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January 27, 2010

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09-RENEW EO-1	
DATE	JAN 27 2010
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California Energy Commission
Dockets Office, MS-4
RE: Docket No. 09-Renew-EO-01
1516 Ninth Street
Sacrament, CA 95814-5512

RE: Tessera Solar Comments Regarding BMP and Guidance Manual: Desert Renewable Energy Projects (December 2009 CEC-700-2009-016-SDREV)

To Whom This May Concern,

Tessera Solar North America (Tessera Solar) appreciates the opportunity to have reviewed the revised *Best Management Practices & Guidance Manual: Desert Renewable Energy Projects* (December 2009 CEC-700-2009-016-SDREV). Please find attached our consultant's comments regarding the revised manual. Tessera Solar's two specific comments related to this revision are as follows:

1) Tessera Solar commented on the first BMP draft that the *National Environmental Policy Act* was misspelled – it remains misspelled see page 2 line 1.
2) Tessera Solar continues to underscore the need for applicants and their representatives to complete an Alternatives Feasibility Study long before a Plan of Development (BLM) or AFC is filed with either the BLM or CEC respectively.

Tessera Solar appreciates the opportunity to provide comment to the revised California Energy Commission related to BMPs and Guidelines for Solar Projects in the Desert.

Regards,

Richard Knox
Permitting Director
Tessera Solar North America

URS Comments on the Renewable Energy Action Team's (CEC, CDFG, BLM, and USFWS)
Best Management Practices and Guidance Manual: Desert Renewable Energy Projects (December 2009) (CEC-700-2209-016-SD-REV)

Resource Area	Section Header	Page	Line(s)	Item	URS Comments
Air Quality	Initiating Permitting Process	20	1-4	15	Meeting with the air district at least six months prior to filing an air permit application is not always practical. Suggested revision: "*A meeting with the Air Quality Management District or Air Pollution Control District should be arranged prior to filing an air permit application* ."
	Air Quality Guidance	22	5-10	3	Time constraints related to: CEC might require 1 year of meteorological monitoring. CEC might require 1 year of ambient air quality monitoring.
	Air Quality Guidance	22	25-26	8	Similar facilities may not exist, thus this may not be a reasonable request.
	Air Quality Guidance	22	30-32	11	Guidance is vague, thus, it is difficult to determine how strictly this guidance would be enforced.
	Air Quality Guidance	22	33-35	12	Suggest revising as follows: "~~Include~~ *Provide* the proposed project application for a local air quality management district determination of compliance or authority to construct ~~with applications~~ to the lead agencies once it is received." When air permits become available, they should be submitted to the lead agencies.
	Air Quality Guidance	23	1-8	13	If a conformity analysis is needed, the AFC will describe the approach that will be taken to obtain a conformity determination (not have the determination when the AFC application is submitted).
	Air Quality BMPs	23	27-30	5) a)	It may not be feasible to pave the main access road before construction.
	Air Quality BMPs	23, 24	31-37, 1-2	5) b)	Suggests unpaved roads and construction areas be sealed with a chemical dust suppressant; however, most dust abatement plans allow for either a chemical dust suppressant or watering.
	Air Quality BMPs	24	3-6	5) c)	Suggests travel on unpaved, unstablilized roads be limited to 10 mph; however, this may be unreasonable for extremely large project sites.
	Air Quality BMPs	24	22-24	5) j)	Suggests sweeping all paved roads within the construction site twice daily, which may be a very onerous task, particularly on extremely large project sites.
Biological Resources	Biological Resources Guidance	26	29	3) f)	Delete "*and daily movement areas* ". Given the large scale of solar development projects, impacts to localized wildlife movement areas is unavoidable.
	Biological Resources Guidance	27	19-21	7)	Jurisdictional waters determinations by CDFG & ACOE should be completed during the DR phase of the process, not when the AFC is submitted.
	Biological Resources Guidance	27	25-27	9)	Copies of the completed DFG-approved application(s) for an ITP and LSAA should be provided during the DR phase of the process, not when the AFC is submitted.
	Biological Resources Guidance	29	6-11	16	A draft habitat compensation plan should be provided during the DR phase of the process, not when the AFC is submitted. Impacts and mitigation need to be assessed based on the alternative likely to be approved.

