

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION  
OF THE STATE OF CALIFORNIA**

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

DOCKET NO. 08-AFC-2

**DOCKET  
08-AFC-2**

DATE MAR 02 2009

RECD. MAR 02 2009

**BEACON SOLAR, LLC'S STATUS REPORT #4**

DOWNEY BRAND, LLP  
Jane E. Luckhardt, Esq. (Bar No. 141919)  
Sophia Rowlands, Esq. (Bar No. 251359)  
621 Capitol Mall, 18th Floor  
Sacramento, CA 95814-4686  
Telephone: (916) 444-1000  
Facsimile: (916) 444-2100

Attorneys for Applicant  
Beacon Solar, LLC

Dated: March 2, 2009

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION  
OF THE STATE OF CALIFORNIA**

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

DOCKET NO. 08-AFC-2

**BEACON SOLAR, LLC'S STATUS REPORT #4**

Beacon Solar, LLC ("Beacon") provides the following status report to the Committee. Previously, on November 24, 2008, Beacon filed a status report wherein it noted its concerns about the schedule delays for this project. Given that three months have elapsed since Beacon first raised this issue, Beacon must now reiterate and reemphasize its concerns in this area.

As the Committee is aware, the California Energy Commission ("Commission") found the Application for Certification for the Beacon Solar Energy Project (BSEP) data adequate on May 5, 2008. Commission Staff noted on that date that the application was one of the most complete and comprehensive applications filed at the Commission. Since that time, Beacon expended considerable resources to conduct and provide additional studies, investigations and analysis in response to the requests of Commission Staff, local residents and other agencies. In particular, Beacon and its consultants have worked exhaustively with Staff to analyze and address issues with respect to biological and cultural resources. Yet, even as these areas are being resolved, it seems that new issues are raised in other areas, particularly those relating to hydrology, water, and design alternatives. The end result is that the project is now approximately 5 months off the original schedule and nearly 40 days off the revised schedule that was published by Staff in their December 30, 2008 status report. It remains to be seen whether the revised schedule proposed in Staff's Status Report No. 5 (the fifth such revision since the Scheduling Order was issued on June 18, 2008) will be adhered to.

Simply put, there is no appreciable reason for such continuing and chronic delays, except that the review process for siting projects such as the BSEP appears to have been taken to a new and unprecedented (and largely unnecessary) level of detail within the Commission, at precisely the same time both the state and federal governments are urging expediency and streamlining in the permitting of renewable energy projects. The Committee is well aware of the objectives

stated in the Governor's Executive Order S-14-08 (cited by Staff in their February 11, 2009 status report), as well as the mandates contained in SB 107, which was signed into law September 2006, both of which signify the State of California's desire to facilitate the immediate entitlement and construction of renewable energy projects. More recently, at the federal level, legislation has been enacted as part of the President's stimulus package to encourage the construction of renewable energy facilities by providing for grants to any qualifying project that begins construction in 2009 or 2010. (See H.R. 1, § 1603, 111th Cong. (2009) (enacted).) Indeed, developing a national renewable energy portfolio that capitalizes on the natural solar resources of the western United States is expected to be a key component of the new administration's agenda. The sum of all this cited legislation and policy is that government at all levels is urging for a simplified review process that will remove unnecessary obstacles to projects such as BSEP. Unfortunately, this has not been reflected in the Commission's siting process to date. The reality is that not a single utility-scale solar power project has been constructed in California since the enactment of SB 107, and the ongoing schedule delays for this project will not rectify that reality.

While Beacon is mindful of the Commission's mandate under the California Environmental Quality Act (CEQA) to conduct a thorough and comprehensive environmental review of the proposed project, including analysis of any feasible, environmentally-preferable alternatives, even CEQA contemplates that at some point, there must be an end to the analysis. (See 14 Cal. Code Regs. §§ 15108, 15151.) Not every possible study need be conducted nor every potentially relevant piece of information gathered and analyzed. (Id. at § 15204.) Moreover, while alternatives to the design or location of the proposed project are certainly proper areas of inquiry under CEQA if they may result in a lesser impact on the environment, a public agency cannot be guided solely by environmental values when considering a proposed project. Rather, the agency has "an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian." (Id. at § 15021(d).)

Of particular relevance here, the Commission must be cognizant that what is economically feasible in theory may not reflect what the market will actually bear, if the project is ever expected to be constructed. We ask that the Committee keep this in mind while evaluating cooling alternatives that may be presented by other parties.

