

STATE OF CALIFORNIA

Energy Resources Conservation And Development Commission

In the Matter of:
The Application for Certification
for the Calico Solar Power Project
Licensing Case

Docket No. 08-AFC-13

PREPARED DIRECT TESTIMONY OF JOSEPH SCHNELL BNSF RAILWAY COMPANY

August 17, 2010

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Attorneys for Intervenor
BNSF Railway Company

PREPARED DIRECT TESTIMONY

OF

Joseph Schnell

Manager Special Projects – Signal, BNSF

Q.1 Please state your name and occupation?

A.1 My name is Joseph Schnell. I am the Manager Special Projects – Signal, for BNSF Railway Company ("BNSF"). My resume is attached to this testimony.

Q.2 What is the purpose of your testimony in this proceeding?

A.2 I will testify transportation (glint and glare).

Q.3 Why does BNSF have concerns regarding the Calico Solar Project?

A.3 BNSF is one of two Class 1 railroads operating in California. BNSF's mainline, which is traversed by as many as 80 trains per day, carries interstate commerce from the Ports of Los Angeles and Long Beach to U.S. Midwestern, Southwestern and Eastern markets. BNSF's mainline has operated through the section of the proposed Project since the late 19th Century. Preliminarily, whether emplacing tens of thousands of SunCatchers immediately adjacent to both sides of one of only two strategic transcontinental transportation corridors for rail traffic from the west coast to all points east is a compatible use has not been addressed or analyzed. The proposed Project would surround both sides of several miles of BNSF's mainline tracks. Accordingly, BNSF has significant concerns that the construction and operation of the Project do not

adversely impact BNSF operations or otherwise impose unacceptable safety risks to BNSF personnel and operations. BNSF must continue to maintain sole and independent discretion to ensure that its rail operations are safe and efficient. In addition, as a transcontinental railroad impacting interstate commerce, BNSF is subject to federal regulations and oversight.

The consummation of the Project would require the granting of several licenses and permits from BNSF, which Applicant Calico Solar ("Calico Solar") has requested in a piecemeal fashion over the course of the past year. To date, only preliminary access agreements have been granted. Before BNSF can grant such licenses and permits, BNSF must be assured that its significant safety and operational concerns are addressed.

Q.4 What are BNSF's safety and operational concerns in relation to transportation (glint and glare)?

A.4 BNSF's mainline, along which the Project is proposed to be built, is curved. An essential signal for rail traffic is located in the vicinity near Hector Road. Signals are critical safety features. Calico Solar's Project certification application seeks authority to emplace up to 34,000 SunCatchers within a 6,215 acre tract that falls on both sides of BNSF's right of way.

While there are no drawings or diagrams that specify precisely where the SunCatchers will be emplaced, Calico Solar proposes to locate the nearest SunCatchers as close as 100' from the BNSF

right of way, on both sides of the transcontinental mainline track,
for approximately five miles.

Q.4 Why does the emplacement of the SunCatchers cause operational and safety concerns for BNSF?

A.4 Because daytime glint and glare from the 34,000 SunCatcher mirrors and associated structures, in particular when the mirrors are in offset tracking position, may significantly impact BNSF engineers' ability to see the signal. The situation would be exacerbated by the site elevations which Calico Solar has proposed.

Q.5 In addition to the safety concerns, are there federal regulations that govern signals?

A.5 Yes. BNSF is required by federal regulations and the Federal Railway Administration ("FRA") to maintain visual contact with signals. If a train's contact with a signal is lost and cannot be regained, the engineer is required to stop the train. This often requires an emergency application of the brakes, risking derailment of the train. When a train has been stopped through emergency application of the brakes, BNSF General Code of Operating Rule 6.23 requires the engineer to inspect all cars, units, equipment and track pursuant to BNSF special instructions and rules. This can cause significant delays to rail operations with ramifications reaching from the Ports of Los Angeles and Long Beach to Chicago and beyond.

Q.6 Have you had an opportunity to review the SSA Part II as it pertains to Traffic and Transportation (glare & glint)?

A.6 Yes.

Q.7 Does it adequately address BNSF's concerns?

A.7 No, it does not. To date, there is no study that has been performed that:

- a. analyzes and measures the impact on BNSF rail operations;
- b. analyzes and measures the glint and glare that will be produced from the SunCatchers in relation to the specifics heights, elevations, and angles relating to an engineer traveling along the curved track along the BNSF RoW;
- c. ascertains what, if any, measures could be implemented to adequately mitigate the impact of the SunCatchers' glint and glare to ensure the safe operation of rail services along the BNSF RoW;
- d. ascertains what evaluation, testing, coordination, and approval would be necessary to obtain government approval for any such mitigating measures.

