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DOCKET	
09-AFC-8	
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July 26, 2010

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

Subject: **GENESIS SOLAR LLC'S OPENING BRIEF—EVIDENTIARY HEARING DAY 1 AND DAY 2 TOPICS
GENESIS SOLAR ENERGY PROJECT
DOCKET NO. (09-AFC-8)**

Enclosed for filing with the California Energy Commission is the original of **GENESIS SOLAR LLC'S OPENING BRIEF—EVIDENTIARY HEARING DAY 1 AND DAY 2 TOPICS**, for the Genesis Solar Energy Project (09-AFC-8).

Sincerely,


Ashley Garner

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STATE OF CALIFORNIA

Energy Resources
Conservation and Development Commission

In the Matter of:

Application for Certification for the
Genesis Solar Energy Project

DOCKET NO. 09-AFC-8

**GENESIS SOLAR, LLC OPENING
BRIEF – EVIDENTIARY HEARING
DAY 1 AND 2 TOPICS**

In accordance with the Committee direction at the evidentiary hearings held on July 12 and 13, 2010 Genesis Solar, LLC (Genesis) files this Opening Brief for the topics adjudicated during these evidentiary hearings. Specifically, the Committee requested the briefs to address the following issues:

- Whether the Genesis Solar Energy Project (GSEP) will result in significant unmitigatable cumulative impacts in the areas of Visual Resources and Land Use¹
- The premise contained in the letter dated July 2, 2010 from Gerald R. Zimmerman, Acting Executive of the Colorado River Board to Mike Monasmith, Project Manager for the California Energy Commission (CRB Letter) claiming that the GSEP must acquire a Colorado River entitlement from the Metropolitan Water District

In addition to these issues, Genesis includes a proposal for modifications to the General Conditions that would explicitly allow the Compliance Project Manager (CPM) to approve submittal of various compliance plans that may need to be updated or supplemented as the project construction proceeds. While discussed at the July 21, 2010 evidentiary hearing at some length, Genesis includes a discussion in this Opening Brief in order to allow the parties ample time to respond.

Also incorporated into this first brief is Genesis' argument for deletion of Waste-8.

¹ Supplemental to this request, the Committee requested briefing on any other resource areas where the GSEP has the potential to result in a significant unmitigated impact. The only other topic area where significant unmitigated impacts was alleged occurred on the third day of testimony in the topic area of Cultural Resources, as it related to cumulative impacts. Accordingly, that issue will be addressed in the Opening Brief of Applicant covering Day 3 Topics.

Lastly, to assist the Committee, Genesis also has included a table that identifies the citations in the record where all of the Conditions of Certification can be located. Genesis and Staff have agreement on all but one of the proposed Conditions of Certification.

I. THE GSEP WILL NOT RESULT IN CUMULATIVE SIGNIFICANT UNMITIGATABLE IMPACTS

A. VISUAL RESOURCES

Staff and Genesis agree that the GSEP will not result in significant direct impacts to visual resources.² The sole dispute revolves around Staff's unsupported claim that the GSEP results in significant cumulative impacts that cannot be mitigated. As Genesis expert witness Merlyn Paulsen explained, when proper visual resource methodology is followed, it is clear that the GSEP, when combined with other past, present, and reasonably foreseeable projects, does not contribute to a cumulative impact.

As explained in the expert testimony of Lee Anderson, Genesis and BLM selected Key Observation Points (KOPs) from which photographs and visual simulations were developed for the basis of the visual analysis. The KOPs were selected because they represented a reasonable, possible worst case vantage point from which the project would be visible.³ Staff added its own two KOPs (4a and 4b).⁴ Further to this, Genesis Environmental Manager, Kenneth Stein testified that Genesis disagrees with the selection of the Staff added KOPs for analysis because these locations are simply not areas from which people will view the project with any regularity.⁵

Mr. Paulsen and Mr. Anderson explained that Staff's analysis is based completely upon the selection of KOPs that were rejected by BLM staff and represent areas where there are simply very few to no viewers.⁶ KOP 4a and 4b are in the Wilderness Area in the Palen Mountains and while we acknowledge that if a person could actually get to these locations you could see the GSEP, there are no trails to these locations, there are no campgrounds at these locations and there are very few to no opportunities for viewers.⁷ As is the case of assessing impacts to Land Use (discussed below), the CEC Staff properly acknowledges that because the project area and most of the vicinity is on BLM land, it is appropriate to give considerable deference to the significance thresholds and impact analysis that BLM would perform under NEPA:

“Again, I would not be doing CEQA analysis for a project that's solely located on federal land under a federal plan.” (Id. At p. 449).

