



**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 *SAN JOAQUIN SOLAR 1 & 2*
*HYBRID POWER PLANT PROJECT***

DOCKET No. 08-AFC-12

**COMMITTEE ORDER RESPONDING TO
CURE'S PETITIONS TO COMPEL PRODUCTION OF INFORMATION**

I. SUMMARY

On September 16, 2009, Intervenor California Unions for Reliable Energy (CURE) filed its *Petition to Compel Production of Information In Response to CURE Data Requests, Set Three*.

On October 14, 2009, Intervenor CURE filed its *Petition to Compel Production of Information In Response to CURE Data Requests, Set Four*.

On October 26, 2009, Intervenor CURE filed its *Petition to Compel Production of Information In Response to CURE Data Requests, Set Five*.

San Joaquin Solar 1 LLC and San Joaquin Solar 2 LLC (collectively referred to herein as "Applicant"), filed timely opposition to each Petition. At CURE's suggestion, the Committee has combined the three Petitions into a single proceeding.

Neither party requested that the Committee conduct public hearings on the Petitions.

II. DISCUSSION

Section 1716 of our Regulations (Cal. Code Regs., tit. 20 § 1716) contains the basic framework for information exchanges (i.e., Data Requests and Responses) for licensing proceedings. The procedure is straightforward. A party may request from an applicant "... information reasonably available to the applicant which is relevant to the ... application proceedings or reasonably necessary to make any decision on the ... application."

[§ 1716, subd. (b).] An applicant may then answer or object to the request. If an applicant objects, the requesting party may then forego the request, seek alternative means of obtaining the desired information, or petition for an Order directing an applicant to provide the information. The regulations do not, however, require that the information provided satisfy all expectations of the requesting party. In considering the Petitions, we have disregarded the rhetorical elements of the pertinent filings, instead focusing on evaluating whether the information sought appears to be reasonably available, relevant, or necessary. This Order reflects the Committee's careful consideration of all information provided by the parties.

A. Petition to Compel Production of Information, CURE Data Requests, Set 3

1. Zero Liquid Discharge System as Alternative to Evaporation Ponds

***Data Request 57:** Please provide a detailed cost analysis for the proposed evaporation ponds and an alternative ZLD system. Please include in the cost analysis costs for cost for [sic] disposal of the deposits in the evaporation ponds at the end of the facility life as well as potentially required mitigation for impacts on wildlife such as netting, anti-perching devices, or hazing activities to keep birds from accessing the evaporation ponds. Please document all assumptions.*

Committee Response: DENIED. The facility is designed as a zero liquid discharge facility, employing a recognized water evaporation pond technology. While CURE's interest in other equally appropriate (and perhaps less costly) technology alternatives is understandable, the law does not require dissection of particular project components or facets; rather, the project as a whole must be considered. Even if it were appropriate in a given case to give greater scrutiny to a project component, in this proceeding none of the parties has identified use of evaporation ponds as causing an unavoidable or unmitigable significant effect on the environment, leading us to conclude that the additional information sought is not reasonably necessary.

2. SCR and SCR Control Systems Operation

***Data Request 85:** Please discuss and quantify the potential side product formation from the SCR and SNCR systems such as isocyanic acid, nitrous oxide, ammonia, hydrogen cyanide, etc., under unfavorable conditions.*

Committee Response: DENIED. The Applicant included the requested information as Appendix A to *San Joaquin Solar 1 & 2, LLCs' Response to California Unions For Reliable Energy's Motion to Compel Production of Information*.

B. Petition to Compel Production of Information, CURE Data Requests, Set 4

1. Quantification and Assessment of Agricultural Impacts

Data Request 100: Please provide documentation supporting the AFC's statement on page 5.6-1 that the Project site is recently planted with wheat and pistachios, including cotton, safflower and garlic.

Data Request 101: Please explain the AFC's statement on page 5.6-5 that a "majority of the Project site is actively cultivated at this time" by describing the number and location of acres actively cultivated at this time.