Resource Area	Section Header	Page	Line(s)	Item	URS Comments
Cultural Resources	Cultural and Historic Resources Guidance	41, 42	35-38, 1-2	3	Item 3 includes requirements for remnants of National Historic Trails that may be on the NRHP or CRHR, with an emphasis on avoiding or minimizing visual impacts, not simply reducing impacts. There are currently a large number of historic roads that cross the Mojave Desert, including several that are on the CRHR that could be affected by this item. Additionally, there are likely energy projects that are within visual range of historic roads that could be negatively affected by this requirement as impacts may not be able to be avoided or minimized, simply reduced. We suggest instead that reduction of impacts would be sufficient to mitigate visual impacts.
	Cultural and Historic Resources Guidance	42	3-7	4	Item 4 includes the requirement for cultural resource studies to be performed prior to submittal of the AFC in consultation with lead agency staff. Applicants and their consultants would need assurance of the availability of agency staff prior to AFC submittal so that surveys could be conducted per specific direction from the agencies. This should include applicant/consultant/agency agreement on an Area of Potential Effects for each resource area related to archaeological resources, historic resources, and built environment resources. This should also include clear direction on the spacing of transects during the survey process, the scope of work to be performed, reporting standards, and should include direction on whether the use of the draft CEC template for cultural resources would be a requirement for all projects. Close coordination with the affected parties is essential to making the process work efficiently so that work does not need to be repeated after submittal of the AFC. Revisions/refinements to cultural resources should be completed during the DR phase of the project, not when the AFC is submitted.
	Cultural and Historic Resources Guidance	42	8-11	5	This process is not likely to save time because Native Americans typically respond to the Federal or State lead agency once an AFC has been filed since that action officially initiates government to government contact. Consultants and applicants are not government agencies and Native Americans do not usually respond to non-governmental entities.
	Cultural and Historic Resources Guidance	42	12-21	6	See Cultural Resources response to Item 5 above.
	Cultural and Historic Resources Guidance	42, 43	22-38, 1-10	7, 8, 9, 10	See Cultural Resources response to item 4 above.
	Cultural and Historic Resources Guidance	43	11-16	11	Standards should be created to establish when a geoarchaeological study would be required. Geoarchaeological studies should not be required for all project sites, such as farmlands that have been plowed to a considerable depth; therefore, a list of exemptions to the need for geoarchaeological studies should be established. Additionally, after the field archaeological study has been completed we suggest that a desktop geoarchaeological study of the project site and surrounding area be conducted to address the potential for subsurface cultural resource deposits. If the desktop study clearly demonstrates that there is no potential for subsurface cultural resources, then no further work should be required.

