



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

DOCKET
08-AFC-2

DATE AUG 24 2010

RECD. AUG 24 2010

**APPLICATION FOR CERTIFICATION FOR THE
BEACON SOLAR ENERGY PROJECT
BY BEACON SOLAR, LLC**

DOCKET No. 08-AFC-2

ERRATA TO THE PRESIDING MEMBER'S PROPOSED DECISION

After reviewing the comments submitted by all the parties in addition to the joint letter, submitted to the Committee by staff and the applicant on the topics of Soil & Water and Cultural Resources dated July 26, 2010,, we incorporate the following changes to the July 20, 2010 Presiding Member's Proposed Decision (PMPD):

INTRODUCTION

Page 2:

Water for cooling will be tertiary treated recycled water supplied either by California City or Rosamond Community Services ~~Sanitary~~ District.

PROJECT DESCRIPTION

Page 11, change to read:

The wells draw water from the regional ~~a lower~~ aquifer at a depth of approximately 600 feet below ground surface.

Page 13, change last sentence under 10. Hazardous Waste Management to read:

The Applicant will have an approved ~~Risk Management Plan~~ Hazardous Materials Business Plan and Spill Prevention Control and Countermeasure Plan in place to deal with any potential problems related to the use and handling of hazardous waste.

Page 15, add the following to Finding 4:

4. The project will consume approximately 1,400-acre feet per year of recycled water for power plant cooling and 153 acre feet per year of groundwater with another 47 acre feet of groundwater per year held for emergency reserve. Tertiary treated recycled water will be supplied by either California City or Rosamond Community Sanitary District. Potable water will be supplied by three

on-site existing water supply wells. The project may consume up to 8,086 acre feet of groundwater during construction.

ALTERNATIVES

Page 17:

First bullet: identified and evaluated alternative sites to determine whether an alternative site would ~~mitigate~~ avoid or lessen impacts of the proposed site and whether an alternative site would create impacts of its own;

Last paragraph, last sentence, Page 18:

Staff determined, and we concur, that all five were reasonably feasible alternatives that would accomplish most of the projects objectives while mitigating all the significant adverse impacts. ~~other than visual impacts.~~ (Ex. 500, pp. 6-6 to 6-14.) (PMPD p. 18)

Page 20:

As explained above, the Energy Commission will require the use of non-potable water for powerplant cooling which is ~~the~~ one of the alternatives recommended by CURE.

Page 21, Finding 2:

None of the site location alternatives to the project offer a superior alternative in terms of feasibly meeting project objectives or of reducing any significant potential environmental impacts without creating new and additional adverse impacts.

Page 21, Finding 4. All five alternative generation technologies analyzed were reasonably feasible alternatives that would accomplish most of the projects objectives while mitigating all the adverse impacts ~~other than visual impacts.~~

GENERAL CONDITIONS

Page 29: All hardcopy submittals shall be addressed as follows:

Chris Davis, Compliance Project Manager
(08-AFC-2C)
California Energy Commission
1516 Ninth Street (MS-2000)
Sacramento, CA 95814
CMDavis@energy.state.ca.us

Page 32: Confidential Information (COMPLIANCE-8)

Any information that the project owner deems confidential shall be submitted to the Energy Commission's ~~Dockets Unit~~ Executive Director with an application for confidentiality pursuant to Title 20, California Code of Regulations, section 2505(a). Any information that is determined to be confidential shall be kept confidential as provided for in Title 20, California Code of Regulations, section 2501 et. Seq.

~~**Page 38:** The Energy Commission has established a toll free compliance telephone number of **1-800-858-0784** for the public to contact the Energy Commission about power plant construction or operation-related questions, complaints or concerns. (PMPD p. 39)~~

FACILITY DESIGN

Page 61, STRUCT-3 add the following verification:

Verification: On a schedule suitable to the CBO, the project owner shall notify the CBO of the intended filing of design changes and shall submit the required number of sets of revised drawings and the required number of copies of the other above-mentioned documents to the CBO, with a copy of the transmittal letter to the CPM. The project owner shall notify the CPM, via the monthly compliance report, when the CBO has approved the revised plans.

TRANSMISSION SYSTEM ENGINEERING

Page 84, first paragraph: However, since BSEP will take 25 months to complete and the certification hearing on the project will not even occur until late summer or fall of 2010 ~~or fall of 2014~~, we again find that such a condition is unnecessary for mootness.

GREENHOUSE GAS

Page 100: The generation of electricity using fossil fuels, even in auxiliary equipment ~~a back-up generator~~ at a thermal solar plant, (such as heaters or back-up engine generators) produces air emissions known as greenhouse gases in addition to the criteria air pollutants that have been traditionally regulated under the federal and state Clean Air Acts. California is actively pursuing policies to reduce GHG emissions that include adding renewable generation resources to the system which do not emit GHG.

Page 101: Whether BSEP GHG construction and operation emissions will have significant impacts; and

Page 102:

c. Emissions Performance Standard

Senate Bill (SB) 1368 of 2006, and regulations adopted by the Energy Commission and the Public Utilities Commission pursuant to the bill, prohibit utilities from entering into long-term commitments with any base load facilities that exceed an Emission Performance Standard (EPS) of 0.500 metric tonnes of CO₂ per megawatt-hour (this is the equivalent of 1100 pounds CO₂/MWh). (Pub. Util. Code, § 8340 et seq.; Cal. Code Regs., tit. 20, § 2900 et seq.; CPUC D0701039.) Currently, the EPS is the only LORS that has the effect of limiting power plant GHG emissions. The BSEP, as a renewable energy generation facility, is determined by rule to comply with the Greenhouse Gas Emission Performance Standard requirements of SB 1368 (Chapter 11, Greenhouse Gases Emission Performance Standard, Article 1, Section 2903 [b][1]). ~~BSEP is exempt from SB 1368 because, as a solar project which shuts down every night, it would operate at or below a 60 percent capacity factor.~~

Page 103

Under Item 3, Change sentence to read: Construction of the proposed project would last about 24 25 months.

