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 Our File No.: 0000354112

<b>DOCKET</b>	
<b>11-CAI-01</b>	
DATE	OCT 04 2011
RECD.	OCT 04 2011

October 4, 2011

Karen Douglas  
 Robert B. Weisenmiller  
 Siting Committee  
 Kourtney Vaccaro  
 Hearing Officer  
 1516 Ninth Street  
 Sacramento, CA 95814

**Re: Calico Solar Project, Docket No. 11-CAI-01**

Dear Commissioners Douglas and Weisenmiller and Hearing Officer Vaccaro:

We write to respond and object to Ms. Burch's inflammatory letter filed this afternoon. The misstatements included are so egregious that it is hard to believe that they are anything less than intentional.

Ms. Burch claims that I argued at the hearing yesterday afternoon that "it was not until March 2011 . . . that K Road Calico knew that SunCatchers were economically unviable, commercially unavailable and decided to convert the Calico Solar Project to a primarily PV project." Having been at the hearing, you must know that this is not true. It is once again an attempt by BNSF to prove an alleged falsehood with an actual falsehood.

To clarify, I argued that BNSF made numerous misrepresentation in its Verified Complaint, including Paragraph 15 which states:

Just three weeks later, on December 24, 2010, Tessera Solar North America consummated its sale of Applicant, Calico Solar, LLC ("Calico"), to K Road Sun LLC, a subsidiary of K-Road Power, which is a company that focuses on PV power. At that time, Tessera Solar announced that it had done so, because had it [sic] determined that "SunCatchers would not be commercially viable in the near term." See Exhibit H. [CEC Calico Solar Amendment at page 3-1, §3.1.](emphasis added).

As I explained yesterday, the quoted language is inaccurate as to who made the statement, when the statement was made, and what the statement was. The quote is not an announcement by Tessera Solar, it is a quote from Calico in its request for amendment. It was not made at the time of the sale as indicated by BNSF, but rather in March, when Calico filed its Petition to Amend. Finally, it is simply a misquote. The

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amendment does not say that “the project would not be commercially viable in the near term” but rather it says that “the SunCatcher would not be commercially *available* in the near term.”

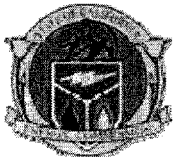
Calico Solar objects to BNSF’s request to admit additional evidence. The request is procedurally incorrect and substantively devoid of merit.

Sincerely yours,



Ella Foley Gannon

cc: Cynthia L. Burch, Esq.  
Service List



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1516 NINTH STREET, SACRAMENTO, CA 95814  
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**FOR THE CALICO SOLAR PROJECT  
COMPLAINT AND INVESTIGATION**

**Docket Nos. 11-CAI-01  
(Revised 10/3/11)**

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## **DECLARATION OF SERVICE**

I, Camarin Madigan, declare that on October 4, 2011, I served and filed copies of the attached K Road Solar LLC's Response to BNSF's Submission, dated October 4, 2011. The original document, filed with the Docket Unit or the Chief Counsel, as required by the applicable regulations, 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/calicosolar/compliance/index.html](http://www.energy.ca.gov/sitingcases/calicosolar/compliance/index.html)]**.

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

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### **FOR SERVICE TO ALL OTHER PARTIES:**

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- ☒ Served by delivering on this date, either personally, or 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."

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#### **CALIFORNIA ENERGY COMMISSION**

Attn: Docket No. 11-CAI-01  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512  
[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

**OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, §§ 1720**

- ☐ Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

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Sacramento, CA 95814  
[mlevy@energy.state.ca.us](mailto:mlevy@energy.state.ca.us)

I declare under penalty of perjury under the laws of the State of California that 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.