Resource Area	Section Header	Page	Line(s)	Item	URS Comments
Geologic Hazards and Resources					Geology and soils in a geotechnical sense are not discussed in the guidance document. Soils, in relation to erosion and air quality are. The revised manual has expanded the section on Soils, Drainage, Erosion, Stormwater, Flooding into two sections: Soils, Drainage, Erosion, Stormwater, Flooding Guidance; and Soils, Drainage, Erosion, Stormwater, Flooding BMPs. Please see additional comments relevant to Soils, below.
Hazardous Materials					While very specific, the BMPs included in this publication seem to be standard. Therefore, no comments at this time.
Land Use					The BMPs included in this publication seem to be standard. Therefore, no comments at this time.
Noise	Noise and Vibration BMPs	52	17	2	Our earlier suggestion to replace “limit ambient” with “reduce operation” was not adopted in the revised draft. As currently written, the guidance implies that noise from the operating plant systems emanates out toward the property lines. Thus, such suggested noise barriers might be helpful to reduce the plant-generated noise. But the barriers would do nothing to change the background noise—something the plant has no control over. Since “ambient” can mean the combination of both plant and background noise, we believe the word “ambient” should be changed to “plant-produced”, as the latter refers to what the applicant can influence.
	Noise and Vibration BMPs	52	29	6	The phrase “quietest operating speeds” may be too stringent and/or inconsistent with operation safety. For instance, downshifting and engine-braking may be necessary to prolong brake life and allow trucks to handle large loads safely—depending on road conditions and other factors that can and do vary. Usage of the word “quieter” instead of “quietest” is therefore recommended.
	Safety, Health, and Nuisance BMPs	55	15-16	1) e)	It appears 60 dBA remains as the stated goal, rather than the 70 dBA goal we previously suggested. While 70 dB has been identified by the EPA as an appropriate limit to protect against hearing loss for long-term exposure, [1] interior sound level at 60 dBA would help improve speech intelligibility within the control room and, per NAVFAC P-970, be appropriate where “occasional” (i.e., not “infrequent”) speech and telephone use is expected.[2] Note that insulating said control room interior from external noise, and controlling noise from interior equipment and HVAC, to an aggregate 60 dBA level can be more difficult to achieve than meeting a 70 dBA interior level. [1] Department of Defense, Planning in the Noise Environment, Technical Manual 5-803-2, NAVFAC P-970, 15 June 1978, p. 4-26. [2] Ibid, p. 4-27.
	Wind Energy Power Plant BMPs - Noise and Vibration	70	34	Intro	The sentence still leads with the word “preventing”. We suggest changing “noise” to “noise impacts” or “noise effects” as being more consistent with what the reader infers as being prevented or controlled.
	Wind Energy Power Plant BMPs - Noise and Vibration	71	3	2	The phrase “acoustic design standards” remains despite our caution that such *design* standards might not exist. Unless the CEC has something in mind, we recommend dropping “design” and add “applicable” ahead of “national”. These suggested edits would help broaden the language and allow inclusion of known wind turbine acoustic measurement standards such as IEC 61400-11.
	Geothermal Energy Power Plant BMPs - Noise	75	29-36	1	This paragraph appears to represent a condensed and edited version of four bullets that appeared as lines 18 through 31 on page 53 of the earlier draft BMP document. While our suggested text revision was not incorporated, the new condensed paragraph has eliminated the concern.

URS Comments on the Renewable Energy Action Team's (CEC, CDFG, BLM, and USFWS)
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Paleontological Resources					The BMPs included in this publication seem to be standard. Therefore, no comments at this time.
Public Health and Safety					While very specific, the BMPs included in this publication seem to be standard. Therefore, no comments at this time.
Socioeconomics					Socioeconomics is not addressed in this publication.
Soil Resources	Soils, Drainage, Erosion, Stormwater, Flooding Guidance	56	17-18	1	The revised manual has expanded the section on Soils, Drainage, Erosion, Stormwater, Flooding into two sections: Soils, Drainage, Erosion, Stormwater, Flooding Guidance; and Soils, Drainage, Erosion, Stormwater, Flooding BMPs. Under the guidance section, the first item states that "soil surveys" should be conducted to "identify soil types and typical silt content of soils in many locations". This requirement is a significant change that suggests a need for all projects to conduct soil mapping at the site specific level.
	Soils, Drainage, Erosion, Stormwater, Flooding Guidance	56	19-22	2	The second item states that soil samples be tested for chemical analysis to approximate the chemical make-up of the suspended fraction of road dust and soil. This requirement is a significant change that suggests a need for all projects to conduct soil sampling at the site specific level.
Traffic and Transportation	Traffic and Transportation BMPs - Roads	60	33	4	Obtain ~~vehicle~~ oversize and overweight *vehicle* permits, as appropriate.
	Traffic and Transportation BMPs - Roads	61	1-3	6	This item suggests the project proponent or developer should conduct ongoing ground transportation planning to evaluate road use, minimize traffic volume, and ensure that roads are maintained adequately to minimize associated impacts; however, this is typically the role of the jurisdiction's planning, operations, and maintenance agencies. Traffic and Transportation BMP Item 13 indicates the responsibilities of the project proponent or developer. Suggest deleting this item or rewording to indicate such.
Visual Resources					The BMPs included in this publication seem to be standard. Therefore, no comments at this time.
Waste Management					While very specific, the BMPs included in this publication seem to be standard. Therefore, no comments at this time.