Page 104: There is no adopted, enforceable federal or state LORS applicable to BSEP construction emissions of GHG. ~~Nor is there a quantitative threshold over which GHG emissions are considered “significant” under CEQA.~~ Nevertheless, there is guidance from regulatory agencies on how the significance of such emissions should be assessed. For example, the most recent guidance from CARB staff recommends a “best practices” threshold for construction emissions. [CARB, Preliminary Draft Staff Proposal, Recommended Approaches for Setting Interim Significance Thresholds for Greenhouse Gases under the California Environmental Quality Act (Oct. 24, 2008), p. 9]. Such an approach is also recommended on an interim basis, or proposed, by major local air districts.

Page 106: The proposed project would be permitted, on an annual basis, to emit over ~~48000~~ 4,800 metric tonnes of CO₂-equivalent per year if operated at its maximum permitted level. The BSEP, as a renewable energy generation facility, is determined by rule to comply with the Greenhouse Gas Emission Performance Standard requirements of SB 1368 (Chapter 11, Greenhouse Gases Emission Performance Standard, Article 1, Section 2903 [b][1]). ~~BSEP is a solar project with a nightly shutdown so it will operate less than 60 percent of capacity; therefore,~~

~~the project is not subject to the requirements of SB 1368 and the Greenhouse Gas Emission Performance Standard. Nonetheless, the BSEP, at 0.008 MTCO₂E/MWh, would easily meet both.~~

Page 107: Remove the negative sign from the last cell in the table. It currently reads as a double negative.

Resulting Change in Non-Renewable Energy ^d	13,876	(-36,173)
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Page 112, FINDINGS OF FACT

1. The GHG emissions from the BSEP construction are likely to be 16,770 MTCO₂ equivalent (“MTCO₂E”) during the 25-month construction period, which is the annual equivalent of ~~4445~~ 8,050 MTCO₂E. (16,770 X 25 / 12 = 8,050)
2. The construction GHG emissions are minimal in comparison to the GHG emission reductions that the project will enable in its lifetime. ~~There is no numerical threshold of significance under CEQA for construction-related GHG emissions.~~
9. BSEP, as a renewable energy facility, is determined by rule to comply with the Greenhouse Gas Emission Performance Standard requirements of SB 1368. ~~The SB 1368 EPS is not applicable to BSEP GHG emissions because the project will be shut down nightly, thus operating at less than a 60 percent capacity factor.~~
14. When it operates, BSEP will displace generation from ~~less-efficient (i.e., higher-heat-rate and therefore higher-GHG-emitting)~~ power plants.

CONCLUSIONS OF LAW

1. BSEP construction-related GHG emissions will not cause a significant adverse environmental impact.
2. ~~The GHG emissions from a power plant’s operation should be assessed in the context of the operation of the entire electricity system of which the plant is an integrated part.~~
- ~~32.~~ BSEP operational GHG emissions will not cause a significant environmental impact.
- ~~43.~~ BSEP as a solar energy facility complies with the Greenhouse Gas Emission Performance Standard requirements of SB 1368. ~~The SB 1368~~

~~EPS does not apply to USEGS, but if it did BSEP GHG emissions will meet or exceed it.~~

54. BSEP operation will help California utilities meet their RPS obligations.
65. BSEP operation will be consistent with California's loading order for power supplies.
76. BSEP operation will foster the achievement of the GHG goals of AB 32 and Executive Order S-3-05.
87. The GHG emissions of any power plant must be assessed within the context of the operation of the entire electricity system on a case-by-case basis to ensure that the project will be consistent with applicable goals and policies.
98. Any new power plant that we certify must:
 - a) not increase the overall system heat rate;
 - b) not interfere with generation from existing renewables or with the integration of new renewable generation; and
 - c) have the ability to reduce system-wide GHG emissions.

Pg. 114

4. The SB 1368 EPS does not apply to ~~USEGS~~ BSEP, but if it did BSEP GHG emissions will meet or exceed it.

AIR QUALITY

Page 120: Move the last complete paragraph to Page 105, at the end of Subsection 3, GHG Emissions During Construction.

The evidence indicates that the GHG emission increases associated with construction activities would not be significant for several reasons. First, the period of construction would be short-term and not ongoing during the life of the project. Second, the best practices control measures such as limiting idling times and requiring, as appropriate, equipment that meets the latest emissions standards, would further minimize greenhouse gas emissions. Third, the use of newer equipment will increase efficiency and reduce GHG emissions and be compatible with low-carbon fuel (e.g., bio-diesel and ethanol) mandates that will likely be part of the ARB regulations to reduce GHG from construction vehicles and equipment. For all these reasons, the short-term emission of greenhouse

gases during construction will be sufficiently reduced and will, therefore, not be significant. (Ex. 500, p. 4.1-83.)

Page 123, move complete second paragraph to page 111 at the end of subsection 4(b), Assessment of Operational Impacts.

The record shows that BSEP would emit considerably less greenhouse gases (GHG) than existing power plants and most other generation technologies, and thus would contribute to continued improvement of the overall western United States, and specifically California, electricity system GHG emission rate average. The project would lead to a net reduction in GHG emissions across the electricity system that provides energy and capacity to California. Thus, the project would result in a cumulative overall reduction in GHG emissions from the state's power plants, would not worsen current conditions, and would thus not result in impacts that are cumulatively significant. (Ex. 500, p. 4.1-83.)