Data Request 102: Please provide documentation reflecting the last date of planting of each crop type at the Project site. The response should provide the year and month.

Committee Response: GRANTED, IN PART. CEQA recognizes that the conversion of agricultural lands to nonagricultural uses can threaten the long-term health of the state's agricultural industry and that CEQA should play an important role in the preservation of agricultural land. Therefore, as to agricultural resources, a project may be considered to have a significant environmental effect if it will: (1) convert prime farmland, unique farmland, or farmland of statewide importance; (2) conflict with existing zoning for agricultural use or Williamson Act contracts; or (3) cause other impacts on or conversions of farmland.

"Agricultural land" is defined by CEQA to mean **prime farmland**, farmland of statewide importance, or unique farmland as defined by the United States Department of Agriculture. [Pub. Res. Code, § 21060.1, subd. (a).] If the land has not been surveyed for any of these classifications, then "prime agricultural land" means any of the following:

- (1) All land that qualifies for rating as class I or class II in the Natural Resource Conservation Service land use capability classifications;
- (2) Land which qualifies for rating 80 through 100 in the Storie Index Rating;
- (3) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture; and
- (4) Land planted with fruit- or nut-bearing trees, vines, bushes, or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on

an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre.

[Gov. Code, § 51201, subd. (c)(1), (2), (3), (4).]

According to the AFC, the project site is comprised of 640 acres of “sub Prime” farmland that will be converted to non-agricultural uses. (See, e.g., AFC, 5.9-12, § 5.9.4.) 468.9 acres are under Williamson Act contract (which will be cancelled) and the remaining 171.12 acres are zoned for exclusive agricultural use. The Applicant intends to obtain a required Conditional Use Permit from Fresno County to put the land to nonagricultural use and a zoning variance for structures that exceed height limits. CURE’s inquiries appear to: (1) indirectly challenge the determination that sub-prime farmland is truly at issue, and (2) question whether any impacts analysis has been performed regarding the conversion of land that is not subject to the Williamson Act contract and the overall conversion of the 640 acres of land. These inquiries do not appear to be directly addressed by the AFC or the Applicant’s various responses to data requests. To answer these questions, the Applicant need not provide detailed information about the specific kinds of plantings on the project site, the date of the plantings, whether and to what extent the land is cultivated, and so on. The Applicant need only include a discussion that directly addresses whether the project is considered to have a significant environmental impact by: (1) converting prime farmland, unique farmland, or farmland of statewide importance; (2) conflicting with existing zoning for agricultural use or Williamson Act contracts; or (3) causing other impacts on or conversions of farmland. This information is relevant and necessary.

2. Impacts to Agricultural Uses

Data Request 103(2): *Please provide an analysis of the Project’s impacts on agriculture.*

Committee Response: DENIED. The request is vague and overbroad. Moreover, the information we are requiring the Applicant to provide in response to Data Requests 100, 101, and 102 should be sufficient to constitute a reasonable response to this request.

Data Request 104(2): *Please provide the LESA score for the 640 acres that will be withdrawn from agricultural use as a result of the Project and the analysis that supports the score obtained.*

Committee Response: DENIED. By including a fuller narrative and discussion of impacts as discussed in the Committee Response to Data Request Numbers 100, 101, and 102, the Applicant will provide relevant and necessary information regarding the possible impacts of converting agricultural lands to nonagricultural uses. This analysis need not, however, be based on the Land Evaluation and Site Assessment (LESA) model. While the LESA model is a recognized method for quantifying and evaluating a project’s impacts on farmland, its use is not required by law. Rather, the Applicant’s obligation is to identify and discuss actual or potential significant project impacts in the

AFC and propose mitigation to eliminate or reduce the impacts to less than significant, using articulated evaluation criteria of its choosing. Moreover, because, as the Applicant states, it has not used the LESA model, it does not have the information reasonably available to it. Nor should the Applicant be required to perform analyses or obtain information that is not reasonably available to it.