² Genesis Rebuttal Testimony, Visual Resources, Page 2; Transcript from July 12, 2010 Evidentiary Hearing, Genesis Power Project, Direct Examination by Paulsen and Anderson for GSEP, Pages 427-431 and 433-434; RSA Page C.12-1; , and AFC, Volume 1, Pages 5.10-8 through 11.

³ 7/12/10 RT 427-428

⁴ Ibid

⁵ 7/12/10 RT 431-432

⁶ Ibid

⁷ Ibid, page 433

This same analysis should be applied to Visual Resources. It is difficult to understand why CEC Staff would give deference to BLM's approach to defining significance thresholds for Land Use and then when analyzing impacts to visual resources, completely disregard the BLM's decision not to include KOPs in an area where there would be few to no viewers

It is likewise difficult to understand why Staff utilized their KOP's in light of the evidence that there are no reasonably accessible vantage points. However, even though KOPs 4a and 4b were used, Staff concluded correctly that the GSEP would not result in direct significant visual impacts when viewed from these locations. Staff then opines, when using the same KOPs, that the GSEP somehow contributes considerably to a cumulative impact to visual resources. For Staff's opinion to be supported, one would first have to believe that KOPs 4a and 4b were appropriate and then would have to demonstrate that a hypothetical viewer would be able to see the GSEP and some other project(s) at the same time. Neither one of those assertions are factually supported. Assuming *arguendo* that the remote and isolated KOPs that staff proffers could be used, it would be possible to view the GSEP and the Palen Solar Power Project from the top of the Palen Mountains. However, since one project would be to the east and one would be to the west, they simply would not be in the same line of sight or view and as such, the GSEP cannot contribute to a cumulative impact to visual resources.

Therefore, the Committee should find that all impacts after mitigation, including cumulative impacts to Visual Resources are less than significant.

B. LAND USE

Staff has also incorrectly concluded that the GSEP will result in significant unmitigatable cumulative impacts to Land Use. As described by Ms. Vahidi in her testimony, she has used specific thresholds of significance that were requested by BLM in order to support its analysis under the National Environmental Policy Act (NEPA)⁸. Specifically, Ms. Vahidi states:

“I will admit that if I was conducting a stand-alone CEQA analysis, I would not be using these thresholds. However, the analysis is for a project that's solely on federal BLM lands. So therefore, doing -- as you can understand, I probably would never be doing just a CEQA analysis on something that's under federal jurisdiction, especially for a land-use analysis.” (7/12, RT: p. 447)

Ms. Vahidi later states that she would come to the same conclusion under a CEQA analysis, but nowhere does she state that she undertook such: “Again, I would not be doing CEQA analysis for a project that's solely located on federal land under a federal plan.” (Id. At p. 449). Then, in reference to the project site and the land use designation as “recreational use” (multiple use), being the focal point of her analysis, she states: “Now, BLM will and has and may say this it's not used regularly or it's not currently being used, but when the plan has that designation.....then it's allowed for that use...” (Id. At p. 450).

