

## DOCKETED

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| <b>Docket Number:</b>   | 79-AFC-04C  |
| <b>Project Title:</b>   | Compliance - Application for Certification of DWR Bottlerock Geothermal Project |
| <b>TN #:</b>            | 201217  |
| <b>Document Title:</b>  | BRP's Proposed Exhibit 24   |
| <b>Description:</b>     | Excerpts from Beacon Solar Energy Project Final Decision (08-AFC-2)             |
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| <b>Submitter Role:</b>  | Applicant Representative  |
| <b>Submission Date:</b> | 11/15/2013 9:17:04 AM   |
| <b>Docketed Date:</b>   | 11/15/2013  |

# BEACON SOLAR ENERGY PROJECT

## COMMISSION DECISION



CALIFORNIA  
ENERGY COMMISSION  
Arnold Schwarzenegger, Governor

AUGUST 2010  
CEC-800-2010-005 CMF

DOCKET NUMBER 08-AFC-2

The second general element of the Plan contains the specific "Conditions of Certification." These are found following the summary and discussion of each individual topic area in this Decision. The individual Conditions contain the measures required to mitigate potentially adverse Project impacts associated with construction, operation, and closure to levels of insignificance. Each Condition also includes a verification provision describing the method of assuring that the Condition has been satisfied.

The contents of the Compliance Plan are intended to be implemented in conjunction with any additional requirements contained in the individual Conditions of Certification.

### **FINDINGS OF FACT**

The record establishes:

1. Requirements contained in the Compliance Plan and in the specific Conditions of Certification are intended to be implemented in conjunction with one another.
2. We adopt the following Compliance Plan as part of this Decision.

### **CONCLUSIONS OF LAW**

1. The compliance and monitoring provisions incorporated as a part of this Decision satisfy the requirements of Public Resources Code section 25532.
2. The Compliance Plan and the specific Conditions of Certification contained in this Decision assure that the Beacon Solar Energy Project will be designed, constructed, operated, and closed in conformity with applicable law.

## **GENERAL CONDITIONS OF CERTIFICATION**

### **DEFINITIONS**

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The following terms and definitions are used to establish when Conditions of Certification are implemented.

#### **PRE-CONSTRUCTION SITE MOBILIZATION**

Site mobilization is limited preconstruction activities at the site to allow for the installation of fencing, construction trailers, construction trailer utilities, and construction trailer parking at the site. Limited ground disturbance, grading, and trenching associated with the above mentioned pre-construction activities is considered part of site mobilization. Walking, driving or parking a passenger vehicle, pickup truck and light vehicles is allowable during site mobilization.

#### **CONSTRUCTION**

Onsite work to install permanent equipment or structures for any facility.

##### **Ground Disturbance**

Construction-related ground disturbance refers to activities that result in the removal of top soil or vegetation at the site beyond site mobilization needs, and for access roads and linear facilities.

##### **Grading, Boring, and Trenching**

Construction-related grading, boring, and trenching refers to activities that result in subsurface soil work at the site and for access roads and linear facilities, e.g., alteration of the topographical features such as leveling, removal of hills or high spots, moving of soil from one area to another, and removal of soil.

Notwithstanding the definitions of ground disturbance, grading, boring and trenching above, construction does **not** include the following:

1. the installation of environmental monitoring equipment;
2. a soil or geological investigation;
3. a topographical survey;
4. any other study or investigation to determine the environmental acceptability or feasibility of the use of the site for any particular facility; and
5. any work to provide access to the site for any of the purposes specified in "Construction" 1, 2, 3, or 4 above.

## **START OF COMMERCIAL OPERATION**

For compliance monitoring purposes, “commercial operation” begins after the completion of start-up and commissioning, when the power plant has reached reliable steady-state production of electricity at the rated capacity. At the start of commercial operation, plant control is usually transferred from the construction manager to the plant operations manager.

## **COMPLIANCE PROJECT MANAGER RESPONSIBILITIES**

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The Compliance Project Manager (CPM) shall oversee the compliance monitoring and is responsible for:

1. Ensuring that the design, construction, operation, and closure of the project facilities are in compliance with the terms and conditions of the Energy Commission Decision
2. Resolving complaints
3. Processing post-certification changes to the conditions of certification, project description (petition to amend), and ownership or operational control (petition for change of ownership) (See instructions for filing petitions)
4. Documenting and tracking compliance filings
5. Ensuring that compliance files are maintained and accessible

The CPM is the contact person for the Energy Commission and will consult with appropriate responsible agencies, Energy Commission, and staff when handling disputes, complaints, and amendments.