Q.8 The SSA Part II represents at C.11-31 that "Staff has been working with representatives from BNSF Railways since July 16, 2010, to resolve BNSF Railway's concerns with glint and glare. As its usual procedure, staff commissioned a glint and glare study, which is attached to this document." Has that occurred?

A.8 Somewhat, but that is, at best, incomplete. Initially, the study did not address the rail safety and operational issues raised by BNSF. We were told that Staff was going to expand the scope of its glare/glint study to address these issues. In a call facilitated by CEC Staff person Marie McLean, I initially spoke with Cliff Ho of Sandia labs. Mr. Ho explained that he had been asked to perform some calculations to determine what the appropriate safe distance was from the SunCatcher for a motorist. His work was not specific to the Calico Solar facility, nor did it address rail operations and safety. Ms. McLean then facilitated a second call, to James Jewell, the consultant retained by Staff to head the study. Mr. Jewell requested information from BNSF that he represented was essential for him to complete his study. Attached hereto as Exhibit "A" is a string of emails that started on July 29, 2010 from Mr. Jewell. In his July 29th email, Mr. Jewell asked BNSF to provide him with information regarding:

1. height of signal poles,
2. height of the mid-point of the signal above the track,
3. height of the eyes of the average engineer above the track,
4. distance from a signal pole at which an engineer is expected to recognize and act upon a signal,
5. average width or consistent width of the BNSF ROW, and
6. number and location of signal poles within the solar plant area and just before or after the plant boundary.

Mr. Jewell represented that he needed this information to "establish the viewing angles and distances and then to discern just which signals may be seen against the SunCatcher mirrors and at what angular relationships. All of this information will make it possible for me to establish the requirements of a study."

Accordingly, as can be seen from the string of emails, there is no glare/glint study that addresses the issues raised by BNSF and confirmed as appropriate for a study by CEC's own consultant.

Q.9 Was the requested information provided to Mr. Jewell?

A.9 In part. We began providing the requested information but received an email from Mr. Jewell on August 3, 2010, stating "the Commission staff (including me) will not work on this further since there is a COC requiring collaboration on a solution. But there will be a 'workshop' and I will, . . . Be Prepared. Thanks for all your help. I think I can help at the workshop." [See Exhibit "A."]

Q.10 When did you receive the SSA Part II?

A.10 August 9, 2010.

Q.11 Were you surprised when you read it?

A.11 Absolutely. The SSA Part II could be misread and misinterpreted to read as if BNSF fully participated, there was a study performed to address the specific

rail safety and operations concerns raised by BNSF, we came to an agreement, and BNSF is satisfied that its safety concerns have been addressed and will be mitigated. That did not happen. We were told that Mr. Jewell was going to prepare a study that analyzed the glare and glint issue in relation to the unique angles and field of vision that an engineer would encounter while traveling along the RoW. We provided information that Mr. Jewell represented he needed to perform his study. That information was not used or referenced in the study. Then Mr. Jewell sent us an email saying no further work would be done and that we would collaborate on a solution. He said there would be a workshop. There was no workshop.

Q.12 The SSA Part II states at C.11-31 that "staff reviewed the glint and glare study and mitigation measures with BNSF Railway representatives. The review included telephone conversations with Energy Commission glint and glare consultants to ensure BNSF Railway's concerns were addressed." Were BNSF's concerns addressed.

A.12 First of all, the telephone conversations with the CEC consultants took place without the benefit of a draft report or any supporting information or consultants. While we were told it would be available before the issuance of the Supplemental Staff Report, that did not occur. Accordingly, the conversations were very general in nature and did not address BNSF's specific concerns. Because no study had been performed, there was no meaningful discussion regarding mitigation measures. At the time that the CEC decided that it would not perform its own study to address BNSF's

rail safety issues and concerns, we were advised that CEC was going to require: (1) a 300 foot setback from the edge of the BNSF RoW for the closest SunCatcher; (2) a site-specific study on the effects of the SunCatcher's glint and glare on BNSF's safety, operations and signals, funded by Calico Solar; and (3) workshops to be held to resolve BNSF's concerns. The CEC also offered to assist BNSF find a glint/glare expert with appropriate expertise. Moreover, we only had a little over a week between the issuance of the SSA Part II and the hearing. This is not adequate time to address all of the issues raised for the first time in the SSA Part II. When I actually read TRANS-7 it was clear that BNSF's concerns had not been addressed and that conclusions had been drawn about purported mitigation measures that were not based on any actual scientific study. We consistently told the Commission and Calico Solar that before BNSF can consider approving any further access to the BNSF RoW, the following Condition of Certification must be incorporated into the Project:

Prior to the first SunCatcher disc being mounted on a pedestal, a site-specific Glare/Glint study shall be performed at Calico Solar's expense to address the Glare/Glint issues raised by BNSF with respect to the potential impact of the proposed Calico Solar SunCatchers on BNSF rail operations. The recommended mitigation measures shall be reviewed by BNSF. If BNSF approves the recommended mitigation measures, they will be

implemented by Calico Solar at its expense. The site specific study shall commence immediately upon BNSF's selection of the experts to perform the study.

Q.13 The SSA Part II also states at C.11-32 that "BNSF Railway's representatives also expressed a concern about glint and glare and its effects upon the railroad engineer's ability to correctly perceive the color of the signal. Through several telephone conversations, staff and commission's glint and glare consultants discussed with BNSF Railway representatives their specific concerns about the signal lights. Staff determined that measures exist, if needed, to ensure that BNSF Railway engineers will be able to correctly perceive the color of the signal. Those procedures involve hooding and increasing the intensity of the lights." Is that accurate?

A.13 No. Again, as stated above, we only had two general conversations with the CEC consultants. We talked about our concern about seeing the signal, identifying the color of the signal, being able to identify the signal if the background consisted of thousands of mirrored surfaces, our concerns regarding "phantom signals" where the light reflected inside the signal gives a false reading that the signal is on, and a potential "funhouse" effect where a signal is reflected in a mirror that is one of a bank of thousands of mirrors and gives the false appearance that it is in a location other than the one it is actually in. We consistently told the Commission and its consultants that BNSF must exercise its independent judgment to protect the safety and operations of its transcontinental rail system. Some of the options that might be considered after a thorough study

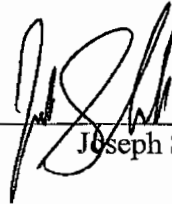
of the potential impact on rail safety and operations of Calico Solar's proposed facility on BNSF may, in addition, require federal government approval. BNSF has specifically advised CEC's consultant, pending ongoing studies in other arenas, it did not know if signal light strength could be increased or if alternative methods of "hooding" a signal would help the engineer identify the signal. To date, I have seen no studies or technical data regarding hooding, increased light signal strength, use of LED lights, or other signal mitigation measures that would support Staff's conclusions in this regard.

Q.14 Does this complete your direct testimony?

A.14 Yes, it does.

I swear under penalty of perjury that this testimony is true and correct to the best of my knowledge and belief.

Dated: August 16, 2010



Joseph Schnell

Joseph D. Schnell

669 Cattlemans Way
Fort Worth, TX 76131
(425) 213-7284
Joseph.Schnell@BNSF.com

Education:

Electrical Engineering Degree with emphasis in Electronics and Management, University of Nebraska-Lincoln, Lincoln, Nebraska
Graduation Date: May 2006

Internship Experience:

Summer 2005: Engineering Intern, Burlington Northern Santa Fe Railway, based in Amarillo, Texas.

Duties included traveling across Texas, Oklahoma and Kansas working with different level employees within the signal department in the areas of construction and maintenance.

May 2004 to December 2004: Project Engineer Co-op, Nebraska Public Power District, Beatrice Power Station, Beatrice, Nebraska.

Duties included functional location tagging, document control, and database management.

Summer 2003: Technical Director Management Intern, General Electric Transportation Systems, Bailey Yard, North Platte, Nebraska.

Duties included heading up EOA satellite communications system implementation, numerous software upgrades, and quality control projects. Completed first step of six sigma training.

Research Experience:

January 2003 to May 2004: Undergraduate Research, Centre of Electro Optics, University of Nebraska-Lincoln.

Performed laser induced breakdown spectroscopy research under Dr. Dennis R Alexander.

Volunteer Experience:

February 2002 to May 2006: Teachers Aide, Norwood Park Elementary School, Lincoln, Nebraska.

Helped with clerical work, assisted with teaching, and worked one-on-one with students in the areas of reading, math and English.

Honors and Awards:

Passed Fundamentals of Engineering Exam, October 2005

Holling Memorial Scholarship, 2005

VIP Outstanding Volunteer Award, 2003

UNL Undergraduate Creative Activities and Research Experiences Award, 2003

UNL Engineering Departmental Scholarship, 2001

UNL Canfield Scholarship, 2001

BNSF Experience:

April 2010 to Present: Manager Special Projects – Signal, Fort Worth, Texas.