⁸ 42 USC 4321

It is abundantly clear from Staff's testimony that the NEPA thresholds she employs for her analysis are controlling her conclusion of significant cumulative impact. Just as clear and problematic for Staff, but advantageous for the Committee in making this decision, is that the conclusion by Staff is only relative to the speculative nature of the conclusion based on the site with its current land use designation under the California Desert Conservation Area Plan (CDCA). This aspect and approach by Staff is a legal fiction which has no application to the actual process by which GSEP will be permitted and specifically ignores the fact that the project can only be built upon the issuance of the Right of Way grant by BLM and the concomitant amendment to the CDCA. More specifically, the BLM will be issuing a Plan Amendment in conjunction with issuing a Right of Way Grant and a key purpose of the Plan Amendment is to explicitly allow the use of the project area for the generation of solar energy in a manner that is *not* incompatible with other allowed land uses.

As such, there will be no inconsistency, significant, cumulative, and or unmitigatable impact in any respect to Land Use since the GSEP use of the land will wholly comport with the Plan Amendment.

In summary, and stated best by Ms. Vahidi: "...obviously the BLM in their plan had something in mind when they designated the area for such uses." (7-12, RT: at p. 452). Accordingly, in light of the express reliance on and deferral to the BLM plan designation, when this project moves forward to construction and operation, there will be no impacts under the land use plan otherwise relied on by Ms Vahidi due to the issuance of the ROW and CDCA amendment which will necessarily change the land use designation.

Therefore, the Committee should find that all impacts after mitigation, including cumulative impacts to Land Use are less than significant.

II. THE GSEP DOES NOT REQUIRE AN ENTITLEMENT OF COLORADO RIVER WATER TO PUMP GROUNDWATER IN THE CHUCKWALLA VALLEY

The CRB letter does not state that the GSEP is pumping Colorado River Water, nor does it state that the GSEP requires an entitlement to Colorado River Water in order to pump California Groundwater in the Chuckwalla Valley. Specifically, the CRB letter states the following:

The BLM lands proposed for the Genesis Solar Energy Project are currently located within the "Accounting Surface" area designated by U.S. Geological Survey Water Investigation Reports (i.e., WRI 94-4005 and WRI 00-4085). These reports indicates that the aquifer underlying lands located within the "Accounting Surface" is considered too.be (*sic*) hydraulically connected to the Colorado River and groundwater withdrawn from wells located within the "Accounting Surface" would be replaced by Colorado River water, in part or in total. This means that ***if it is determined that these wells are, in fact, pumping Colorado River water, a contract*** with the Secretary of the Interior ***would be required***

before such a diversion and use is deemed to be a legally authorized use of this water supply.

This is the exact same issue that was briefed for the Committee by all parties in response to Genesis' Motion For Scoping Order in January, 2010. The entire basis that anyone could claim that the GSEP would pump groundwater that would need an entitlement is the Accounting Surface Methodology, which for the reasons outlined below, the Committee agreed in the Scoping Order was not a law, ordinance, regulation or standard that would be applicable to the GSEP.⁹

A. ACCOUNTING SURFACE METHODOLOGY

CURE contends that the Accounting Surface Methodology should be applied to the GSEP's proposed use of groundwater in the Chuckwalla Valley. Staff and Genesis agree that it does not and that the GSEP would not be required to secure an entitlement of Colorado River Water in order to legally pump groundwater in the Chuckwalla Valley.¹⁰ Therefore, a threshold question is whether the Accounting Surface Methodology is such an applicable law. As discussed below, no such law exists.

To lawfully use water from the mainstream of the lower Colorado River¹¹, a person or entity must have an entitlement. An entitlement authorizes a person or entity to use water from the lower Colorado River for beneficial use. An entitlement can be obtained as a decreed right as described in the Consolidated Decree entered by the United States Supreme Court in *Arizona v. California*, 547 U.S. 150 (2006) (Supreme Court Decree); a contract with the Secretary of the Interior (Secretary) managed by the United States Bureau of Reclamation (Bureau), or a Secretarial Reservation of Colorado River water.