Page 124, change to read as follows:

The Pine Tree Wind Development Project, which is located approximately six miles west of the site in rugged topography, was completed in June 2009, shortly after Energy Commission completed the Final Staff Assessment, ~~is currently under construction and scheduled to be in service in July 2009. Therefore, its construction would not significantly overlap the construction of the BSEP.~~ Additionally, The maintenance emissions from Pine Tree Wind Development Project are not considered to be of a magnitude, given they would occur six miles from the BSEP site, to affect the modeling analysis on a cumulative basis. (Ex. 500, p. 4.1-35.)

45. Compliance with LORS (should be numbered "5")

Page 126: Rule 402 - Fugitive Dust

This rule limits fugitive emissions from certain bulk storage, earthmoving, construction and demolition, and manmade conditions resulting in wind erosion. With the implementation of ~~recommended staff~~ Conditions of Certification AQ-SC3 and AQ-SC7 the facility is expected to comply with this rule. (Ex. 500, p. 4.1-37.)

Page 128: FINDINGS OF FACT

10. The BSEP onsite stationary and mobile emission sources would include: two 30 MMBtu propane-fueled boilers; an 11 cell cooling tower with a high efficiency mist eliminator with a guaranteed drift efficiency of .0005%; onsite diesel and gasoline fueled maintenance vehicles; a 300-bhp diesel-fired emergency fire water pump engine; twenty two heat transfer fluid (HTF) expansion/ullage tanks with associated piping; an HTF system carbon adsorption based vapor emission control system; spent HTF waste loadout; and, a bio-remediation area to treat HTF contaminated soils.

Page 129:

8. The project will employ the best available control technology (BACT) to control emissions of criteria pollutants.

9. ~~The project will result in a cumulative overall reduction in GHG emissions from the state's power plants, will not worsen current conditions, and will not result in impacts that are cumulatively significant.~~

Page 143

Condition **AQ-28** contains a typo, "long" leaks should be "log" leaks.

Page 157:

AQ-80 Facility shall comply with California Health and Safety Code Sections 44300 through 44384. (Rule 208.1)

Verification: The project owner shall make the site available for inspection of records by representatives of the District, ARB, and the Energy Commission.
(PMPD p. 157)

WORKER SAFETY

Page 169-170:

Conditions of Certification **WORKER SAFETY-1** and **-2** require the project owner, prior to construction and operation of the project, to provide the final Fire Prevention Program to the Compliance Project Manager and the local fire authorities. These entities will then confirm its adequacy. ~~The record shows that the limited fire risks and potential for hazardous materials incidents at the facility do not pose significant added demands on local fire protection services.~~

Page 175: Delete Condition of Certification 8 and replace as follows:

WORKER SAFETY-8 ~~Subject to a superseding agreement between the project owner and Kern County, the project owner shall fund its share of the ongoing capital and operational costs by making an annual payment of \$400,000 to Kern County for the support of the fire department's needs for capital, operations and maintenance commencing with the date of start of site mobilization and continuing annually thereafter on the anniversary until the final date of power plant decommissioning.~~

Verification: ~~At least sixty (30) days prior to the start of site mobilization, the project owner shall provide to the CPM, documentation that the first annual payment of \$400,000 has been paid to the KCFD, and shall also provide a~~

~~statement in the Annual Compliance Report that subsequent annual payments have been made. Otherwise, the project owner shall provide to the CPM a fully executed contract between the project owner and Kern County specifying different terms for funding capital and operational costs for these emergency services.~~

WORKER SAFETY- 8

The project owner shall make an annual payment to Kern County for the support of fire, sheriff patrol and investigation, County-wide public protection based upon the following fee schedule:

- A. Twenty –five percent (25%) of the monetary factors (\$579.90 per 1,000 square feet) calculated in the Draft Public Facilities Fee Study (written May 18, 2009) associated with fire, sheriff patrol and investigation and countywide public protection services
A = \$144.90/100 square feet.
- B. The area of land (per 1,000 square feet) directly underneath the solar collectors assemblies (assumed as horizontal) installed by April 30 of each calendar year.
- C. 30-year Project Term

Calculation of the fee schedule shall be as defined as follows:

$$\frac{A * B}{C}$$

The fee schedule shall remain fixed for the life of the project for a maximum total at build-out of \$258,074 per year. The amount will not be adjusted per year for inflation nor will any administrative fee apply.

Verification: During project construction the project owner shall provide to the CPM documentation in the May monthly compliance report showing the total number of square feet directly underneath installed collector assemblies (assumed as horizontal) as of April 30. The calculation of the fee amount due is based upon the formula in WORKER SAFETY -8 that has been paid to the Kern County Auditor-Controller for deposit in the identified account created to be used in the future for fire, sheriff and countywide public protection. Payment shall be remitted to the Kern County Auditor-Controller, with a copy of the transmittal to the Kern County Administrative Office, by April 30 of each calendar year that the BSEP remains in operation. The project owner shall provide to the CPM a statement in the Annual Compliance Report that subsequent annual payments have been made.

HAZARDOUS MATERIALS MANAGEMENT

Page 178: Add the last sentence:

The record indicates that the placement of additional isolation valves in the HTF pipe loops throughout the solar array will add significantly to the safety and operational integrity of the entire system by allowing a loop to be closed if a leak develops in a ball joint, flex-hose, or pipe, instead of closing off the entire HTF system and shutting down the plant. Condition of Certification **HAZ-7** requires the installation of a sufficient number of isolation valves that can be activated either manually or remotely. (Ex. 500, pp. 4.4-8.) Additionally, the Cal-OSHA Process Safety Management (PSM) standard will apply and this requirement is included in proposed Condition of Certification HAZ-2.