Beacon understands Commission Staff has a large workload that has been further compounded by furlough days. Beacon also understands that retaining project managers has become increasingly difficult and recognizes the efforts of the current project manager to prepare the Preliminary Staff Assessment. Nonetheless, the time has come for this process to move on to the next phase. Beacon appreciates having this forum to express its concerns while updating the Committee on the status of BSEP, and looks forward to receiving the preliminary staff assessment.

Respectfully,

/s/

---

Jane E. Luckhardt  
Sophia Rowlands  
DOWNEY BRAND, LLP  
Attorneys for Applicant

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION  
OF THE STATE OF CALIFORNIA**

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

DOCKET NO. 08-AFC-2

**PROOF OF SERVICE**  
(Revised 2/9/09)

<b><u>APPLICANT</u></b>	<b><u>COUNSEL FOR APPLICANT</u></b>	<b><u>ENERGY COMMISSION</u></b>
<p>Scott Busa Kenneth Stein, J.D. Meg Russell Duane McCloud Guillermo Narvaez, P.E. NextEra Energy Resources 700 Universe Blvd. Juno Beach, FL 33408 <a href="mailto:Scott.busa@nexteraenergy.com">Scott.busa@nexteraenergy.com</a> <a href="mailto:Kenneth.stein@nexteraenergy.com">Kenneth.stein@nexteraenergy.com</a> <a href="mailto:Meg.Russell@nexteraenergy.com">Meg.Russell@nexteraenergy.com</a> <a href="mailto:Duane.mccloud@nexteraenergy.com">Duane.mccloud@nexteraenergy.com</a> <a href="mailto:Guillermo.narvaez@nexteraenergy.com">Guillermo.narvaez@nexteraenergy.com</a></p>	<p>Jane Luckhardt, Esq. Downey Brand, LLP 621 Capitol Mall, 18th Floor Sacramento, CA 95814 <a href="mailto:jluckhardt@downeybrand.com">jluckhardt@downeybrand.com</a></p>	<p>Karen Douglas Commissioner and Presiding Member <a href="mailto:kldougl@energy.state.ca.us">kldougl@energy.state.ca.us</a>  Jeffrey D. Byron Commissioner &amp; Associate Member <a href="mailto:jbyron@energy.state.ca.us">jbyron@energy.state.ca.us</a>  Kenneth Celli Hearing Officer <a href="mailto:kcelli@energy.state.ca.us">kcelli@energy.state.ca.us</a></p>
<b><u>APPLICANT CONSULTANT</u></b>	<b><u>INTERESTED AGENCIES</u></b>	
<p>Sara Head, Vice President AECOM Environment 1220 Avenida Acaso Camarillo, CA 93012 <a href="mailto:Sara.head@acem.com">Sara.head@acem.com</a></p>	<p>California ISO <a href="mailto:e-recipient@caiso.com">e-recipient@caiso.com</a></p>	<p>Eric K. Solorio Project Manager <a href="mailto:esolorio@energy.state.ca.us">esolorio@energy.state.ca.us</a>  Jared Babula Staff Counsel <a href="mailto:jbabula@energy.state.ca.us">jbabula@energy.state.ca.us</a></p>
<b><u>APPLICANT CONSULTANT</u></b>	<b><u>INTERVENORS</u></b>	
<p>Bill Pietrucha, Project Manager Jared Foster, P.E. Worley Parsons 2330 E. Bidwell, Suite 150 Folsom, CA 95630 <a href="mailto:Bill.Pietrucha@worleyparsons.com">Bill.Pietrucha@worleyparsons.com</a> <a href="mailto:Jared.Foster@worleyparsons.com">Jared.Foster@worleyparsons.com</a></p>	<p>Tanya A. Gulesserian Marc D. Jacobs Adams Broadwell Joseph &amp; Cardozo 601 Gateway Boulevard, Suite 1000 South San Francisco, CA 94080 <b>E-MAIL PREFERRED</b> <a href="mailto:tgulesserian@adamsbroadwell.com">tgulesserian@adamsbroadwell.com</a></p>	<p>Public Adviser's Office <a href="mailto:publicadviser@energy.state.ca.us">publicadviser@energy.state.ca.us</a></p>

**Declaration of Service**

I, Lorraine Ballew, declare that on February 25, 2009, I served and filed copies of the attached **Beacon Solar LLC's Status Report #4**. 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/beacon](http://www.energy.ca.gov/sitingcases/beacon). 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 e-mailed respectively, to the address below (**preferred method**);

**OR**

depositing in the mail an original and 12 paper copies as follow:

California Energy Commission  
Attn: Docket No. 08-AFC-2  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512

[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

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

\_\_\_\_\_  
/s/  
Lois Navarrot