Pursuant to the Supreme Court Decree, the Bureau accounts for all mainstream Colorado River water use in the Lower Basin. As part of that accounting, the Bureau collected data that persons with wells located very near the Colorado River bank were actually pumping groundwater from the Colorado River or groundwater that was replaced by Colorado River water. To address that situation, the Bureau proposed a method for accounting for use of those wells. The Bureau requested USGS to develop a method to identify wells that pump water that is replaced by water drawn from the lower Colorado River. The USGS identified a River Aquifer that has been refined over time and included a model that identified a theoretical "Accounting Surface". The Accounting Surface is an elevation that is intended to represent a division between groundwater and Colorado River Surface Water. Using this Accounting Surface, wells within the Colorado River Floodplain itself were considered to be pumping Colorado River water directly and wells outside the Colorado River Floodplain but within the River Aquifer could be pumping groundwater that could be replaced by Colorado River Water.

⁹ February 2, 2010, Decision and Scoping Order, page 3.

¹⁰ Exhibit 60, Revised Opening Testimony – Soil and Water Resources, page 6, Staff Counsel's summary of Staff Position (12:RT 7/12/10: 8-16); and Exhibit 400 Revised Staff Assessment, page C.9-95

¹¹ Lower Basin, defined as water use downstream of the Hoover Dam

In 2006, the Bureau published an Advanced Notice of Proposed Rulemaking in the Federal Register¹², which was followed in 2008 by publication of the Official Notice of Proposed Rulemaking in the Federal Register.¹³ The Proposed Rulemaking would formally adopt the Accounting Surface Methodology for regulation of wells and groundwater that would be pumping groundwater that could be replaced by Colorado River Water. The Proposed Rulemaking would have added the Accounting Surface Methodology to 43 Code of Federal Regulations Section 415. The Proposed Rule was never adopted and in fact was withdrawn from consideration in 2009. A simple search of the Code of Federal Regulations indicates that Section 415 was never adopted or added to Title 43. Therefore, the Accounting Surface Methodology is not a law, regulation, standard, or plan that the Commission should apply to any project, including the GSEP. It is undisputed that the GSEP, located many miles from the Colorado River is not in the Colorado River Floodplain and therefore, without a regulation which is entirely within the domain of the federal government, it cannot be determined that projects within the Chuckwalla Valley Basin are pumping Colorado River Water. The Accounting Surface Methodology should not, and cannot legally, be applied to the GSEP.

The CRB letter alone does not establish the legal right of the federal government to regulate California groundwater as Colorado Surface Water. If it did, it would not have been necessary for the Bureau to propose and attempt to formally adopt the Accounting Surface Methodology as a regulation. If that regulation was adopted, then the Accounting Surface would have the legal effect CURE asserts.

Based on the analysis above and the Committee's previous consideration of this issue and Scoping Order, the Committee should reject any contention that the GSEP needs a Colorado River Water entitlement to pump California Groundwater in the Chuckwalla Valley.

III. GENESIS REQUESTS THE COMMITTEE ADD LANGUAGE TO THE COMPLIANCE SECTION OF THE GENERAL CONDITIONS, SPECIFICALLY AUTHORIZING THE CPM TO ACCEPT AND APPROVE COMPLIANCE PLAN SUBMITTALS THAT ARE TAILORED TO THE SCOPE OF THE CONSTRUCTION ACTIVITY BEING APPROVED.

The General Conditions section of the RSA outlines the responsibilities and authority of the CPM. While Genesis believes that the CPM already has implied authority to accept and approve a compliance plan for a limited construction activity that may not have all of the detail necessary for construction of the full project activities, Genesis requests this authority be expressly contained in the PMPD and Commission Decision. Genesis proposes the following language to be added to the description of the CPM's authority at page E-3 of Exhibit 400, Revised Staff Assessment.

¹² 71 FR 47763, Regulating Non-Contract Use of Colorado River Water in the Lower Basin

¹³ 73 FR 40916, Regulating the Use of Lower Colorado River Water Without an Entitlement

All project compliance submittals are submitted to the CPM for processing. Where a submittal required by a condition of certification requires CPM approval, the approval will involve all appropriate Energy Commission staff and management. All submittals must include searchable electronic versions (pdf or MS Word files). ***The CPM may accept and approve, on a case by case basis, compliance submittals that provide sufficient detail to allow construction activities to commence without the submittal containing detailed information on construction activities that will be commenced later in time.***