As the manager of special projects, I am responsible for the signal departments reporting to the FRA, as well as notifications to the BRS. I manage several databases and sections for the signal scorecard and website. Along with these duties I manages other engineering projects such as power line mitigation, work equipment issues, and other issues the directly effect the signal department.

February 2009 to April 2010: Supervisor Signals, Vancouver, Washington.

I made a developmental move to coordinate the signal maintenance activities on the Fallbridge, Yakima Valley and Stampede Subdivisions. In making that move I was afforded the opportunity to expand my knowledge base and improve my skills as a supervisor. During my as the Vancouver supervisor I became intimately knowledgeable in CTC signaling, as well as educated in train operations on high traffic lines. I have planned windows around and with major production gangs and for pole line contractors. On the construction side I have surveyed several crossings and solar locations for pole line removal. I have also been fortunate in that I was able to participate in several major cut-over's with our Northwest Signal Construction team.

I was also given the opportunity to attend an FLS forum at Garret Creek Ranch. During my time at the forum was able to give input on everything from manpower issues to our current computer system.

April 2007 to February 2009: Supervisor Signals, Bend, Oregon.

Duties have included the coordination of maintenance activities on the Oregon trunk and Gateway sub-divisions through the Maintenance Excellence system. Included within this system are managing a capital and operating budget, keeping up on FRA mandated testing, tracking service bulletin upgrades, managing vehicle maintenance and upkeep, ordering and tracking material and coordinating the training and progression of my team.

My main two focal points while in Bend have been team development and physical plant improvement. The Signal Team lacked cohesiveness and a proper sense of direction, but has now developed into a real team with focused job priorities. We have been able to improve numerous crossings with new installations of motion sensing devices, event recorders, and gate mechanisms. We have also upgraded commercial power service and standby power across the board, improving reliability greatly.

I have attended a management trainee forum at Garret Creek Ranch and become a part of the recruiting team for the University of Nebraska-Lincoln. I am also scheduled to begin the signal apprentice classes in the fall of 2008.

December 2006 to April 2007: Assistant Supervisor Signals Construction, Northwest Division based out of Seattle, Washington.

Duties included working on signal construction projects with the Northwest signal construction team, as well as spending time assisting maintenance supervisors with projects and vacation relief. Notable projects worked on are listed as follows:

- Crossing installations in Bellingham, Washington

- Electrocode upgrades in New Westminster, British Columbia

- Electrocode upgrades on the Fallbridge subdivision, Wishram, Washington

- Electrocode upgrades, switch upgrades and crossing upgrades in the Vancouver Yard, Vancouver, Washington

- Running signal crews during the 2007 Fallbridge Maintenance Blitz, Vancouver, Washington to Pasco, Washington

Time was spent surveying projects, working with crew foremen on scheduling construction activities, overseeing construction and pre cut-over breakdowns, helping to plan and run cutovers and in-servicing projects.

June 2006 to December 2006: Management Trainee, Completed formal training in Ft. Worth, Texas and Kansas City, Kansas with the engineering department.

Finished a six month management trainee program under Signal Manager Doug Proffitt in Seattle, Washington. Duties included completing cross-departmental training, as well as reaching set goals for training within the signal department.

BNSF Formal Training

Engineering Frontline Supervisor, June 2010

Engineering Frontline Supervisor, July 2009

Engineering Frontline Supervisor, June 2008

Engineering Frontline Supervisor, September 2007

Formal Investigation Training, May 2007

Fast Track Signal Training Program, January 2007

Engineering Operations Testing, December 2006

Leading People Successfully Engineering Part 2, November 2006

Engineering Frontline Supervisor, October 2006

Functional Engineering, September 2006

Supervisor FRA Track Safety, August 2006

From: James Jewell [mailto:jjewell@arch-light.com]

Sent: Tuesday, August 03, 2010 11:41 AM

To: Alexander, Anne

Subject: Re: BNSF/Calico - Large Scale Map and Additional Measurement

ANNE -- You have been a great help. As you probably know the Commission staff (including me) will not work on this further since there is a COC requiring collaboration on a solution. But, there will be a "workshop" and I will, as they are saying at the Jamboree this week in Virginia, Be Prepared. Thanks for all the data. I think I can help at the workshop. JAMES

On 8/3/10 11:07 AM, "Alexander, Anne" <anne.alexander@kattenlaw.com> wrote:

All:

Attached is an electronic version of a map of the BNSF right of way requested last week. Also, our client has informed us that the distance at which an engineer needs to be able to

8/16/2010

Exhibit "A" to Schnell

see a signal is 1500 feet. Please let us know if you need anything else.