Page 184:

FINDINGS OF FACT

Based on the uncontroverted evidence of record, the Commission makes the following findings and conclusions:

2. The major public health and safety dangers associated with these hazardous materials include the accidental release of Therminol VP1 as well as fire and explosion from liquefied petroleum gas, (propane) natural gas.

Page 185-186, add the following new language:

HAZ-2: The project owner shall concurrently provide a Business Plan and, if required by the Kern County Environmental Health Services Department (KCEHSD) or Cal-OSHA, a Process Safety Management Plan (PSMP) to KCEHSD and the CPM for review. After receiving comments from the KCEHSD and the CPM, the project owner shall reflect all recommendations in the final document. Copies of the final Business Plan and if required, a PSMP, shall then be provided to the KCEHSD for information and to the CPM for approval.

Verification: At least 60 days prior to receiving any hazardous material on the site for commissioning or operations, the project owner shall provide a copy of the final Business Plan to the CPM for approval. The project owner shall also provide either a copy of a letter from the appropriate agency concurring with the non-applicability of the PSM regulation or if applicable, a final Process Safety Management Plan to the CPM for approval.

HAZ-4: remove #7 as there is no text.

Page 187: HAZ-5

7. Site access controls for employees, contractors, vendors, and visitors;

8. a statement(s) (refer to sample, **Attachment C**), signed by the owners or authorized representative of ~~hazardous materials transport~~ Liquefied Petroleum

Gas (propane) vendors, certifying that they have prepared and implemented security plans in compliance with 49 CFR 172.880, and that they have conducted employee background investigations in accordance with 49 CFR Part 1572, subparts A and B;

Page 188:

9 b. Power plant personnel on-site 24 hours per day, seven days per week and all one of the following:

i. The CCTV monitoring system required in number 9 above shall include cameras that are able to pan, tilt, and zoom (PTZ), have low-light capability, are recordable, and are able to view 100% of the perimeter fence, the outside entrance to the control room, and the front gate from a monitor in the power plant control room;
AND-OR

ii. Perimeter breach detectors or on-site motion detectors.

Page 191

Appendix A to the Hazardous Materials Management section, add the following row to the table in Appendix A to note the presence of hydraulic fluid at the Project site:

Hazardous Material	Relative Toxicity and Hazard Class	Permissible Exposure Limit	Storage Description; Capacity	Storage Practices and Special Handling Precautions
<u>Hydraulic Fluid</u>	<u>Low to moderate toxicity; Hazard class – Class IIIB combustible fluid</u>	<u>TWA (oil mist): 5 mg/m³</u> <u>STEL: 10 mg/m³</u>	<u>Carbon steel tanks and sumps; 500 gallons in equipment, maintenance inventory of 110 gallons in 55-gallon steel drums</u>	<u>Found only in equipment with a small maintenance inventory. Maintenance inventory stored within secondary containment.</u>

WASTE MANAGEMENT

Page 203, Last paragraph, change to read as follows:

The record shows that BSEP is owned by NextEra Energy Resources which ~~has~~ began operating the Luz Solar Electricity Generating System stations (SEGS) III through IX in San Bernardino County since 1989 VIII and IX in 1998 and SEGS III-VII in 2005.

Page 204, change to read as follows:

CURE raised several concerns regarding the management of spilled HTF based upon the track record established at the SEGS facilities. However, upon a close reading of CURE's briefs in relation to the evidence reveals several misconceptions or misunderstandings. ~~that undercut CURE's positions reveal themselves.~~

Page 205, change to read as follows:

CURE appears to assume that all HTF waste on the project site is a "hazardous material" that poses acute and chronic health hazards. (CURE Opening Brief, p. 87.) This is not the case. The record clearly explains the method for determining the hazards posed by HTF waste. (Ex. 500 pp. 4.13-9 through 4.13-11.) DTSC makes a determination of whether a discharge of HTF constitutes a hazardous waste on a case by case basis. (Ex. 500 p. 4.13-9.) CURE argues staging HTF-impacted soil in the facility's land treatment unit (LTU) would cause significant environmental impacts and violates LORS (CURE Opening Brief, p. 88) and CURE argues that HTF-contaminated soil is a "hazardous waste" that must comply with Health and Safety Code § 25113(a). (CURE Opening Brief, p. 91.) As explained above, not all HTF impacted soil is a "hazardous waste."

Pages 206: add the following paragraph, before first full paragraph:

CURE argued in its testimony that the project's analysis lacks adequate plans for groundwater monitoring at the Land Treatment Unit and at the evaporation ponds. (Ex. 625.) The Soil and Water Resources section of this Decision includes an entire appendix detailing the groundwater monitoring program for the three surface impoundments and the Land Treatment Unit (LTU). (See Soil and Water Resources Appendix H.) This appendix includes measures to ensure the HTF does not migrate past the five-foot vertical treatment zone underlying the LTU.

Change the following paragraph to read:

The record indicates that the treatment and disposal methods comply with the Requirements of Waste Discharge developed by staff in consultation with established by the Lahontan Regional Water Quality Control Board (LRWQCB) and presented in **Soil and Water Resources Appendices E, F, and H**. Condition of Certification **WASTE-7** addresses the Requirements of Waste Discharge and requires the applicant to comply with the requirements for accidental discharges of HTF and ensures that hazardous concentrations of contaminated HTF-soil will not be treated in the LTU. (Ex. 500, p. 4.13-11). With the implementation of Condition of Certification **WASTE-7** we find there will be no significant impacts due to HTF spills during project operation.

Page 210: FINDINGS OF FACT

Based on the uncontroverted evidence, the Commission makes the following findings:

14. The treatment and disposal methods comply with the Requirements of Waste Discharge developed by staff in consultation with ~~established by~~ the Lahontan Regional Water Quality Control Board.