As the Committee is aware, the General Conditions require that the Project Owner and the CPM perform several preconstruction meetings to ensure that the preconstruction compliance submittals are prepared appropriately and submitted with sufficient time for review. At these meetings, the Project Owner and CPM could agree that certain plans could be prepared in a manner to facilitate the construction schedule, by allowing amendments to the plan be made prior to engaging in certain future activities. For example, a Storm Water Pollution Prevention Plan and a Drainage Erosion Control Plan could be detailed enough to allow construction to commence in certain areas while supplemental plans would be necessary as more detailed engineering is performed for areas that will be disturbed later in the construction schedule. Giving the CPM this express authority would in no way jeopardize compliance with the conditions, and in all circumstances would be up to Compliance Staff discretion. For projects like the GSEP, this flexibility will allow for the orderly synching of construction schedule and compliance plan approval.

IV. GENESIS AND STAFF AGREE ON ALL CONDITIONS OF CERTIFICATION EXCEPT WASTE-8 AND NO INTERVENOR HAS RECOMMENDED ANY MODIFICATIONS TO CONDITIONS OF CERTIFICATION

Although the evidentiary proceedings began with 14 disputed topics, Genesis and Staff worked tirelessly to reach consensus on all of the Conditions of Certification, except **WASTE-8**.

GSEP asserts that there are no LORS that address a RCWMD requirement to attain a goal of 50% recycling of construction and demolition waste other than the reporting requirement referenced by Staff in the Revised Staff Assessment, Exhibit 400. It is only Staff's belief or opinion that it is a mandatory goal of Riverside County, but no supporting evidence of its mandatory nature is given. [RSA, p. C.13-13].

Additionally, as set forth in testimony (Exhibit 60; Waste Management, p. 3), the GSEP will not impact local landfills and therefore this condition is not necessary to mitigate any project related impacts and should be deleted.¹⁴

¹⁴ Similarly, as established in the Blythe Solar Energy Project (09-AFC-6) to which the Committee may take Administrative Notice if necessary, the Staff there confirmed that there is no LORS within Riverside County that would otherwise prompt the imposition of this Condition.

While the Interveners were participants in the process, no intervener has objected to or specifically recommended different conditions of certification for the GSEP. To assist the Committee in developing the Presiding Member's Proposed Decision (PMPD), Genesis has compiled Table 1, attached, identifying where in the evidentiary record the final Conditions of Certification can be found.

Dated: July 26, 2010

/original signed/

Scott A Galati
Counsel to Genesis Solar, LLC

TABLE 1
GENESIS SOLAR ENERGY PROJECT
Conditions of Certification

TOPIC AREA	RECORD CITATION WHERE CONDITION MAY BE FOUND	RECORD CITATION WHERE STAFF SUPPORTS CONDITION	RECORD CITATION WHERE GENESIS SUPPORTS CONDITION
ALTERNATIVES	N/A	N/A	N/A
AIR QUALITY	AQ-SC1, AQ-SC2 and AQ-SC6 , Exhibit 400 AQ-SC3, AQ-SC4, AQ-SC5, AQ-SC-7, and AQ-SC8 , Exhibit 444 AQ-1 through AQ-51 , Exhibit 440	Exhibit 400, Exhibit 440 and Exhibit 444	7/21/10 RT _____ ¹⁵
BIOLOGICAL RESOURCES	BIO 1 through BIO-7 , Exhibit 400 BIO-8 , Exhibit 438, (Admitted with 65 dBA correction on July 21 st) BIO-9 through BIO-18 , Exhibit 435 BIO-19 , Exhibit 445 BIO-20 , Exhibit 435 BIO-21 , Exhibit 400 BIO-22 , Exhibit 400 BIO-23 , Exhibit 60 Closure Plan (BLM) with CPM review	Exhibit 400 Exhibit 438 Exhibit 435 Exhibit 445 Exhibit 435 Exhibit 400 Exhibit 400 7/12/10 RT 177	7/12/10 RT 62; Exhibit 60, Genesis Revised Opening Testimony – Biological Resources, Page 4 7/21/10 RT _____* 7/12/10 RT 58-61 7/21/10 RT _____* 7/12/10 RT 61 7/12/10 RT 67 7/12/10 RT 62 7/12/10 RT 68

¹⁵ Pagination to be inserted upon release of the 3rd Day transcript; being referenced hereafter by asterisk.