Resource Area	Section Header	Page	Line(s)	Item	URS Comments
Water Resources	Soils, Drainage, Erosion, Stormwater, Flooding Guidance	56	25-28	4	It may be difficult to avoid locating facilities in alluvial fan areas, because many of the areas suitable for solar development are wholly or in part located on alluvial fans. The site facility areas should be designed with appropriate flooding/debris measures per local flood control standards and standard engineering design practices.
	Soils, Drainage, Erosion, Stormwater, Flooding Guidance	56, 57	29-36, 1-9	5	A draft SWPPP can be prepared; however, it is not recommended that a draft NOI and SWPPP be submitted to the RWQCB for review. An NOI provides construction information such as start date information and requires fees for review. Suggest that a draft SWPPP be prepared for review by CEC or other agencies, but that an NOI and final construction SWPPP not be submitted until 30-60 days prior to construction (this is typically a compliance item).
	Soils, Drainage, Erosion, Stormwater, Flooding Guidance	57	10-15	6	If the project will develop in a FEMA designated special flood hazard area (SFHA), then it is recommended that the Applicant identify this issue as part of LORS. If a Conditional Letter of Map Revision (CLOMR) is required (potential increase in floodplain location/width or water surface elevations) then it is typically submitted to a local flood control agency or FEMA once grading plans are nearing completion (not at the AFC submittal stage). A CLOMR/LOMR may be a compliance certification issue, but should not be required during the AFC submittal or FSA stage because the grading plans are not typically at the stage of development to require this type of detailed submittal to FEMA.
	Soils, Drainage, Erosion, Stormwater, Flooding Guidance	57	16-18	7	A completed permit application to the appropriate local jurisdiction for drainage and flood control permits cannot be submitted until late in the grading/engineering/site design development. This may be a compliance certification issue, but should not be required during the AFC submittal or FSA stage.
	General Comment				Water well information in the State of California is proprietary. Well information can only be obtained from the California Department of Water Resources (DWR) provided that a well owner signs a release agreement allowing DWR to release the data to another party. Therefore, the availability of data has direct implications on the degree to which potential impacts of proposed project groundwater can be evaluated.
	General Comment				The knowledge of groundwater occurrence, quality and subsurface geological conditions in many desert basins is not well known because there has been very little drilling in these areas historically. Therefore, the availability of data has direct implications on the degree to which the potential impacts of proposed project groundwater use can be evaluated with respect to a groundwater basin or neighboring wells.
	Water Supply and Quality Guidance	67	12-17	2) d)	The lifespan of many of the proposed facilities is expected to be 20 years. The requirement to provide information on the projected cone of depression after 50 years would appear to be overly conservative and overestimate drawdown for the life of a particular project.

Resource Area	Section Header	Page	Line(s)	Item	URS Comments
	Water Supply and Quality Guidance	67	21-22	2) f)	Most of the desert basins have had little or no development of their groundwater resources and often there are no nearby monitoring wells that can be used for monitoring groundwater elevations. What distance would be considered a nearby well, one mile? If there are no wells nearby, will a proposed project be required to install at least one monitoring well for monitoring purposes? Additionally, if there are wells near the proposed project, it is likely they are owned by another party. It is possible that the owner may not authorize access to a project developer.
	Water Supply and Quality Guidance	67	22-24	2) f)	It is noted that a minimum of 1 year of water-level data be collected prior to groundwater withdrawal. What frequency will be required for this monitoring period? Are there proposed requirements with respect to monitoring water quality during this period? If monitoring data are regularly available for a nearby well that are collected by another party (i.e., DWR or the USGS), can this meet the pre-development water-level monitoring requirement in this guidance?