BIOLOGICAL RESOURCES

Page 225, second sentence of the first full paragraph add the following:

Fifteen of the 115 acres of compensatory mitigation is based on CDFG's recommended 3:1 mitigation for impacts to desert tortoise and Mohave ground squirrel habitat.

Page 236:

Preconstruction floristic surveys were required in spring ~~2010~~ in accordance with guidelines described in Condition of Certification **BIO-20**.

Page 246 First full paragraph, change to read as follows:

The BSEP plant site is highly disturbed by past agricultural activities and currently supports marginal wildlife habitat, ~~Furthermore, over the years the disturbed vegetation on the site will have continued to recover from historical disturbances and will eventually provide improved habitat for these species. The BSEP will prevent recovery of these disturbed agricultural lands and will contribute to fragmentation of native plant communities in the project area. . . .~~

Page 247-248:

~~**Federal Endangered Species Act (ESA) (16 USC §§ 1531 et seq.)**~~

Page 250:

20. Conditions of Certification **BIO-4, BIO-5, BIO-6, BIO-7, BIO-8, BIO-15**, and **BIO-17** ~~and **BIO-12**~~, will reduce the impacts to native birds to less than significant levels.

Page 250:

30. Conditions of Certification **BIO-11** and **BIO-12** require the project owner to acquire and enhance 115 acres to compensate for the potential take of ~~two~~ Mohave ground squirrels and ~~two~~ transient desert tortoises during construction on the plant site and for impacts to the 5.0 acres of Mojave creosote bush scrub to the west.

Page 251:

32. Noise impacts to nesting birds and other wildlife at BSEP will be less than significant with implementation of measures in Condition of Certification **BIO-8**.

36. Condition of Certification **BIO-14** requires installation of netting over the evaporation ponds to exclude birds and other wildlife, as well as monitoring of the effectiveness of the netting, which will reduce evaporation pond impacts to birds to less-than-significant levels.

Page 252:

3. Direct and indirect construction impacts to vegetation and wildlife will be reduced to less than significant levels with implementation of impact avoidance and minimization measures described in Conditions of Certification **BIO-1** through **BIO-8-21**

Page 261 the first sentences of numbers 7 and 8 should be underlined for consistency with the other numbered paragraphs. On **page 266** the first sentence on paragraph number 4 also needs to be underlined. See also **page 268** number 2 and **page 275** number 1. On **page 276** the numbering skips 5. On **page 285** first sentence of the second paragraph needs to be underlined.

Page 279: The verification for **BIO-14** was omitted. (PMPD p. 279)

Verification: No less than 30 days prior to operation of the evaporation ponds the project owner shall provide to the CPM as-built drawings and photographs of the ponds indicating that the bird exclusion netting has been installed. For the first year of operation the Designated Biologist shall submit quarterly reports to the CPM, CDFG, and USFWS describing the dates, durations and results of site visits conducted at the evaporation ponds. Thereafter the Designated Biologist shall submit annual monitoring reports with this information. The quarterly and annual reports shall fully describe any bird or wildlife death or entanglements detected during the site visits or at any other time, and shall describe actions taken to remedy these problems. The annual report shall be submitted to the CPM, CDFG, and USFWS no later than January 31st of every year for the life of the project.

Page 297: The list of plants observed during the 2010 special-status plant surveys of the Rosamond Alternative can also be used as a guide to site-specific plant selection for revegetation.

Page 298, Add the following Condition of Certification:

BIO-22

The Project owner may choose to satisfy its mitigation obligations identified in this Decision by paying an in lieu fee instead of acquiring compensation lands, pursuant to Fish and Game code sections 2069 and 2099 or any other applicable in-lieu fee provision, to the extent provided that the project's in-lieu fee provision proposal is found by the Commission to be in compliance with CEQA and CESA requirements. If the in-lieu fee

proposal is found by the Commission to be in compliance, and the Project Owner chooses to satisfy its mitigation obligations through the in-lieu fee, the Project Owner shall provide proof of the in-lieu fee payment to the CPM prior to construction related ground disturbance.

Verification: If electing to use this provision, the Project Owner shall notify the Commission and all parties to the proceeding that it would like a determination that the Project's in-lieu fee proposal meets CEQA and CESA requirements. Prior to construction related ground disturbance the Project Owner shall provide proof of the in lieu fee payment to the CPM.

SOIL AND WATER RESOURCES

Page 309. Add the following text after the first full paragraph:

Nevertheless, the Committee took evidence on the environmental impacts from the WWTF expansions during the June 8, 2010 supplemental evidentiary hearing. With regard to the RCSD WWTF upgrades, the record reflects that the upgrades will occur over approximately eighteen months, and will be completed using normal earthmoving equipment including scrapers, excavators, and grading equipment. The evidence demonstrates that the upgrades will occur within existing ponds, with the exception of a 20 acre area that is fenced within the existing RCSD WWTP site and is largely disturbed by existing activities. Therefore, the expansion will not cause any significant impacts to biological resources. No cultural resources were discovered during construction of the existing facilities and ponds, and there is no reason to believe any such resources will be discovered during construction of the expansion. As fugitive dust would be the main air quality impact from the WWTF expansion, RCSD plans to use the water supplied by its existing 0.5 MGD tertiary treatment plant for dust suppression. The expansion is not expected to significantly impact or lower traffic service levels. (Ex. 519.)

The California City WWTF expansion will similarly occur in previously disturbed areas, within the existing WWTF site boundaries. A past expansion to the WWTF was addressed in a mitigated negative declaration, and California City expects to prepare another mitigated negative declaration for the proposed WWTF expansion. CURE has introduced no evidence indicating that either of the WWTF expansions has the potential to cause any significant adverse environmental impacts. (Ex. 341, p. 3.)