TOPIC AREA	RECORD CITATION WHERE CONDITION MAY BE FOUND	RECORD CITATION WHERE STAFF SUPPORTS CONDITION	RECORD CITATION WHERE GENESIS SUPPORTS CONDITION
	BIO-24 , Exhibit 400 BIO-25 , Exhibit 435 BIO-26 and BIO-27 , Exhibit 400 BIO-28 , Exhibit 435 as modified at 7/12/10 RT 62-66	Exhibit 400 Exhibit 435 Exhibit 400 Exhibit 435 and agreed to modifications at 7/12/10 RT 63-66	7/12/10 62 7/12/10 RT 62 7/12/10 RT 62 7/12/10 RT 62-66
CULTURAL RESOURCES	Exhibit 441	Exhibit 441	7/21/10 RT ____*
FACILITY DESIGN	Exhibit 400	7/12/10 RT 44	Exhibit 60, Genesis Revised Opening Testimony - Facility Design, Page 2 7/12/10 RT 44
GEOLOGY AND PALEONTOLOGY	Exhibit 400	7/12/10 RT 44	Exhibit 60, Genesis Revised Opening Testimony - Geology and Paleontology, Page 2 7/12/10 RT 44
HAZARDOUS MATERIALS	HAZ-1 through HAZ-5 , Exhibit 400 HAZ-6 , Exhibit 400 as modified by Exhibit 60, Genesis Revised Opening Testimony – Hazardous Materials, Pages 2 and 3	Exhibit 400 7/12/10 RT 362	Exhibit 60, Genesis Revised Opening Testimony – Hazardous Materials, Page 2 Exhibit 60, Genesis Revised Opening Testimony – Hazardous Materials, Pages 2 and 3
LAND USE	N/A	N/A	N/A
NOISE AND VIBRATION	Exhibit 400	7/12/10 RT 44	Exhibit 60, Genesis Revised Opening Testimony - Noise and Vibration, Page 2 7/12/10 RT 44

TOPIC AREA	RECORD CITATION WHERE CONDITION MAY BE FOUND	RECORD CITATION WHERE STAFF SUPPORTS CONDITION	RECORD CITATION WHERE GENESIS SUPPORTS CONDITION
POWER PLANT EFFICIENCY	N/A	N/A	N/A
POWER PLANT RELIABILITY	N/A	N/A	N/A
PROJECT DESCRIPTION	N/A	N/A	N/A
PUBLIC HEALTH	Exhibit 400	7/12/10 RT 44	Exhibit 60, Genesis Revised Opening Testimony – Public Health, Page 2 7/12/10 RT 44
SOCIOECONOMICS	N/A	N/A	N/A
SOIL AND WATER RESOURCES	SOIL&WATER-1, 5, 7, 9, 10, 12, 13, 14, 16, 17, and 18, Exhibit 400 SOIL&WATER-2, 3, 6, 8, 11, 20 Exhibit 434 SOIL&WATER-4, 15 AND 19, Exhibit 443 APPENDIX B AND C CONDITIONS, Exhibit 434	Exhibit 400 Exhibit 434 Exhibit 443 Exhibit 434	Exhibit 60, Genesis Revised Opening Testimony – Soil & Water Resources, Page 13 Exhibit 60, Genesis Revised Opening Testimony – Soil & Water Resources, Pages 7/21/10 RT ____* 7/21/10 RT ____*
TRAFFIC AND TRANSPORTATION	Exhibit 400	7/12/10 RT 44	Exhibit 60, Genesis Revised Opening Testimony – Traffic and Transportation, Page 2 7/12/10 RT 44

