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August 13, 2010

**DOCKET**  
**09-AFC-8**

DATE	AUG 13 2010
RECD.	AUG 13 2010

California Energy Commission  
Attn Docket No. 09-AFC-8  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512

Re: Genesis Solar Energy Project; 09-AFC-8

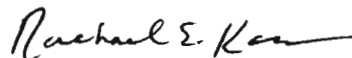
Dear Docket Clerk:

Enclosed are an original and copy of California Unions for Reliable Energy's Letter to Commissioners (August 13, 2010) in Response to Genesis Solar, LLC's Supplemental Reply Brief.

Please docket the original, conform the copy and return the copy in the envelope provided.

Thank you for your assistance.

Sincerely,



Rachael E. Koss

REK:bh  
Enclosures

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August 13, 2010

### **Via Email and U.S. Mail**

James D. Boyd, Commissioner  
California Energy Commission  
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Kenneth Celli, Hearing Officer  
California Energy Commission  
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Re: Genesis Solar, LLC Supplemental Reply Brief

Dear Commissioner Boyd, Commission Weisenmiller and Hearing Officer Celli:

We want to briefly respond to the hyperbolic accusations of Applicant's counsel in its Supplemental Reply to CURE's Reply Brief. Whether it is because he recognizes that the Project faces substantial legal obstacles or counsel's mere exhaustion and confusion from handling too many cases simultaneously, the Supplemental Reply contains over-the-top claims that cannot be allowed to remain unanswered.

In CURE's Second Reply Brief we explained that CEQA requires the Commission to evaluate all of the downstream facilities identified in the Transition Cluster Phase II Interconnection Study Report ("Phase II Study") as part of "the

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whole of the project.” The Supplemental Reply accuses CURE of “violat[ing] the Committee’s Order” and “sandbagging.” As the Commission’s obligation to evaluate the whole of the project is the most fundamental tenet of CEQA law, no experienced CEQA practitioner could be surprised by the argument. Indeed, the Commission’s obligation to evaluate environmental impacts from downstream changes in the transmission system is so obvious and well accepted it has been the Commission’s practice for decades. Applicant’s counsel surely knows this, since it has routinely occurred in several of his prior cases. For example, the Sunrise Texaco Combined Cycle project (98-AFC-4) Final Staff Assessment (“FSA”) stated “[a]ny new transmission facilities such as the power plant substation, the outlet line, and, or downstream facilities, required for connection to the grid are considered part of the project and are subject to the full AFC review process.” (Part II, p. 66.) Similarly, the FSA for the Donald Von Raesfeld Power Plant Project (02-AFC-3) stated, “Staff evaluated the proposed power plant switchyard, outline line, termination and downstream facilities identified by the applicant...” (p. 5.5-1.) More recently, the Staff Final Transmission System Engineering Analysis and Attachments for the Blythe Solar Energy Project (09-AFC-6) stated, “[t]he project interconnection to the grid would require additional downstream transmission facilities (other than those proposed by the applicant) that require [CEQA] review. The CEQA review of the downstream transmission facilities has been included as attachment to this document.” (p. D.5-1.)

Moreover, at the evidentiary hearing the Hearing Officer authorized discussion of the Phase II Study in our reply brief, to which the Applicant’s counsel had no objection. (July 21, 2010 Tr., pp. 55-58.) In fact, the Hearing Officer stated that parties should even be allowed to reopen the record “based upon subsequently found information” in the Phase II Study. (*Id.*, p. 57.) Thus, CURE could have moved to reopen the record to provide testimony related to the Phase II Study, which would have delayed the proceeding, but in the spirit of compromise we briefed the issue instead.

CURE’s discussion of the Commission’s obligation to evaluate the environmental impacts of the downstream facilities identified in the Phase II Study was not a “last minute attempt to further instill confusion into the process.” Rather, it was an unremarkable recitation of basic CEQA law at the precise time

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authorized by the Hearing Officer. Histrionic accusations won't change that law. Nor will they, we trust, distract the Committee from faithfully applying that law.

Sincerely,

A handwritten signature in cursive script that reads "Rachael E. Koss".

Rachael E. Koss

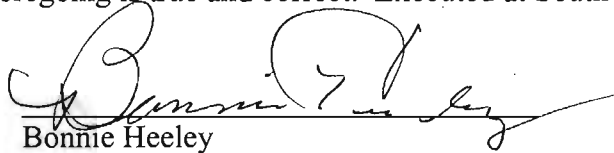
REK:BH

cc: Docket  
POS List

PROOF OF SERVICE

I, Bonnie Heeley, declare that on August 13, 2010 I served and filed copies of the attached **CALIFORNIA UNIONS FOR RELIABLE ENERGY'S LETTER TO COMMISSIONERS (August 13, 2010) IN RESPONSE TO GENESIS SOLAR, LLC'S SUPPLEMENTAL REPLY BRIEF**. 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 [www.energy.ca.gov/sitingcases/genesis](http://www.energy.ca.gov/sitingcases/genesis). 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 electronically to all email addresses on the Proof of Service list and by either depositing in the U.S. Mail at South San Francisco, CA with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list to those addresses NOT marked "email preferred," via personal service or via overnight mail as indicated.

I declare under penalty of perjury that the foregoing is true and correct. Executed at South San Francisco, CA on August 13, 2010.

  
 Bonnie Heeley

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