3. Heat Transfer Fluid (HTF) Spills and Leaks

Data Request 125: *Please provide the number of hours in which HTF leaks would be abated following detection.*

Committee Response: DENIED. Although the request by its language and intent is clear and straightforward, the information sought is not relevant or reasonably necessary. Contrary to CURE's assertions that the AFC fails to provide any information regarding its plans for responding to accidental leaks and spills of HTF, the AFC and the Applicant's responses to previous data requests provide a reasonably detailed discussion of the HTF system and plans for containing and responding to potential HTF leaks.

4. Impacts to Small Mammal Species

Data Request 171: *Please cite the protocol used for the small mammal trapping study.*

Data Request 173: *Please provide justification for why only the western portions of the transmission line routes were sampled.*

Data Request 174: *Please describe and quantify the habitat variables associated with each trap site.*

Committee Responses: CONDITIONALLY GRANTED. The AFC and incorporated Small Mammal Trapping Report (Report) present a detailed discussion of the trapping methodology and data results. CURE contends that the Report does not provide the information sought by these questions. The Applicant stated that the Report includes the requested information. If the Applicant is correct, then the Applicant is to submit a supplemental response that directs CURE to the appropriate Report pages. If upon further review, the Applicant cannot identify the particular Report pages, then the Applicant is directed to provide a data response that directly answers the questions posed to the extent possible, without resort to performing new studies or seeking to obtain information not readily available to it.

5. Characterization of Vegetation Communities

Data Request 189: *Please characterize the Applicant's referenced disturbance within the Valley Saltbrush Scrub habitat present in the Project study area by discussing the features that make it disturbed (e.g. roads, recent agricultural activity, off-road vehicle use) and quantifying the level(s) of disturbance.*

Committee Response: DENIED. CURE contends that the information is necessary to resolve an alleged conflict among conclusions made in the AFC regarding distribution of Valley Saltbrush Scrub, but CURE provides no citations or other specific information establishing a conflict. Thus, based on the data requests as framed, the information sought by CURE is not relevant or reasonably necessary. CURE's request for further research and analysis is not warranted. CEQA does not require that every conceivable study, research project or test be carried out, or that the analyses be exhaustive. Moreover, parties are not required to conduct analysis or research on behalf of a requesting party.

6. Identification of Vegetation Along the Zapato Creek Bank

Data Request 191: *Please characterize the vegetation along the creek bank in the Applicant's Project study area such that its ecological values can be inferred. In particular, please provide:*

- a. *The height range of tamarisk trees.*
- b. *The height range of cottonwood trees.*
- d. *[sic] The relative abundance of tamarisk trees to cottonwood trees*
- e. *The density and distribution of trees along the creek banks.*
- f. *The approximate minimum, maximum and mean distance trees extend from the bank.*

Committee Response: DENIED. We agree with the Applicant that further analysis to count or measure trees is not necessary to make a determination on the AFC regarding the Swainson's hawk, a state threatened species. The Applicant has submitted extensive information regarding the creek habitat as it relates to the Swainson's hawk in the AFC and in prior responses to CURE's data requests. CEQA does not require that every conceivable study, research project or test be carried out, or that the analyses be exhaustive. Sufficient information has already been provided by the Applicant to reasonably respond to this request.

C. Petition to Compel Production of Information, CURE Data Requests, Set 5

1. Fluidized Bed Combustion Technology

***Data Request 206:** Please provide EPI vendor specifications for the fluidized bed combustors that will be installed at the Project.*

Committee Response: DENIED. The Applicant has no present ability to comply with this request because the vendor specifications have not been finalized. We anticipate that the Staff Analysis will include Conditions of Certification setting forth specifications or performance standards for the fluidized bed combustors. CURE will then have an opportunity to comment upon those Conditions of Certification (or the lack thereof) and also to present evidence on that topic at the Evidentiary Hearings.