TOPIC AREA	RECORD CITATION WHERE CONDITION MAY BE FOUND	RECORD CITATION WHERE STAFF SUPPORTS CONDITION	RECORD CITATION WHERE GENESIS SUPPORTS CONDITION
TRANSMISSION LINE SAFETY AND NUISANCE	Exhibit 400	7/12/10 RT 44 - not clarified in testimony; minor change to TLSN-2 reserved for comment to PMPD	Exhibit 60, Genesis Revised Opening Testimony – Transmission Line Safety and Nuisance, Page 2 7/12/10 RT 44
TRANSMISSION SYSTEM ENGINEERING	Exhibit 400	Exhibit 400	Exhibit 60, Genesis Revised Opening Testimony – Transmission System Engineering, Page 2
VISUAL RESOURCES	VIS-1, VIS-2, VIS-4 through VIS-6 , Exhibit 400 as modified by Exhibit 60, Genesis Revised Opening Testimony – Visual Resources, Pages 3-5 VIS-3 , stipulation on Monopole: VIS-3 not needed 7/13/10 RT 158-161	7/12/10 RT 440 7/13/10 RT 158-161	Exhibit 60, Genesis Revised Opening Testimony- Visual Resources, Pages 3-5 7/12/10 RT 443-445
WASTE MANAGEMENT	WASTE-1 through WASTE-7 and WASTE-9 , Exhibit 400 WASTE-8 DISPUTED WASTE-10 , Exhibit 400 as modified by Exhibit 402, pages 34 and 35 WASTE-11 , Exhibit 60, Revised Opening Testimony – Waste Management, Pages 5 and 6	Exhibit 400 Exhibit 400, 7/12/10 RT 360 Exhibit 400 and Exhibit 402, pages 34 and 35 Exhibit 402	7/12/10 RT 360 Exhibit 60, Genesis Revised Opening Testimony – Waste Management, Page 3 7/12/10 RT 360 Exhibit 60, Genesis Revised Opening Testimony – Waste Management, Pages 5 and 6

TOPIC AREA	RECORD CITATION WHERE CONDITION MAY BE FOUND	RECORD CITATION WHERE STAFF SUPPORTS CONDITION	RECORD CITATION WHERE GENESIS SUPPORTS CONDITION
WORKER SAFETY	WORKER SAFETY-1, WORKER SAFETY-2, and WORKER SAFETY-4 , Exhibit 400	Exhibit 400	Exhibit 60, Genesis Revised Opening Testimony – Worker Safety and Fire Protection, page 2, 7/12/10 RT 391
	WORKER SAFETY-3 , Exhibit 400, as modified by Exhibit 60, Genesis Revised Opening Testimony – Worker Safety, page 2	7/12/10 RT 422	Exhibit 60, Genesis Revised Opening Testimony – Worker Safety and Fire Protection, Page 2
	WORKER SAFETY-5 , Exhibit 400 as modified by Exhibit 60, Genesis Revised Opening Testimony – Worker Safety, page 3	7/12/10 RT 414 – not clarified in testimony; reserved for comment to PMPD	Exhibit 60, Genesis Revised Opening Testimony – Worker Safety and Fire Protection, Page 3
	WORKER SAFETY-6 , Exhibit 433 as modified by Testimony of Scott Busa at 7/12/10 RT 394-395	7/12/10 RT 395, and 414-415	7/12/10 RT 394-395
	WORKER SAFETY 7 , Exhibit 433	Exhibit 433	7/12/10 RT 395



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**APPLICATION FOR CERTIFICATION FOR THE
GENESIS SOLAR ENERGY PROJECT**

Docket No. 09-AFC-8

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(Revised 7/23/10)**

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DECLARATION OF SERVICE

I, Ashley Garner, declare that on July 26, 2010, I served and filed copies of the attached: **GENESIS SOLAR LLC'S OPENING BRIEF—EVIDENTIARY HEARING DAY 1 AND DAY 2 TOPICS** dated July 26, 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/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;
 by delivering on this date, for mailing with the United States Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date 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
Sacramento, CA 95814-5512

docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.



Ashley Garner