

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov



DOCKET	
09-AFC-9	
DATE	<u>JAN 19 2010</u>
RECD.	<u>JAN 20 2010</u>

January 19, 2010

Nicole Tenenbaum, Senior Project Manager
Solar Millennium LLC
1625 Shattuck Avenue, Suite 270
Berkeley, CA 94709

**RE: RIDGECREST SOLAR POWER PROJECT (09-AFC-9), DATA REQUESTS
SET 2**

Ms. Tenenbaum:

Pursuant to Title 20, California Code of Regulations, Section 1716, the California Energy Commission staff seeks the information specified in the enclosed data requests. The information requested is necessary to: 1) more fully understand the project, 2) assess whether the facility will be constructed and operated in compliance with applicable regulations, 3) assess whether the project will result in significant environmental impacts, 4) assess whether the facilities will be constructed and operated in a safe, efficient and reliable manner, and 5) assess potential mitigation measures.

This set of data requests is being made in the area of Land Use. Written responses to the enclosed data requests are due to the Energy Commission staff on or before February 19, 2010 or at such later date as may be mutually agreeable. If you would like to keep this project on a fast track then please consider submitting the Data Responses sooner than February 19, 2010.

If you are unable to provide the information requested, need additional time, or object to providing the requested information, you must send a written notice to both the Committee and me within 20 days of receipt of this notice. The notification must contain the reasons for not providing the information, the need for additional time, and the grounds for any objections (see Title 20, California Code of Regulations, Sec.1716 (f)). If you have any questions, please call me at (916) 651-0966 or email me at esolorio@energy.state.ca.us.

Sincerely,

Originally Signed By
Eric K. Solorio
Project Manager

Enclosure

**RIDGECREST SOLAR POWER PROJECT
(09-AFC-9)
DATA REQUESTS, SET 2**

Technical Area: Land Use, Recreation, and Wilderness

Author: Shaelyn Strattan (CEC)

BACKGROUND

Discussions during the December 12, 2009 and January 5, 2010 Energy Commission/ Bureau of Land Management (BLM) Workshops and Informational Hearing indicated an intent on the part of the Indian Wells Valley Water District (IWWVD) to annex lands along the proposed waterline, offering the opportunity for public water connection to homes and businesses along that alignment. The applicant indicated they were agreeable to expanding the size of the waterline from 12 inches to 16 inches to accommodate this use, provided adequate water for project construction and plant operations were guaranteed.

However, the number and type of potential users (existing or future), and the demand associated with those uses, are not addressed in the AFC. IWWVD expressed an intent to annex lands along the waterline extension route during the January 2010 workshops, but information regarding the process and timetable for annexation, including the need for Local Agency Formation Committee (LAFCO) involvement, has not been provided.

Information regarding future water usage is required by staff to determine the extent of any growth-inducing impacts and would also be incorporated into the Water Resource analysis of the SA/EIS.

DATA REQUEST

249. Please provide a figure identifying the number and location of potential existing and future connections along the proposed waterline route by Assessors Parcel Number (APN) and type of use (Zoning/General Plan designation). Identify any existing non-conforming use.
250. Please provide potential water usage if those customers identified in the request above are allowed to tap into the supply, annually and over the life of the project.
251. Please discuss the potential for additional development and annexation of lands southwest of the existing Ridgecrest city limits and sphere of influence/planning area, and the impact that availability of public water along South China Lake Blvd. would have on any future development.
252. Identify recommended actions to mitigate the growth-inducing impacts associated with this action.
253. Please identify parties to the annexation process and provide a proposed timetable for IWWVD annexation of adjacent lands.

**RIDGECREST SOLAR POWER PROJECT
(09-AFC-9)
DATA REQUESTS, SET 2**

BACKGROUND

AFC §5.7.3.2 indicates the proposed water supply line for the project would be constructed within the existing Kern County rights-of-way (ROWs) for South China Lake Boulevard (Blvd) and Brown Road. AFC Figure 5.7-1 depicts that alignment. However, the AFC does not indicate the width of the ROWs or verify that the existing ROWs are sufficient to accommodate waterline installation.