Because the California City and RCSD WWTF expansions are not expected to cause any significant adverse environmental impacts, and because these projects would be located at a distance of approximately 40 miles and 10 miles from the project site respectively, the WWTF expansions do not have the potential to cause or contribute to any significant cumulative impacts.

GEOLOGICAL AND PALEONTOLOGICAL RESOURCES

Page 392-393:

PAL-4 Prior to ground disturbance and for the duration of construction activities involving ground disturbance, the project owner and the PRS shall prepare and conduct weekly CPM-approved training for the following workers: project managers, construction supervisors, foremen, and general workers involved with or who operate ground disturbing equipment or tools. Workers shall not excavate in sensitive units prior to receiving CPM-approved worker training. Worker training shall consist of an initial in-person PRS training or may utilize a CPM-approved video or other presentation format, during the project kick off for those mentioned above. Following initial training, a CPM approved video or other approved training presentation/materials or, in-person training may be used for new employees. The training program may be combined with other training programs prepared for cultural and biological resources, hazardous materials, or other areas of interest or concern. No ground disturbance shall occur prior to CPM approval of the Worker Environmental Awareness Program (WEAP) unless specifically approved by the CPM.

The WEAP shall address the possibility of encountering paleontological resources in the field, the sensitivity and importance of these resources, and legal obligations to preserve and protect those resources.

The training shall include:

1. A discussion of applicable laws and penalties under the law;
2. Good quality photographs or physical examples of vertebrate fossils for project sites containing units of high paleontological sensitivity;
3. Information that the PRS or PRM has the authority to halt or redirect construction in the event of a discovery or unanticipated impact to a paleontological resource;
4. Instruction that employees shall halt or redirect work in the vicinity of a find and contact their supervisor and the PRS or PRM;
5. An informational brochure that identifies reporting procedures in the event of a discovery;
6. A WEAP certification of completion form signed by each worker indicating that he/she has received the training; and
7. A sticker that shall be placed on hard hats indicating that environmental training has been completed.

Verification: At least 30 days prior to ground disturbance, the project owner shall submit the proposed WEAP, including the brochure, with the set of reporting procedures for workers to follow. At least 30 days prior to ground disturbance, the project owner shall submit the training program presentation/materials script and final video to the CPM for approval if the project owner is planning to use a presentation format other than an in-person trainer for video for interim training. If the owner requests an alternate paleontological trainer, the resume and qualifications of the trainer shall be submitted to the CPM for review and approval prior to installation of an alternate trainer. Alternate trainers shall not conduct training prior to authorization from the CPM. In the monthly compliance report (MCR), the project owner shall provide copies of the WEAP certification of completion forms with the names of those trained and the trainer or type of training (in-person or other approved presentation format video) offered that month. The MCR shall also include a running total of all persons who have completed the training to date.

LAND USE

Page 402: Second paragraph, change to read as follows:

As ~~explained~~ in the **Soil and Water** section of this Decision, ~~is that~~ while a contract to supply the BSEP with recycled water and payment of the plant's proportional share of the WWTF expansion cost would facilitate construction of the expansion, it will not cause it. Expansion of the existing WWTF is not the result of or dependent on approval and construction of the BSEP. The ~~proposed~~ BSEP's use of the tertiary-treated water produced by the WWTF, as the byproduct of sewage treatment, will not provide the City with a new or additional source of potable water and, therefore, will not contribute to any expansion of the City's public water supply system or allow it to serve additional customers. (Ex. 512, pp. 3-4.)

TRAFFIC AND TRANSPORTATION

Page 420:

TRANS-2 Prior to start of construction of the pipelines site mobilization activities, the project owner shall prepare a mitigation plan for Neuralia Road and Mendiburu Road due to open cutting of the roadways for the installation of the tertiary water pipeline. The intent of this plan is to ensure that if these roadways are disturbed by project construction, they will be repaired and reconstructed to original or as near original condition as possible. This plan shall include:

- Documentation of the pre-construction condition of the following roadways:
 1. Neuralia Road from the project site south to Mendiburu Road and then east on Mendiburu Road where it reaches the California City waste water treatment plant.

- Prior to the start of construction of the pipelines ~~site mobilization~~, the project owner shall provide to the CPM photographs or videotape of water line routes discussed above.
- Documentation of any portions of Neuralia Road and Mendiburu Road that may be inadequate to accommodate oversize or large construction vehicles and identification of necessary remediation measures;
- Provision for appropriate bonding or other assurances to ensure that any damage to Neuralia Road, and Mendiburu Road due to construction activity will be remedied by the project owner; and
- Reconstruction of portions of Neuralia Road, and Mendiburu Road that are damaged by project construction due to oversize or overweight construction vehicles.

