

the Commission's ability to complete its review of this project by next fall. Staff pointed out that the applicant's cooling proposal will require the Committee to address a number of complex legal and factual issues, including 1) state and regional policies discouraging the use of fresh water for cooling, including the Colorado River Regional Water Quality Control Board Basin Plan, State Water Resources Control Board Policies 75-58 and 88-63, and the Commission's own water policy articulated in the 2003 Integrated Energy Policy Report; 2) concerns expressed by the Bureau of Reclamation (BOR) to staff about the potential effect of this and other projects on the Colorado River (which could lead to BOR taking action in the future to prohibit groundwater use); 3) identification of reasonably foreseeable future projects in this area, 4) the role the State of California's interest in targeting this area for future solar development will play in the cumulative impacts analysis; and 5) indications that this project in conjunction with other reasonably foreseeable projects may lead to overdraft of the groundwater system and may create significant impacts on seeps, springs, and the plants and animals that depend on them.

Although the applicant's motion appears to assume that concerns about its proposal to use groundwater for cooling can be resolved by merely applying articulated laws and policies to the project, a Committee ruling on this issue would require evidentiary hearings on a number of complex factual issues. Significantly, the applicant's filing provides no indication as to why the factors identified above will not require extensive analysis, evidentiary hearings, briefing, and hence schedule delays. Given the challenges presented by the applicant's proposal to use groundwater, staff respectfully requests that the Committee issue an Order that provides for a longer schedule if the applicant is determined to continue advocating the use of groundwater for cooling. This resolution is consistent with the Committee's power to "regulate the conduct of the proceedings and hearings, including . . . disposing of procedural requests. . ." (Cal. Code Regs., tit. 20, § 1203, subd. (b).)

Finally, staff notes that its response to the applicant's Motion is influenced by the fact that completion of state and federal agency review of the projects seeking federal subsidies is extremely challenging. Because groundwater use issues are of concern to other state and federal agencies with decisionmaking roles, any schedule for briefing and hearing should accommodate the scheduling needs of those agencies. These agencies include BLM, the Colorado River Board of California, the U.S. Bureau of Reclamation, the State Water Resources Control Board, the Colorado River Regional Water Quality Control Board, the United States Fish and Wildlife Service, and the California Department of Fish and Game.

Staff has made these projects its highest priority and is working diligently with the applicant and other agencies to facilitate and coordinate their review. However, resolving complicated questions of fact and law will hinder our efforts and is likely to make it impossible to complete review by the federal funding deadline. Significantly, every other project seeking a decision by next fall has chosen to avoid the challenges associated with using groundwater for cooling. Staff strongly supports the effort to develop renewable energy projects on a schedule that allows for significant federal

support. However, projects whose development plans create complicated issues involving sensitive resources are likely be delayed in such a way that this outcome is not possible.

Date: December 31, 2009

Respectfully submitted,

/s/ Caryn J. Holmes
CARYN J. HOLMES
Staff Counsel IV
California Energy Commission
1516 9th St.
Sacramento, CA 95814
Ph: (916) 654-4178
Fax: (916) 654-3843
E-mail: cholmes@energy.state.ca.us



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)**

APPLICANT

Ryan O'Keefe, Vice President
Genesis Solar LLC
700 Universe Boulevard
Juno Beach, Florida 33408
Ryan.okeefe@nexteraenergy.com

Scott Busa/Project Director
Meg Russel/Project Manager
Duane McCloud/Lead Engineer
NextEra Energy
700 Universe Boulevard
Juno Beach, FL 33408
Scott.Busa@nexteraenergy.com
Meg.Russell@nexteraenergy.com
Duane.mccloud@nexteraenergy.com

Mike Pappalardo
Permitting Manager
3368 Videra Drive
Eugene, OR 97405
mike.pappalardo@nexteraenergy.com

Diane Fellman/Director
West Region
Regulatory Affairs
234 Van Ness Avenue
San Francisco, CA 94102
Diane.fellman@nexteraenergy.com

APPLICANT'S CONSULTANTS

Tricia Bernhardt/Project Manager
Tetra Tech, EC
143 Union Boulevard, Ste 1010
Lakewood, CO 80228
Tricia.bernhardt@tteci.com

Christo Nitoff, Project Engineer
Worley Parsons
2330 East Bidwell Street, Ste.150
Folsom, CA 95630
Christo.Nitoff@Worleyparsons.com

COUNSEL FOR APPLICANT

Scott Galati
Galati & Blek, LLP
455 Capitol Mall, Ste. 350
Sacramento, CA 95814
sgalati@gb-llp.com

INTERESTED AGENCIES

California-ISO
e-recipient@caiso.com

Allison Shaffer, Project Manager
Bureau of Land Management
Palm Springs South Coast
Field Office
1201 Bird Center Drive
Palm Springs, CA 92262
Allison_Shaffer@blm.gov

INTERVENORS

Tanya A. Gulesserian,
Marc D. Joseph
Adams Broadwell Joesph &
Cardoza
601 Gateway Boulevard, Ste
1000
South San Francisco, CA 94080
tgulesserian@adamsbroadwell.com

*Michael E. Boyd, President
Californians for Renewable
Energy, Inc. (CARE)
5439 Soquel Drive
Soquel, CA 95073-2659
michaelboyd@sbcglobal.net

Other

*Alfredo Figueroa
424 North Carlton
Blythe, CA 92225
LaCunaDeAtzlan@aol.com

ENERGY COMMISSION

JULIA LEVIN
Commissioner and Presiding
Member
jlevin@energy.state.ca.us

JAMES D. BOYD
Vice Chair and Presiding Member
jboyd@energy.state.ca.us

Kenneth Celli
Hearing Officer
kcelli@energy.state.ca.us

Mike Monasmith
Siting Project Manager
mmonasmi@energy.state.ca.us

Caryn Holmes
Staff Counsel
cholmes@energy.state.ca.us

Robin Mayer
Staff Counsel
rmayer@energy.state.ca.us

Public Adviser's Office
publicadviser@energy.state.ca.us

DECLARATION OF SERVICE

I, Lynn Tien-Tran, declare that on December 31, 2009, I served and filed copies of the attached Response of Commission Staff to Genesis Solar, LLC Motion for Scoping Order, Hearing and Order Scheduling Time for Filing of Briefs, dated December 31, 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:

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

 X 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" will be completed Monday, January 4, 2010.

AND

FOR FILING WITH THE ENERGY COMMISSION:

 X 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
Sacramento, CA 95814-5512
docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Lynn Tien-Tran