Road.

Analysis

Staff has reviewed the Abengoa Mojave Solar Project Commission Decision (CEC 2010a), the Abengoa Mojave Solar Staff Assessment (CEC 2010b) and the Abengoa Mojave Solar Supplemental Staff Assessment - Part B (CEC 2010c), to determine if the petition request would have any further impacts to traffic and transportation systems within proximity to the project site or conflicts with previous approvals.

Since the start of construction, Abengoa Solar Inc. has discovered that travelling 25 MPH on Harper Lake Road is unsafe for construction vehicles and employees travelling to the Project site because the general public travels at or above the legal speed limit. The 25 MPH speed limit along Harper Lake Road was included as a Condition of Certification in the Biological Resources section of the Commission Decision with the intention of minimizing traffic impacts to the local biological resources. It is not included in any of the Conditions of Certification in the Traffic and Transportation section of the Commission Decision. Additionally, the amendment of the condition would not conflict with any of the Conditions of Certification in the Traffic and Transportation section of the Commission Decision.

The actual speed limit posted by San Bernardino County on Harper Lake Road is 55 MPH. With the proposed amendment, all project-related traffic would travel within the established speed limit for Harper Lake Road, resulting in travel at speeds that would not impede or block the normal and reasonable movement of traffic; therefore, would remain in compliance of local laws, ordinances, regulations, or standards.

Conclusion

The proposed modification would not result in a change or deletion of any Traffic and Transportation Conditions of Certification adopted by the Commission Decision or make changes that would cause the project to not comply with any applicable laws, ordinances, regulations, or standards.

Additionally, staff is continuing to work with San Bernardino County and the applicant to address roadway issues (pot holes) related to maintaining safe road conditions on Harper Lake Road.

Amended Condition of Certification

The following Biological Resources condition of certification should be modified to reflect staff's analysis. Project-related traffic on Harper Lake Road should be allowed to drive at the posted speed limit. The required condition of certification changes are shown in ~~strikethrough~~ and **bold underline**.

IMPACT AVOIDANCE AND MINIMIZATION MEASURES

BIO-7 The project owner shall implement the following measures during construction and operation to manage their project site and related facilities in a manner to avoid or minimize impacts to the local biological resources:

3. Minimize Traffic Impacts. Vehicular traffic during project construction and operation shall be confined to existing routes of travel to and from the project site, and cross country vehicle and equipment use outside designated work areas shall be prohibited. The speed limit shall not exceed 25 miles per hour ~~on Harper Lake Road and~~ within fenced areas that have been cleared of tortoises and other wildlife. The speed limit shall not exceed 15 miles per hour within unfenced areas and secondary unpaved access roads **(except public roads)** associated with the project site.

References

CEC 2010a. California Energy Commission. Commission Decision for Abengoa Mojave Solar Project (09-AFC-5). September 2010.

CEC 2010b. Staff Assessment for Abengoa Mojave Solar Project. March 2010.

CEC 2010c. Supplemental Staff Assessment - Part B for Abengoa Mojave Solar Project. May 2010.