Verification: At least 90 days prior to the start of pipeline construction ~~site mobilization~~, the project owner shall submit a mitigation plan focused on restoring Neuralia Road and Mendiburu Road to its pre-project condition to Kern County and California City Public Works and Planning Department for review and comment and to the CPM for review and approval. Within 90 days following the completion of construction, the project owner shall provide photo/videotape documentation to the Kern County and California City Public Works and Planning Department and the CPM that the damaged sections of Neuralia Road and Mendiburu Road have been restored to their pre-project condition

Page 421-422:

- TRANS-3** Prior to start of construction of the pipeline ~~site mobilization~~ ~~activities~~, the project owner shall prepare a mitigation plan for Rosamond Boulevard, Sierra Highway, Sopp Road, Lone Butte Road, California City Boulevard Avenue, and Neuralia Road, due to open cutting of the roadways for the installation of the tertiary water pipeline. The intent of this plan is to ensure that if these roadways are disturbed by project construction, they will be repaired and reconstructed to original or as near original condition as possible. This plan shall include:
- Documentation of the pre-construction condition of the following roadways:

1. Rosamond Boulevard, Sierra Highway, Sopp Road, Lone Butte Road, California Boulevard , and Neuralia Road.
- Prior to the start of construction of the pipeline site mobilization, the project owner shall provide to the CPM photographs or videotape of water line routes discussed above.
 - Documentation of any portions of Rosamond Boulevard, Sierra Highway, Sopp Road, Lone Butte Road, California City Boulevard and Neuralia Road that may be inadequate to accommodate oversize or large construction vehicles and identification of necessary remediation measures;
 - Provision for appropriate bonding or other assurances to ensure that any damage to Rosamond Boulevard, Sierra Highway, Sopp Road, Lone Butte Road, California City Boulevard and Neuralia Road due to construction activity will be remedied by the project owner; and
 - Reconstruction of portions of Rosamond Boulevard, Sierra Highway, Sopp Road, Lone Butte Road, California City Boulevard , and Neuralia Road that are damaged by project construction due to oversize or overweight construction vehicles.

Verification: At least 90 days prior to the start of pipeline construction site mobilization, the project owner shall submit a mitigation plan focused on Rosamond Boulevard, Sierra Highway, Sopp Road, Lone Butte Road, California City Boulevard, and Neuralia Road to its pre-project condition to Kern County and California City Public Works and Planning Department for review and comment and to the CPM for review and approval. Within 90 days following the completion of construction, the project owner shall provide photo/videotape documentation to the Kern County and California City Public Works and Planning Department and the CPM that the damaged sections of Rosamond Boulevard, Sierra Highway, Sopp Road, Lone Butte Road, California City Boulevard, and Neuralia Road have been restored to their pre-project condition.

SOCIOECONOMICS

Page 429-430 Add the following text under Item 4:

4. Public Comment

Lorelei Oviatt, Acting Planning Director of the Kern County Planning Department . . . On July 2, 2010, the committee received a letter from Ms. Oviatt explaining that on June 29, 2010 the Kern County Board of Supervisors determined and approved a revised fee as mitigation for all impacts on public services from the BSEP which included the language now adopted in Condition of Certification WORKER SAFETY-8. On July 9, 2010, Applicant's counsel confirmed BSEP's

acceptance of the terms now contained in Condition of Certification WORKER SAFETY-8.

NOISE AND VIBRATION

Page 439: NOISE RESTRICTIONS

NOISE-4 Within 30 days of the project first achieving a sustained output of 80 percent or greater of rated capacity, the project owner shall conduct a 25-hour community noise survey, utilizing the same monitoring sites employed in the pre-project ambient noise survey at a minimum. The survey shall include the octave band pressure levels to ensure that no new pure-tone noise components have been introduced. No single piece of equipment shall be allowed to stand out as a source of noise that draws legitimate complaints. Steam relief valves shall be adequately muffled to preclude noise that draws legitimate complaints. If the results from the survey indicate that the project noise levels are in excess of 34 dBA L_{eq} at the residence east of the project site, additional mitigation measures shall be implemented to reduce noise to a level of compliance with this limit. If the project is equipped with an air cooled condenser, project noise levels shall be restricted to 40 dBA L_{eq} at the residence east of the project site.

Page 458:

In my opinion, none of the State CEQA criteria for significant impact was met and the impact from ~~KOP-2~~KOP-6 is less than significant. I came to this conclusion based upon a comparison of the existing condition surrounding this KOP, which consists of multiple disturbances, with the form, meaning, and context of the Beacon Project as an appealing renewable energy resource. The overall shape of the project will not be unlike predominant elements of the existing project site and surrounding disturbed landscape. The Beacon Project will be low in profile in the landscape as compared to past, conventional energy generation and transmission structures. Initially, viewers will see the facility as a unique, renewable energy resource that replaces and contrasts with deteriorated ranch land and buildings. Over time, viewers at ~~KOP-2~~ KOP-6 will see the facility as a landmark and their expectations will be met by the form, meaning, and context of a sensitively designed solar field in an overall disturbed ~~and deteriorating~~ landscape, rather than in an otherwise natural scene. ~~The scene surrounding KOP-2~~ The majority of the scene from KOP-6 has not been natural for many decades. The nearest natural desert landscape is further south, ~~beyond to the right of~~ the project site. While this elevated view emphasizes the characteristics of the Project, it also emphasizes the level of disturbance and deterioration of the surrounding landscape. (Ex. 324, p. 4) ~~The Jawbone Canyon landscape has also been highly disturbed for several~~

~~years by off-highway vehicles, as well as by historical mining activities and the aqueduct pipeline. (Ex. 324, p. 4.)~~

Page 469-470:

VIS-6 The project owner shall provide a comprehensive landscaping and irrigation plan for the project site in accordance with the requirements of Chapter 19.86 of the Kern County Zoning Ordinance. Landscaping shall be installed or bonded prior to the start of commercial operation.

An alternative, in whole or in part, to providing a comprehensive landscaping and irrigation plan for the project site, the project owner may provide to the CPM a copy of the receipt demonstrating payment of equivalent cost of the landscaping of the developed area of the project site excluding the solar field and power block to the Kern County Parks and Recreation District, a Kern County public school or other non-profit organization in the County of Kern prior to the start of commercial operation.

The project owner shall submit to the Director of the Kern County Planning Department for comment a comprehensive landscaping and irrigation plan, or shall discuss with the Director the alternative described above to a landscaping and irrigation plan.