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 word files).

## **PRE-CONSTRUCTION AND PRE-OPERATION COMPLIANCE MEETING**

The CPM usually schedules pre-construction and pre-operation compliance meetings prior to the projected start-dates of construction, plant operation, or both. The purpose of these meetings is to assemble both the Energy Commission's and project owner's technical staff to review the status of all pre-construction or pre-operation requirements, contained in the Energy Commission's conditions of certification. This is to confirm that all applicable conditions of certification have been met, or if they have not been met, to ensure that the proper action is taken. In addition, these meetings ensure, to the extent possible, that Energy Commission conditions will not delay the construction and operation of the plant due to oversight and to preclude any last minute,

unforeseen issues from arising. Pre-construction meetings held during the certification process must be publicly noticed unless they are confined to administrative issues and processes.

### **ENERGY COMMISSION RECORD**

The Energy Commission shall maintain the following documents and information as a public record, in either the Compliance file or Dockets file, for the life of the project (or other period as required):

- All documents demonstrating compliance with any legal requirements relating to the construction and operation of the facility;
- All monthly and annual compliance reports filed by the project owner;
- All complaints of noncompliance filed with the Energy Commission; and
- All petitions for project or condition of certification changes and the resulting staff or Energy Commission action.

### **PROJECT OWNER RESPONSIBILITIES**

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The project owner is responsible for ensuring that the compliance conditions of certification and all other conditions of certification that appear in the Commission Decision are satisfied. The compliance conditions regarding post-certification changes specify measures that the project owner must take when requesting changes in the project design, conditions of certification, or ownership. Failure to comply with any of the conditions of certification or the compliance conditions may result in reopening of the case and revocation of Energy Commission certification; an administrative fine; or other action as appropriate. A summary of the Compliance Conditions of Certification is included as **Compliance Table 1** at the conclusion of this section.

### **COMPLIANCE CONDITIONS OF CERTIFICATION**

#### **Unrestricted Access (COMPLIANCE-1)**

The CPM, responsible Energy Commission staff, and delegated agencies or consultants shall be guaranteed and granted unrestricted access to the power plant site, related facilities, project-related staff, and the records maintained on-site, for the purpose of conducting audits, surveys, inspections, or general site visits. Although the CPM will normally schedule site visits on dates and times agreeable to the project owner, the CPM reserves the right to make unannounced visits at any time.

#### **Compliance Record (COMPLIANCE-2)**

The project owner shall maintain project files on-site or at an alternative site approved by the CPM for the life of the project, unless a lesser period of time is specified by the conditions of certification. The files shall contain copies of all “as-

built" drawings, documents submitted as verification for conditions, and other project-related documents.

Energy Commission staff and delegate agencies shall, upon request to the project owner, be given unrestricted access to the files maintained pursuant to this condition.

### **Compliance Verification Submittals (COMPLIANCE-3)**

Each condition of certification is followed by a means of verification. The verification describes the Energy Commission's procedure(s) to ensure post-certification compliance with adopted conditions. The verification procedures, unlike the conditions, may be modified as necessary by the CPM.

Verification of compliance with the conditions of certification can be accomplished by the following:

1. Monthly and/or annual compliance reports, filed by the project owner or authorized agent, reporting on work done and providing pertinent documentation, as required by the specific conditions of certification;
2. Appropriate letters from delegate agencies verifying compliance;
3. Energy Commission staff audits of project records; and/or
4. Energy Commission staff inspections of work, or other evidence that the requirements are satisfied.

Verification lead times associated with start of construction may require the project owner to file submittals during the certification process, particularly if construction is planned to commence shortly after certification.

A cover letter from the project owner or authorized agent is required for all compliance submittals and correspondence pertaining to compliance matters. **The cover letter subject line shall identify the project by AFC number, the appropriate condition(s) of certification by condition number(s), and a brief description of the subject of the submittal.** The project owner shall also identify those submittals **not** required by a condition of certification with a statement such as: "This submittal is for information only and is not required by a specific condition of certification." When submitting supplementary or corrected information, the project owner shall reference the date of the previous submittal and CEC submittal number.