Anne

ANNE ALEXANDER

Associate

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From: Alexander, Anne
Sent: Friday, July 30, 2010 3:30 PM
To: 'jjewell@arch-light.com'; 'alindsley@lindsleylighting.com'
Cc: 'Mmclean@energy.state.ca.us'; 'Dflores@energy.state.ca.us'; Burch, Cynthia Lea; Lamb, Steven A.
Subject: BNSF/Calico - Additional Measurements

James and Alan:

Again, we very much appreciate the quick turnaround on information requests. I am restating below the measurements from the signal head to the ground for the two signals at Hector Road (one signal for each track) which we sent yesterday, and have added some of the other information you requested yesterday. The height of the mid-point of the signal above the track would be the height of the yellow signal.

Main Track 1

Green signal to grade 30' 9"

Yellow signal to grade 29' 9"

Red signal to grade 28' 9"

Rail to grade 10'

Thus:

Green signal to rail: 20' 9"

Yellow signal to rail: 19' 9"

Red signal to rail: 18' 9"

Main Track 2

Green signal to grade 30'

Yellow signal to grade 29'

Red signal to grade 28'

Rail to grade 9'

Thus:

Green signal to rail: 21'
Yellow signal to rail: 20'
Red signal to rail: 19'

The engineer's eyes will be between 13 and 14 feet off the tracks. The width of the right of way is 100 feet through the project. There are a total of two signal poles within the Project site. We will provide you the distance from a signal pole at which an engineer is expected to recognize and act upon a signal on Monday.

Please do not hesitate to contact us with further questions or requests for information.

Have a great weekend,
Anne

ANNE ALEXANDER

Associate

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From: Burch, Cynthia Lea
Sent: Thursday, July 29, 2010 2:43 PM
To: 'jjewell@arch-light.com'; Alexander, Anne
Cc: 'Mmclean@energy.state.ca.us'; 'alindsley@lindsleylighting.com'; 'dflores@energy.state.ca.us'
Subject: Re: BNSF/Calico

James, thank you for quick turn around on data requests. We will forward them to BNSF.
Cynthia

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From: James Jewell
To: Burch, Cynthia Lea
Cc: Marie McLean ; Lindsley, AIA, IESNA Alan ; David Flores
Sent: Thu Jul 29 12:45:18 2010

Subject: BNSF/Calico

CYNTHIA — It was good to talk with you, Steve Ramsey, and the representative of BNSF. In our extended conversation there was some data that I didn't get to ask for so that I might make an initial estimate of the view angles involved. The conversation was helpful in that the applicants drawings do not show a double track installation.

I'll be away until Saturday, but perhaps your office or BNSF could send this along so I have it over the weekend. My colleague Alan Lindsley, who has been the lead light and vision consultant on Calico SPP, may have some further questions. If we can establish clearly the viewing angles, we may be able to predict and restrict the points of visual conflict for trainmen.

The following would be helpful:

- 1) height of the signal poles,
- 2) height of the mid-point of a signal above the track,
- 3) height of the eyes of the average engineer above the track; that is cab floor height plus seated viewer height,
- 4) distance from a signal pole at which an engineer is expected to recognize and act upon a signal,
- 5) average width or consistent width of the BNSF ROW, and
- 6) number and location of signal poles within the solar plant area and just before or after the plant boundary.

I think you can see that I want to establish the viewing angles and distances and then to discern just which signals may be seen against the Suncatcher mirrors and at what angular relationships. All of this information will make it possible for me to establish the requirements of a study. Thanks for your help. JAMES

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 NOTIFICATION: Katten Muchin Rosenman LLP is an Illinois limited liability partnership that has elected to be governed by the Illinois Uniform Partnership Act (1997).
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BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
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APPLICATION FOR CERTIFICATION

For the CALICO SOLAR (Formerly SES Solar One)

Docket No. 08-AFC-13

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(Revised 8/9/10)

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DECLARATION OF SERVICE

I, Harriet Vletas, declare that on August 17, 2010, I served and filed copies of the attached Prepared Direct Testimony of Joseph Schnell, BNSF Railway Company, dated August 17, 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: [www.energy.ca.gov/sitingcases/solarone].

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. 08-AFC-13
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.


HARRIET VLETAS