The applicant shall allow the Director of the Kern County Planning Department up to ~~60~~45 calendar days to review the comprehensive landscaping and irrigation plan and provide written comments to the project owner. The project owner shall provide a copy of the Director of the Kern County Planning Department's written comments on the landscaping and irrigation plan or the alternative to the CPM for review and approval.

The project owner shall not implement the landscaping and irrigation plan or the alternative until the project owner receives approval from the CPM.

~~The planting must be completed by the start of commercial operation, and the planting must~~ should occur during the optimal planting season, but if not, the owner will be responsible to replace landscaping that does not survive the first year.

APPENDIX A

Page A-12 Add this entry:

Process Safety Management Title 8 CCR Section 5189	Requires facility owners to develop and implement effective process safety management plans when Toxic, reactive, flammable, or explosive chemicals are maintained on site in quantities that exceed regulatory thresholds.
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APPENDIX B

Exhibit List – Add Exhibits 652 – 666:

- EXHIBIT 652** US Fish and Wildlife Service. 2009. Preparing for any action that may occur within the range of the Mojave desert tortoise (*Gopherus agassizii*) – 2009. Sponsored by Intervenor CURE and received into evidence on 6/8/10.
- EXHIBIT 653** US Fish and Wildlife Service. 1992. Field survey protocol for any non-federal action that may occur within the range of the desert tortoise, 1992. Sponsored by Intervenor CURE and received into evidence on 6/8/10.
- EXHIBIT 654** Boarman WI, WB Kristan. 2006. Evaluation of Evidence Supporting the Effectiveness of Desert Tortoise Recovery Actions. Scientific Investigations Report 2006-5143. US Geological Survey, Sacramento (CA), 2006. Sponsored by Intervenor CURE and received into evidence on 6/8/10.
- EXHIBIT 655** Boarman WI. 2002. Threats to Desert Tortoise Populations: A Critical Review of the Literature. U.S. Geological Survey, Western Ecological Research Center. Sacramento (CA), 2002. Sponsored by Intervenor CURE and received into evidence on 6/8/10.
- EXHIBIT 656** Schamberger ML, FB Turner. 1986. The application of habitat modeling to the desert tortoise (*Gopherus agassizii*), 1986. Sponsored by Intervenor CURE and received into evidence on 6/8/10.
- EXHIBIT 657** Desert Tortoise (Mojave Population) Recovery Plan, U.S. Fish & Wildlife Service, 6/1994. Sponsored by Intervenor CURE and received into evidence on 6/8/10.
- EXHIBIT 658** Current Status of the Mohave Ground Squirrel, Philip Leitner. Sponsored by Intervenor CURE and received into evidence on 6/8/10.
- EXHIBIT 659** Home-Range Size and Use of Space by Adult Mohave Ground

Squirrels, *Spermophilus Mohavensis*, John H. Harris and Philip Leitner, *Journal of Mammalogy* 2004; Long-Distance Movements of Juvenile Mohave Ground Squirrels, *Spermophilus Mohavensis*, John H. Harris and Philip Leitner, *the Southwestern Naturalist*, June 2005; 2004; 6/2005. Sponsored by Intervenor CURE and received into evidence on 6/8/10.

EXHIBIT 660

Hoyt DF. 1972. Mohave Ground Squirrel Survey. California Department of Fish and Game. Sacramento (CA): Special Wildlife Investigations Report, 1972. Sponsored by Intervenor CURE and received into evidence on 6/8/10.

EXHIBIT 661

CNPS Botanical Survey Guidelines, California Native Plant Society, 6/2/01. Sponsored by Intervenor CURE and received into evidence on 6/8/10.

EXHIBIT 662

Hailey J, and D Bainbridge. 1999. Desert Restoration: Do something or wait a thousand years? [abstract] Mojave Desert Science Symposium; 1999 Feb 25-27, Las Vegas. USGS, Western Ecological Research Center [internet]. 1999. Sponsored by Intervenor CURE and received into evidence on 6/8/10.

EXHIBIT 663

California Department of Fish and Game Documents in Response to Records Request – Rosamond, 6/2010. Sponsored by Intervenor CURE and received into evidence on 6/8/10.

EXHIBIT 664

Kern County APCD Permits to Operate – California City and Rosamond Wastewater Treatment Facilities, 6/10/10. Sponsored by Intervenor CURE and received into evidence on 6/8/10.

- EXHIBIT 665** Lahontan RWQCB Waste Discharge Requirements - California City and Rosamond Wastewater Treatment Facilities. Sponsored by Intervenor CURE and received into evidence on 6/8/10.
- EXHIBIT 666** Letter from Lorelei Oviatt, Kern County to Eric Solar, CEC, RE: Additional Kern County Planning Department Comments, Final Staff Assessment for the Proposed Beacon Solar Energy Project (08-AFC-2) Impacts on Public Services, 1/15/10. Sponsored by Intervenor CURE and received into evidence on 6/8/10.

Dated on August 24, 2010, in Sacramento, California.



KAREN DOUGLAS
Chairman and Presiding Member
Beacon Solar Project Committee



JEFFREY D. BYRON
Commissioner and Associate Member
Beacon Solar Project Committee



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
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**APPLICATION FOR CERTIFICATION
FOR THE BEACON SOLAR ENERGY PROJECT**

**Docket No. 09-AFC-2
PROOF OF SERVICE
(Revised 7/30/10)**

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DECLARATION OF SERVICE

I, RoseMary Avalos, declare that on August 24, 2010, I served and filed copies of the attached ERRATA TO THE PRESIDING MEMBER'S PROPOSED DECISION, dated August 24, 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/beacon].

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-2
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.

Original Signed By: _____

ROSEMARY AVALOS
Hearing Adviser's Office