2. Operational Emissions- Emissions of Nitrous Oxide and Methane From Biomass Combustors

***Data Request 223:** Please provide N_2O and CH_4 emission factors for the Project's biomass combustors for the various types of fuel mixes and combustion temperatures. Please document all your assumptions.*

Committee Response: DENIED. Under CEQA, neither lead agencies nor project applicants can be expected to read the minds of project opponents who are demanding analysis of vague alternatives without specifying what they have in mind. In this case, the request for emission factors for "various types of fuel mixes and combustion temperatures" is both overbroad and vague.

***Data Request 224:** Please provide estimates of annual carbon dioxide-equivalent emissions of N_2O and CH_4 for the Project biomass combustors. Please document all your assumptions.*

Committee Response: DENIED. The Applicant provided supplemental information that is responsive to the request.

3. Operational Emissions - Mitigation for Mobile Source Emissions

***Data Request 232:** Please discuss potential mitigation measures to mitigate the Project's mobile source emissions, including the feasibility of a "Clean Air Truck" program (retrofit and replacement of trucks owned by trucking firms delivering biomass) such as proposed by the Liberty Quarry Applicant.*

Committee Response: DENIED. The Applicant has determined that there are no potentially significant impacts from mobile source emissions. CURE has not shown otherwise. Appropriate mitigation measures need only be identified if significant emission impacts are identified. Accordingly, the Applicant is not required to identify specific mitigation measures. If CURE has evidence of significant impacts, it will have

the opportunity to present that evidence at the Evidentiary Hearings. Sufficient information has already been provided by the Applicant and therefore, the specific information sought is not relevant or reasonably necessary.

4. **Operational Emissions - Combustion of Construction and Demolition Wood**

Data Request 234: *Please provide specifications for C&D wood waste that fuel suppliers must meet to ensure that the majority of contaminants and non-burnables are removed from the C&D waste.*

Data Request 235: *Please describe the testing and sampling procedures for the fuel at both the C&D processing facility and the Project to assure that the fuel quality will be maintained.*

Committee Response: DENIED. It appears that the Applicant has no present ability to comply with this request as the information sought has not yet been obtained by the Applicant. Furthermore, we anticipate that the Staff Analysis will include Proposed Conditions of Certification setting forth specifications or performance standards for the fuel. Finally, the vendor for the wood waste fuel would be more likely to have information about the specifications and procedures for its operations than would the Applicant.

5. **Operational Emissions - Toxic Air Contaminant Emissions from Biomass Combustion**

Data Request 236: *Please provide vendor specifications for the fluidized bed combustors that will be installed at the Project including toxic air contaminant emission factors.*

Committee Response: DENIED. The Applicant provided responsive supplemental information as Attachment C to *San Joaquin Solar 1 and 2, LLC's Response to California Unions for Reliable Energy's Motion to Compel Production of Information for Data Request Set 5.*

Data Request 237: *Please provide source tests for the Mendota Biomass Power Plant for toxic air contaminant emissions including a description under which these emissions were measured (load, fuel mix including specification of the fraction of C&D wood, combustion temperature, control equipment, etc.).*

Committee Response: DENIED. If, as alleged by the Applicant, CURE has already turned directly to the Mendota Biomass Power Plant (Mendota) for the requested information, then this duplicative request is burdensome and unwarranted particularly given that that the Applicant contends that it did not obtain information or rely on data from Mendota and instead, as documented in the AFC, used emission factors provided by the San Joaquin Valley Air Pollution Control District (SJVAPCD).

6. Soil Contamination – Total Petroleum Hydrocarbons Diesel

Data Request 242: *Please provide a comparison of the TPH-d sample concentrations to regulatory agency screening levels.*

Committee Response: DENIED. We are not persuaded that the screening levels set by the Regional Water Quality Control Board for the San Francisco Bay Region apply to this proceeding. We also reject CURE’s attempts to elevate to LORS status as a regulatory threshold, an excerpt from the RWCQB report, *Screening for Environmental Concerns at Sites with Contaminated Soil and Groundwater*, regarding Environmental Screening Levels (ESLs). Furthermore, it appears that the Phase 2 Environmental Site Assessment docketed on October 15, 2009, addresses CURE’s questions.