Additionally, there is no discussion of the agreements or discussions with the California Department of Transportation (Caltrans) regarding encroachment into/across the Caltrans ROW for Highway 395 to accommodate the proposed waterline or other utility access. Finally, in a letter from Verizon Wireless (AFC Appendix K), it was indicated that telephone service would be provided to the project via extension of the existing off-site facilities adjacent to the proposed project site. However, the actual location of existing facilities or the route for any connecting facilities was not discussed.

DATA REQUEST

- 254. (a) Please provide a table indicating width and jurisdiction for road and/or utility rights-of-way and easements that would be used for installation of the proposed water lines and any other public utilities. Include information for project alternatives, if different from the preferred project alternative.
 - (b) Please specify whether ROWs or easements currently exists, if facilities will be constructed above or below ground, and if existing ROWs or easements are sufficient to accommodate the proposed construction.
 - (c) Please specify height of any above-ground installations.
255. Amend AFC Land Use Figure 5.7-1 to reflect changes in preferred project ROW and facilities boundaries, and indicate off-site route(s) needed for any telephone or other utility connections. Site configuration should represent the amended project boundaries, as presented at the January 5-6 workshops.
256. Please discuss any ROWs that would need to be expanded or new ROWs that might be needed to accommodate off-site utility installation(s). Identify the process(es) to amend existing ROWs or other agreements, if necessary; jurisdictional agency; and the status of any actions already taken or negotiations currently in progress.

BACKGROUND

AFC §5.7.2.2 (p.5.7-16) discusses Off-Highway Vehicle (OHV) trails through the proposed project site. In that section, it is indicated that four trails have been designated by BLM as open for unrestricted use. These designated trails, and a number of other trails traversing the proposed project site and surrounding ROW, are shown on Land Use Figure 5.7-3 (El Paso OHV Trails). As discussed at the January 5, 2010 Energy

**RIDGECREST SOLAR POWER PROJECT
(09-AFC-9)
DATA REQUESTS, SET 2**

Commission/BLM Workshops and Informational Hearing, there are also a number of unofficial, undesignated, but well-used routes through the site that may serve OHV or other established recreational users. Trail use is not restricted to OHV traffic, but includes equestrian access and public access for general recreational purposes.

However, there is not enough information provided in the AFC or in workshops to date to verify where all applicable trails and sites are actually located, related to the current proposed ROW and preferred project site, or to determine if the disruption or elimination of these routes or sites could significantly affect access to or recreational use of the proposed project site and/or surrounding areas. According to the applicant, the locations of routes shown on Figure 5.7-3 were provided by BLM representatives. However, discussions with BLM during the January workshops indicated that the locations of these routes were approximate and had not been verified by GPS mapping or ground surveys. Type and frequency of use, location(s) accessed by each trail, and the availability of existing alternative access routes or recreation sites would also be needed to evaluate any potential impacts.

Additionally, the AFC §5.7.4, Mitigation Measures, LAND-2 only indicates that the Applicant would work with the BLM to reroute existing trail access to minimize impacts to recreational and OHV users in the area. No substantive project-specific, enforceable mitigations for the as-yet undetermined level of environmental impact has been recommended by the Applicant. Alternative trail alignments and an analysis of their consistency with the BLM Route designation process and minimization criteria also have not been provided.

DATA REQUEST

257. Please provide a discussion of existing trails into and through the proposed BLM ROW area and proposed project site, supported by on-site surveys. Identify potential impacts to existing recreational opportunities and established sites.

258. Please provide Figure(s)/Table(s) depicting the location(s), type and frequency of use, general route conditions, destination(s), and current BLM designation (if applicable) for existing OHV and other established access trails into and through the proposed project ROW area and project site. Site configuration should represent the amended project boundaries, as presented at the January 5-6 workshops. Include information for project alternatives, if different from the preferred project alternative. Mapping of trail routes should reflect GPS ground survey findings and on-site visual observations.

259. Please identify and discuss recommended reroutes and/or alternative routes or sites to mitigate loss of access and recreational value. Evaluate alternatives for comparability to existing facilities and availability and consistency with the BLM Route designation minimization criteria. Alternative routing should not closely parallel project boundaries or join existing access trails in a manner that would

**RIDGECREST SOLAR POWER PROJECT
(09-AFC-9)
DATA REQUESTS, SET 2**

encourage users to follow existing access trails to the closure point, skirt the project fenceline (resulting in a proliferation of unofficial trails), and rejoin the original route on the other side of the project.