The project owner is responsible for the delivery and content of all verification submittals to the CPM, whether such condition was satisfied by work performed by the project owner or an agent of the project owner.

may be preventing owls from nesting there and, if necessary, remedial actions shall be developed and implemented in consultation with the CPM, CDFG and USFWS to correct conditions at the site.

4. Protect and Manage 6-Acre Relocation Area. The project owner shall provide a mechanism to protect 6 acres of the 14.39-acre relocation area in perpetuity as habitat for burrowing owls, either in fee title, or as a permanent deed restriction. The project owners shall prepare a draft Burrowing Owl Relocation Area Management Plan for review and approval by the CPM in consultation with CDFG. The overall objective of the plan shall be to manage the 6-acre relocation parcel for the benefit of burrowing owls, with the specific goals of:
  - a. Maintaining the functionality of at least four artificial or natural burrows for the 5-year monitoring period; and
  - b. Minimizing the occurrence of weeds (species considered "moderate" or "high" threat to California wildlands as defined by CAL-IPC [2006] and noxious weeds rated "A" or "B" by the California Department of Food and Agriculture and any federal-rated pest plants [CDFA 2009]) at less than 10 percent cover of the shrub and herb layers.

The Burrowing Owl Relocation Area Management Plan shall include monitoring and maintenance requirements, details on methods for measuring compliance goals and remedial actions to be taken if management goals are not met.

5. Acquire 20 Acres of Burrowing Owl Habitat. In addition to protecting the 6 acre relocation area north of the project site, the project owner shall acquire, in fee or in easement, 20 acres of land suitable to support a resident population of burrowing owls and shall provide funding for the enhancement and long-term management of these compensation lands. The responsibilities for acquisition and management of the compensation lands may be delegated by written agreement to CDFG or to a third party, such as a non-governmental organization dedicated to Mojave Desert habitat conservation, subject to approval by the CPM, in consultation with CDFG and USFWS prior to land acquisition or management activities. Additional funds shall be based on the adjusted market value of compensation lands at the time of construction to acquire and manage habitat. Agreements to delegate land acquisition to CDFG or an approved third party and to manage compensation lands shall be implemented within 12 months of the Energy Commission's License Decision.



- a. Burrowing Owl Compensation Lands Criteria. The terms and conditions of this acquisition or easement shall be as described in BIO-11, with the additional criteria to include: 1) the 20 acres of mitigation land must provide suitable habitat for burrowing owls, and 2) the acquisition lands must be either currently supporting burrowing owls or be no farther than 5 miles from an active burrowing owl nesting territory. The 20 acres of burrowing owl compensation lands may be included with the 115 acres of desert tortoise and Mohave ground squirrel compensation lands ONLY if these two burrowing owl criteria are met.
- b. Security. If the 20 acres of burrowing owl compensation land is separate from the 115 acres required for desert tortoise and Mohave ground squirrel compensation lands the project owner or an approved third party shall complete acquisition of the proposed compensation lands prior to initiating construction-related ground disturbance activities. Alternatively, financial assurance can be provided to the CPM in the form of an irrevocable letter of credit, a pledged savings account or another form of security ("Security") prior to initiating construction-related ground disturbance activities. Prior to submittal to the CPM, the Security shall be approved by the CPM, in consultation with CDFG, to ensure funding in an amount determined by a Property Analysis Record (PAR) or PAR-like analysis of the proposed compensation lands.

**Verification:** Within 60 days prior to start of any construction -related ground disturbance activities, the project owner shall submit to the CPM, CDFG and USFWS a draft Burrowing Owl Relocation Area Management Plan. Within 30 days prior to any construction-related ground disturbance activities on the project site the project owner shall submit to the CPM a final Burrowing Owl Relocation Area Management Plan that reflects review and approval by Energy Commission staff in consultation with CDFG and USFWS.

If pre-construction surveys detect burrowing owls within 500 feet of proposed construction activities, the Designated Biologist shall provide to CDFG, USFWS, and the CPM a Burrowing Owl Monitoring and Mitigation Plan at least 30 days prior to the start of any project-related site disturbance activities. The project owner shall report monthly to CDFG, USFWS, and the CPM for the duration of construction on the implementation of burrowing owl avoidance and minimization measures described in the Burrowing Owl Monitoring and Mitigation Plan. Within 30 days after completion of construction the project owner shall provide to the CDFG and CPM a written construction termination report identifying how mitigation measures described in the plan have been completed.

No less than 90 days prior to acquisition of compensation lands, the project owner, or a third-party approved by the CPM, in consultation with CDFG and