7. Soil Contamination - Pesticides, Erosion, and Sediment Control, and SWPPP

Data Request 249: *Please provide a revised comprehensive and Site-specific Erosion and Sediment Control Plan that incorporates pesticide and TPH-d data.*

Committee Response: CONDITIONALLY GRANTED. The requested information may well be relevant and reasonably necessary; however, the Applicant states it does not have this information readily available at this time. This information, once obtained, shall be made promptly available to CURE.

8. Groundwater Impacts – Aquifer Testing

Data Request 257: *Please provide supporting evidence that any portion of the tested aquifer is truly confined.*

Committee Response: DENIED. This question asks what evidence there is that the tested aquifer is “truly” confined. The question has been answered in the Aquifer Test Analysis filed on February 19, 2009.

Data Request 259: *Please provide comparative analysis of the time-drawdown data using the conventional Cooper-Jacob (“steady-state”) technique for a confined aquifer, Hantush (“leaky semi-confined aquifer”) technique, and unconfined aquifer techniques (Neuman and Moench methods, at a minimum).*

Committee Response: DENIED. CURE requests new, comparative analysis, conducted with specific analytical methodologies that the Applicant did not use. There is no evidence or indication that the information is readily available to the Applicant and the Applicant is not required to perform the comparative analysis. Nor does it appear that the additional information sought is relevant or reasonably necessary.

Data Request 261: *Please explain the resultant uncertainties introduced to estimates of long-term aquifer yield and drawdown as a result of the Applicant's test well partial penetration. Please provide all data that supports your answer.*

Committee Response: GRANTED, IN PART. CURE premises this request on its own determination that that the test well is probably partially penetrating. The Applicant questions this premise and contends that the information requested is not reasonably available to it and that the information is not relevant or reasonably necessary. If CURE is correct in asserting that partially-penetrating test wells can result in deviated (non-radical) flow paths during pumping which do not produce meaningful time-drawdown data for analysis of aquifer yield and behavior, then a legitimate question arises regarding the adequacy of water supply. We find that this topic is relevant and necessary. However, the request as framed may well require the Applicant to perform unwarranted analysis if CURE's premise is false. We therefore direct the Applicant to more fully address the issue of whether "the test well is probably partially penetrating."

9. Groundwater Impacts – Aquifer Testing

Data Request 266: *Please provide logs for a minimum of six additional nearby wells, spaced at distances greater than 230 feet from the Project site test well.*

Committee Response: DENIED. The information does not appear to be readily available to the Applicant, as the Applicant did not obtain copies of well logs on file at the local DWR office. Furthermore, we are not persuaded that these additional logs are relevant or reasonably necessary. The information may also be equally available to CURE in the form of public records.

Data Request 267: *Please provide the Applicant's pump test (specific capacity) test data from each of the additional nearby wells.*

Committee Response: DENIED. See Committee Response to Data Request Numbers 259 through 261, and 266.

Data Request 268: *Please use data requested in Data Request Nos. 259 to 261 to provide a revised conceptual model of the local aquifer system surrounding the proposed Project site (at least 1.5 miles from the on-site test well).*

Committee Response: DENIED. See Committee Response to Data Request Numbers 259 through 261, 266 and 267. There is no evidence or indication that the information is readily available to the Applicant and therefore the Applicant should not be required to perform the comparative analysis.

Data Request 269: Please evaluate and comment on the impacts of the Applicant's revised conceptual model provided in response to Data Request 268 on the results of the aquifer test, and upon the predicted Theis drawdown estimates after 1, 10 and 20 years of continuous pumping from the test well.

Committee Response: DENIED. See Committee Response to Data Request Numbers 259 through 261, 266, 267, and 268.

10. Groundwater Impacts – Local Water Budget and Sustainability

Data Request 270: Please provide the Applicant's evaluation of perennial yield (operational safe yield) of the PVB that establishes the baseline for the Project's analysis of the proposed Project water demand impacts.

Committee Response: CONDITIONALLY GRANTED. If the Applicant has the information readily available, then it is directed to provide the information to CURE.