260. Several of the existing routes would dead-end at the project security fence, once the project is constructed. Please recommend measures to remediate terrain along decommissioned routes, from rerouted portion of route to fenceline or from fenceline to point of access. Provide justification for any areas where remediation would not occur.

BACKGROUND

AFC Cultural Resources Table 5.4-1 identifies both Federal and State land use laws and regulations that require protection of Native American religious practices, religious and ceremonial sites, and sacred shrines located on public property. Comments presented by tribal members and representatives during the December 2009 and January 2010 public workshops and informational hearing indicate historic and present day tribal use of various sites and trails within the proposed ROW and project site boundaries for religious purposes associated with pilgrimages to the nearby sacred El Paso Mountains. However, the AFC does not provide a discussion of these uses or their locations within the proposed project site, except for a brief reference to the need for consideration if Native American tribes identify issues regarding their right to exercise traditional religious practices (AFC §5.4.1.1; 42 USC §1996).

BLM/Energy Commission staff are unable to determine the extent or significance of the project's potential impact to the religious use of this site and any resulting land use restrictions without additional information regarding location, evaluation of historic and current use, and the availability of acceptable alternative sites outside the project area or other means of protecting Native American religious rights. Information provided in response to this data request would be incorporated into both the Land Use and Cultural resource sections of the Staff Assessment/Environmental Impact Statement.

DATA REQUEST

261. Please provide a discussion of existing sites and trails into and through the proposed project site and BLM ROW that have historically been used for religious purposes by Native American tribal members, including the type and frequency of use and importance to traditional Native American religious practices. Incorporate recommendations to accommodate continued use or mitigate loss of use.



**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**

**APPLICATION FOR CERTIFICATION
For the *RIDGECREST SOLAR*
*POWER PROJECT***

Docket No. 09-AFC-9

**PROOF OF SERVICE
(Revised 12/23/09)**

APPLICANT

Nicole Tenenbaum
Senior Project Manager
1625 Shattuck Avenue, Suite 270
Berkeley, CA 94709-1161
tenenbaum@solarcentury.com

Elizabeth Copley
AECOM Project Manager
2101 Webster Street, Suite 1900
Oakland, CA 94612
elizabeth.copley@aecom.com

Scott Galati, Esq.
Galati/Blek, LLP
455 Capitol Mall, Suite 350
Sacramento, CA 95814
sgalati@gb-llp.com

Peter Weiner
Matthew Sanders
Paul, Hastings, Janofsky & Walker LLP
55 2nd Street, Suite 2400-3441
San Francisco, CA 94105
peterweiner@paulhastings.com
matthewsanders@paulhastings.com

INTERVENORS

*Tanya A. Gulesserian, Marc D. Joseph
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
tgulesserian@adamsbroadwell.com

INTERESTED AGENCIES

California ISO
e-recipient@caiso.com

ENERGY COMMISSION

JAMES D. BOYD
Vice Chair and Presiding Member
jboyd@energy.state.ca.us

JULIA LEVIN
Commissioner and Associate
jlevin@energy.state.ca.us

Raoul Renaud
Hearing Officer
rrenaud@energy.state.ca.us

Eric Solorio
Project Manager
esolorio@energy.state.ca.us

Jared Babula
Staff Counsel
jbabula@energy.state.ca.us

Public Adviser
publicadviser@energy.state.ca.us

DECLARATION OF SERVICE

I, Mineka Foggie, declare that on, January 20, 2010, I served and filed copies of the attached Ridgecrest Solar Power Project (09-AFC-9), Data Requests set #2, dated January 19, 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: **[http://www.energy.ca.gov/sitingcases/solar_millennium_ridgecrest].**

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

(Check all that Apply)

For service to all other parties:

sent electronically to all email addresses on the Proof of Service list;

by personal delivery or by depositing in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked "email preferred."

AND

For filing with the Energy Commission:

sending an original paper copy and one electronic copy, mailed and 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. 09-AFC-9
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.

Originally Signed By
Mineka Foggie