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December 24, 2009

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

DOCKET	
09-AFC-8	
DATE	<u>DEC 24 2009</u>
RECD.	<u>DEC 24 2009</u>

Subject: **GENESIS SOLAR, LLC MOTION FOR SCOPING ORDER,
HEARING AND ORDER SCHEDULEING TIME FOR FILING OF
BRIEFS
DOCKET NO. (09-AFC-8)**

Enclosed for filing with the California Energy Commission is the original of **GENESIS SOLAR, LLC MOTION FOR SCOPING ORDER, HEARING AND ORDER SCHEDULEING TIME FOR FILING OF BRIEFS**, for the Genesis Solar Energy Project Docket No. (09-AFC-8).

Sincerely,

Scott A Galati

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STATE OF CALIFORNIA

Energy Resources
Conservation and Development Commission

In the Matter of:

Application for Certification for the Lodi
Energy Center

DOCKET NO. 09-AFC-8

**GENESIS SOLAR, LLC MOTION FOR
SCOPING ORDER, HEARING AND
ORDER SCHEDULING TIME FOR
FILING OF BRIEFS**

Genesis Solar, LLC hereby requests the Committee set a Briefing Schedule, set a Hearing and adopt a Scoping Order after the Hearing that addresses the following legal questions:

1. Articulate with specificity the Commission's Policy on use of water for power plant cooling purposes;
2. Articulate with specificity the legal affect of the US Bureau of Reclamation's Accounting Surface Methodology on groundwater pumping in the Chuckwalla Valley Groundwater Basin; and
3. Cumulative Impacts
 - a. Define the legal standard for including future projects in the cumulative impact analysis under the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA).
 - b. Articulate whether the Commission has a policy of conserving water for use by projects that are not yet identified.

Good Cause for Granting Scoping Order for Briefing and Hearing

This Scoping Order is necessary because Staff recently opined in the December 18, 2009 Data Request Workshop that due to the complexity of the issues articulated above and because the Genesis Solar Energy Project (GSEP) has elected to use highly degraded groundwater for cooling, it is unlikely that the GSEP would be able to be processed by Commission Staff in time to secure stimulus funding under the American Reinvestment and Recovery Act (ARRA). Therefore it is imperative that the Committee resolve these legal questions as soon as possible so that the parties can proceed with the evaluation and proceed to a Decision in a time frame that would allow receipt of such funding.

The current schedule has Staff publishing its Staff Assessment on March 3, 2010. In order for Staff to incorporate the direction of the Committee on the legal questions presented above, it is important for the Committee to conduct a hearing before the end of January. Furthermore, in order for the Committee to conduct a meaningful hearing, all parties should present legal briefs and position papers before any hearing. To that end, Genesis Solar, LLC respectfully requests that the Committee schedule the hearing during the last week of January and order the parties to provide legal briefs and position papers on or before January 18, 2010 (allowing for rebuttal to be provided at hearing).

Genesis Solar, LLC requests an accelerated briefing schedule and this motion be granted on the basis that good cause exists. Good cause exists because of the expedited schedule for projects seeking ARRA funding and because Staff has identified that resolution of these legal questions will delay processing of the GSEP thereby jeopardizing ARRA funding.

Dated: December 24, 2009

Scott A Galati
Counsel to Genesis Solar, LLC



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

APPLICATION FOR CERTIFICATION FOR THE
GENESIS SOLAR ENERGY PROJECT

Docket No. 09-AFC-8

PROOF OF SERVICE
(Revised 12/22/09)

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DECLARATION OF SERVICE

I, SUPRIYA, declare that on 12/24, 2009, I served and filed copies of the attached motion, dated 12/24 2009. 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/genesis_solar].

The documents have 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)

FOR SERVICE TO ALL OTHER PARTIES:

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

by personal delivery or by depositing in the United States mail at Sacramento, California, with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses NOT marked "email preferred."

AND

FOR FILING WITH THE ENERGY COMMISSION:

sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (*preferred method*);

OR

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

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 09-AFC-8
1516 Ninth Street, MS-4
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I declare under penalty of perjury that the foregoing is true and correct.