Data Request 271. Please provide an evaluation of perennial yield (operational safe yield) of the PVB, in order to establish a defensible baseline for justifying proposed Project water demands, using the following:

- a. Data as far back as 1950, if possible; and
- b. Total basin groundwater extractions from as many pumpers as possible; and
- c. Water level data from a minimum of six (6) wells within a 1.5 mile radius of the proposed Project site.

Historic pumping, CVP-SWP imports and groundwater level data should be readily available from the Pleasant Valley Water District, Westlands Water District, and San Joaquin district office of State DWR in Fresno to provide this required analysis.

Committee Response: DENIED. CEQA does not require that every conceivable study, research project or test be carried out, or that the analysis be exhaustive or that the Applicant engage in research on behalf of CURE. Moreover, the information does not appear to be readily available to the Applicant. Finally, sufficient information has already been provided by the Applicant to establish the groundwater budget for the project site area. Thus, the specific information sought is not relevant or reasonably necessary.

Data Request 272: Please explain the effects of foreseeable future continued drought and climate change conditions on availability and sustainability of future groundwater extractions in the PVB, and their bearing on availability of groundwater to meet proposed Project demands. Please provide as probability values and quantitative estimates of uncertainty in support of your answer. Data for this analysis may be found via the State DWR, AWWA, ACWA, US Geological Survey, academic research

institutions and/or the National Resources Defense Council. Extrapolations of historic effects from the Westside Basin can be used for comparison.

Committee Response: DENIED. CEQA does not require that every conceivable study, research project or test be carried out, or that the analysis be exhaustive or that the Applicant engage in research on behalf of CURE. Moreover, the information is available to CURE as it is contained in public records. Finally, it appears that the specific information sought is not relevant or reasonably necessary.

Data Request 273: *Please provide the Applicant's evaluation of the potential effect of continued restricted imported water supplies to PVB via the CVP-SWP system, as a result of Bay-Delta legal decisions, CEQA process and uncertainties. Please assume that future restrictions may be even less than the prevailing 40% allocation. Extrapolations from the conditions in the adjacent Westside Basin may be useful, but should not form the sole basis for the evaluation.*

Committee Response: DENIED. CEQA does not require that every conceivable study, research project or test be carried out, or that the analysis be exhaustive or that the Applicant engage in research on behalf of CURE.

Data Request 274: *If the Applicant disagrees that future restrictions may be even less than the current 40% allocation, please demonstrate how the effect of continued restricted imported water supplies to the PVB will impact A) the Project and B) the groundwater basin, based on the Applicant's scenario of future CVP-SWP allocations during the proposed 20-year Project duration. Please justify your allocations based the Applicant's information and analysis of possible future drought and political scenarios.*

Committee Response: DENIED. CEQA does not require that every conceivable study, research project or test be carried out, or that the analysis be exhaustive or that the Applicant engage in research on behalf of CURE.

11. Groundwater Impacts – Simulations of Well Pumping Effect

Data Request 278: *Responses to Data Request No. 277 notwithstanding, as an alternative to the simple Theis analytical method, please develop a robust three-dimensional conceptual and numerical groundwater flow model for the northern portion of the PVB where the proposed SJS 1 & 2 Project is to be located, to simulate effects of Project groundwater withdrawals on neighboring pumpers and planned PVWD groundwater recharge facilities. Please use some form of conventional and reasonably available commercial software, such as WHI Visual Modflow[®] (version 3.1 or greater) or an equivalent. If an existing groundwater flow model has been developed for the Project area and is available and not subject to proprietary use restrictions, that may be considered for the simulations. The following conditions should be met by any such model used or developed:*

