

DOCKET

09-AFC-6

DATE APR 12 2010

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April 12, 2010

California Energy Commission
Docket Unit
1516 Ninth Street
Sacramento, CA 95814-5512

Subject: **PALO VERDE SOLAR I, LLC's ISSUES STATEMENT FOR APRIL 15
STATUS CONFERENCE
DOCKET NO. (09-AFC-6)**

Enclosed for filing with the California Energy Commission is the original copy of the **PALO VERDE SOLAR I, LLC's ISSUES STATEMENT FOR APRIL 15 STATUS CONFERENCE**, for the Blythe Solar Power Project (09-AFC-6).

Sincerely,



Marie Mills

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STATE OF CALIFORNIA

Energy Resources
Conservation and Development Commission

In the Matter of:

Application for Certification for the
Blythe Solar Power Project

DOCKET NO. 09-AFC-6

**PALO VERDE SOLAR I LLC'S
ISSUES STATEMENT FOR APRIL 15
STATUS CONFERENCE**

As directed by the Committee Order dated April 5, 2010, Palo Verde Solar I, LLC (PVSI), a wholly owned subsidiary of Solar Millennium, LLC, hereby files its Issue Statement. In accordance with the Order, this Issue Statement includes a proposed schedule including dates for publication of the SSA/FEIS, Prehearing Conference, and Evidentiary Hearings and a brief discussion of what obstacles may exist that would hinder completion of this proceeding by September, 2010. To assist the Committee in understanding PVSI's proposed schedule we have divided the issues into the following three categories:

- Issues that PVSI believes can be resolved easily in the SA Workshop;
- Issues that PVSI believes will likely need to be resolved in evidentiary hearings unless Committee provides early direction now
- Recently identified procedural obstacles.

The issues identified below are largely based on PVSI's review of the Staff Assessment/Draft Environmental Impact Statement (SA/DEIS) released on March 11, 2010. While the Order directs the parties to limit this Issue Statement to no more than two pages, PVSI has found it impossible to fully apprise the Committee of the issues that may interfere with a timely decision within the page limit.

WORKSHOP ISSUES

PVSI has proposed several minor changes to Staff-proposed conditions of certification which include definitional changes or changes to verification timelines. Some of PVSI's proposed changes include changes to timing of mitigation. For example, PVSI will request that Staff allow habitat compensation lands to be purchased and surrendered on a timeline that mirrors construction of the power plant units and linear facilities.

COMMITTEE DECISION ISSUES

Biological Resources

Mitigation Ratios

PVSI believes that mitigation such as species enhancement measures should be allowed in place of acquisition of habitat lands as the only means to mitigate project impacts and has proposed several for Staff consideration. PVSI will discuss at the upcoming workshops but anticipates that the Committee may ultimately need to decide after evidentiary hearings.

Traffic and Transportation

Staff has concluded that the BSPP will cause significant impacts to aircraft using the Blythe Airport and that these impacts cause it be inconsistent with the Airport Land Use Master Plan. PVSI disagrees and is working with the Riverside County Airport Land Use Commission to obtain an advisory opinion that the BSPP is consistent with the Airport Master Plan. PVSI disagrees with Staff's conservative modeling and will work with Staff at the upcoming workshop.

Visual Resources

Staff has concluded that the BSPP will result in a significant unmitigable impact to visual resources in the same manner as it has found in every solar project before the CEC. PVSI disagrees.

Soil and Groundwater

Staff has essentially adopted a significance threshold of 1 molecule of groundwater pumped is a significant impact that must be mitigated. Staff has ignored PVSI's modeling and even though the BSPP is further away from the Colorado River than the Blythe Energy Project and the Blythe Energy Project II. In those projects, the Commission after extensive evidentiary hearings concluded that those projects could each pump up to 3000 afy of water and that such pumping did not result in impacts to the Colorado River and that they would not need an entitlement of Colorado River Water from the US Bureau of Reclamation. Staff ignores this analysis and the recent conclusion by the Committee in the Genesis Solar Energy Project and, instead, has treated the extraction of groundwater like it was diversion of Colorado Surface Water. This treatment ignores Commission Decisions in the Blythe Energy Project and Blythe Energy Project II as well as the recent guidance from the Committee in the Genesis Solar Energy Project which concluded that the Accounting Surface Methodology was not a LORS.

PVSI requests that the Committee reiterate to Staff that California groundwater is not Colorado River Water and extraction of water is not the same as pumping Colorado River water directly.

PROCEDURAL OBSTACLES

PVSI recently was told that BLM and CEC are severing the joint processes and this is largely due to BLM and CEC disagreements about the contents of the SA/DEIS. PSI would like to learn more from the CEC and BLM and how this will affect the overall schedule but is concerned of duplicative efforts and inconsistent conclusions.

PVSI is also disappointed in Staff's failure to conclude that the project's impacts are mitigatable or that it needs additional information to prepare its SAA/FEIS. If our goals are truly to promote renewable energy production, then Staff should have and could have simply adopted worst case scenario analyses and proposed mitigation. For example, Staff concludes that it cannot proceed until the US Army Corps of Engineers (USACE) determines whether a Section 404 permit is required. Since Staff has performed a complete impact analysis concerning the washes the determination of whether or not the project needs a Section 404 permit is a simple LORS matter which can be solved by a condition requiring the BSPP either obtain the permit or a determination from the USACE that no permit is required.

The issue regarding the Golden Eagle can be handled in the same manner.

PVSI has conducted additional surveys to support a change in transmission line route and alternatives identified after the AFC was filed. Staff could have simply assumed presence of protected species for these unsurveyed areas and adopted mitigation accordingly and then used the recent surveys to refine the analysis and mitigation.

SCHEDULE

PVSI's original proposed schedule was dependent upon the joint CEC/BLM process. If that process is bifurcated, PVSI requests the ability to proceed to evidentiary hearing as soon as possible. PVSI requests Staff finalize a Staff Assessment Addendum by May 15 and proceed to evidentiary hearing in late May or early June. In that way the Committee can resolve disputes as soon as possible. BLM, if it is preparing its own documents, can then review the Committee's findings and ensure the FEIS and its ROW Grant are consistent.

CONCLUSION

PVSI looks forward to a productive Status Conference on April 15, 2010 and requests the Committee provide direction to Staff so that upcoming workshops on April 16, 28 and 29 can be productive.

Dated: April 12, 2010

/original signed/

Scott A Galati
Counsel to Palo Verde Solar I, LLC



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
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APPLICATION FOR CERTIFICATION
FOR THE **BLYTHE SOLAR**
POWER PLANT PROJECT

Docket No. 09-AFC-6

PROOF OF SERVICE
(Revised 3/3/10)

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DECLARATION OF SERVICE

I, Marie Mills, declare that on April 12, 2010, I served and filed copies of the attached **PALO VERDE SOLAR I, LLC's ISSUES STATEMENT FOR APRIL 15 STATUS CONFERENCE** dated April 12, 2010. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at:
[\[http://www.energy.ca.gov/sitingcases/solar_millennium_blythe\]](http://www.energy.ca.gov/sitingcases/solar_millennium_blythe)

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

(Check all that Apply)

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sent electronically to all email addresses on the Proof of Service list;

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OR

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

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. **09-AFC-6**
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I declare under penalty of perjury that the foregoing is true and correct.

// Original Signed //

Marie Mills