- A. *Please adhere to prevailing Standard Guides developed by the American Society for Testing and Materials (ASTM) for developing, calibrating, verifying and performing sensitivity analyses of groundwater flow models, as well as defining initial model conditions and boundary conditions.*
- B. *A model domain of not less than six square miles, centered on the proposed Project extraction well(s), should be used.*
- C. *In order to avoid “forced” boundary condition behavior, model boundaries should be set so as to not coincide with geologic or suspected hydrogeologic boundaries, such as the Gujarral Hills to the north, Kreyenhagen Hills to the west, or the subsurface Kettleman Hills anticline across Polvadero Gap east of the Project site.*
- D. *Horizontal discretization (gridding) of the domain should be constructed so as to have as many grid-centered wells as possible. Grid dimensions need not be any finer than necessary to reasonably simulate heads produced by the number of pumping wells or recharge sites presently in the domain, and new wells or recharge sites reasonably expected to be installed within the domain within the expected duration of the proposed Project.*
- E. *Vertical discretization should include as many discrete layers as are adequate for representation of the different physical properties and flow behavior of all significant aquifers and aquitards identified within the domain from review of local well logs. As many well logs as illustrated on Figure 5.5-4 of the AFC should be used as possible, in addition to an adequate number of wells east of Polvadero Gap within the Westside Groundwater Basin to simulate the potential boundary condition in that area. The bottom layer of the discretized domain should include the base of the fresh water zone. Layer discretization should be able to lead to reasonable simulations of well capture zones developed due to preferential flow pathways in zones of higher hydraulic conductivity (something that a simplified Theis analysis cannot achieve).*
- F. *Static (non-pumping) water-level data should be used from as many local wells as possible for steady-state model calibration. It is recommended that heads measured during historic periods of maximum CVP-SWP imported water to PVB (and minimal groundwater pumping) be considered for steady-state calibration.*
- G. *Recovery data from the February 2009 aquifer test may be used for transient model calibration, but only if uncertainties with the “State Prison” test observation well can be resolved (e.g., aquifer stratigraphy and well construction details). Transient calibration should comparatively also involve heads measured from as many idle (non-pumping) wells as*

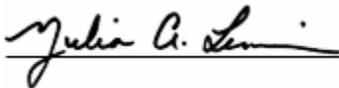
possible during historic periods of heavy groundwater pumping in other wells, although such a condition may not have ever existed. Nevertheless, a comprehensive review of local area wells should be performed to evaluate whether or not this is feasible.

- H. Assignment of “no-flow” and “constant head” boundary conditions in particular should only be used with extreme prejudice, and be well-justified from suitable historic data.*
- I. Following a reasonable effort at model calibration, the model should initially be verified by pumping simulations of the Applicant’s aquifer test well using rates and time periods similar to those used for the previous Theis simulations, with all other wells in the domain set for non-pumping conditions. Subsequent model verification should be performed using those same Project test well extraction rates, in addition to other wells in the domain set to achieve cumulative extractions comparable to historic maximum pumping periods recorded in the PVB.*
- J. If model calibration and verification efforts provide reasonable results, please use the model to verify PVB perennial yield.*
- K. Please perform conventional sensitivity and uncertainty analyses for the model.*

Committee Response: DENIED. CEQA does not require that every conceivable study, research project or test be carried out, or that the analysis be exhaustive or that the Applicant engage in research on behalf of CURE. Furthermore, the specific information sought is not relevant or reasonably necessary.

Where the Committee has indicated that CURE’s Petition to Compel is granted, the Applicant shall respond to the relevant Data Requests within 30 days of the date of this Order except as otherwise directed in the above Committee responses.

Dated December 16, 2009, at Sacramento, California.



JULIA LEVIN
Commissioner and Presiding Member
San Joaquin Solar 1 & 2 AFC Committee



JAMES D. BOYD
Vice Chair and Associate Member
San Joaquin Solar 1 & 2 AFC Committee



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LICENSING PROJECT**

**Docket No. 08-AFC-12
PROOF OF SERVICE
(Revised 8/27/2009)**

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Declaration of Service

I, Rose Mary Avalos, declare that on December 16, 2009, I served and filed copies of the attached Committee Order Responding to CURE's Petitions to Compel Production of Information. 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/sjsolar/index.html>]. 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)

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. 08-AFC-12
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.

Original signed by: _____
Rose Mary Avalos