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DOCKET 09-AFC-9
DATE <u>MAR 16 2010</u>
RECD. <u>MAR 17 2010</u>

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March 16, 2010

California Energy Commission
Attn: Docket No. 09AFC9
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

Re: 09-AFC-9 Ridgecrest Solar Power Project

Dear Docket Clerk:

Enclosed are an original and one copy of California Unions for Reliable Energy Comments on the Preliminary Determination of Compliance for the Solar Millennium Ridgecrest Solar Power Project (09-AFC-9). Please process the document and provided us with a conformed copy in the envelope enclosed.

Thank you.

Sincerely,

/s/

Elizabeth Klebaner

EK:bh
Enclosures

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March 16, 2010

By: Facsimile and Overnight Mail

David L. Jones
Air Pollution Control Officer
Kern County Air Pollution Control District
2700 M St., Suite 302
Bakersfield, CA 93301
Fax: (661) 862-5251

Re: Comments on the Preliminary Determination of Compliance for the Solar Millennium Ridgecrest Solar Power Project (09-AFC-9)

Dear Mr. Jones:

We are writing on behalf of California Unions for Reliable Energy (“CURE”) to comment on the Kern County Air Pollution Control District’s (“District”) February 18, 2010 Preliminary Determination of Compliance (“PDOC”) for Solar Millennium, LLC’s proposed Ridgecrest Solar Power Project (“Project”). These comments were prepared with the assistance of Petra Pless D.Env. In sum, the District failed to provide adequate documentation of its analysis, to include permit conditions that ensure that the Project’s emergency generators and boilers satisfy the best available control technology (BACT) pursuant to District Rule 210.1, and to assign a federally-enforceable NOx emissions rate limitation for the Project’s boilers.

A. The District’s Analysis Is Not Adequately Supported

The PDOC fails to provide all of the information necessary for an adequate review of its conclusions. The District states that the Project’s emergency engines would meet BACT.¹ However, the District does not provide a top-down BACT

¹ Kern County Air Pollution Control District, Preliminary Determination of Compliance to Solar Millennium LLC, February 18, 2010, p. 23 (PDOC).

analysis for the emergency generators or emergency fire pumps. Instead, the District simply states that “the engine shall be equipped with turbocharger and aftercooler.”² This statement does not constitute an adequate BACT analysis. The District must provide a top-down BACT analysis for all applicable permit units, including, but not limited to, the emergency generators, emergency fire pumps, HTF expansion tank and other units.

B. The District Must Require BACT for the Emergency Generators and Fire Pump

The District’s emission estimates for the Project’s 2,922-brake-horsepower (“bhp”) emergency generators appear to rely on U.S. EPA Tier II emission factors.³ However, the Project may not gain approval in 2010. In the event that the equipment is not ordered in 2010, the District must include a permit condition specifying that Solar Millennium must purchase emergency generators that comply with the U.S. EPA’s interim Tier IV standard. The District must also include a permit condition that specifies compliance testing based on the appropriate emission factors, *i.e.*, Tier II or interim Tier IV depending on the purchase date.

C. The District Must Require BACT for the Project’s NOx Burners

The District required a low-NOx burner system at 9 ppm for the Project’s 35-MMBtu/hr Propane Fueled Boilers in order to meet BACT, pursuant to District Rule 210.1.⁴ However, BACT for boilers is ultra low NOx burners at 9 ppm. Therefore, the District must revise the PDOC accordingly.

D. The District’s Conditions Must Be Federally-Enforceable

For any limit or condition to be a legitimate restriction on potential to emit, that condition must be federally-enforceable. In order to be federally-enforceable, a condition must be practicably enforceable, which, in turn, requires the permit-owner to demonstrate continual compliance with each limitation and requirement.⁵

² *Id.*, p. 23.

³ Kern County Air Pollution Control District, Preliminary Determination of Compliance to Solar Millennium LLC, February 18, 2010, p. 24 (PDOC).

⁴ *See* PDOC, pp. 1-3.

⁵ *See U.S. v. Louisiana-Pacific Corporation*, 682 F.Supp. 1122, 1133 (D. Colo. 1988).

The PDOC provides that the Project's 35.0MMbtu/hr boilers would be equipped with a low-NOx system and specifies a NOx emissions rate limitation of 9 ppm. However, 9 ppm is not achievable with low NOx burners alone. Therefore, the District must either require that the boilers be equipped with ultra low NOx burners, or that the low NOx burners be equipped with selective catalytic reduction (SCR) or fluegas recirculation technology (FGR).

E. Conclusion

The District's preliminary determination fails to present a top-down BACT analysis for the Project's emission units. The District must correct the PDOC to specify the correct BACT for the Project's emergency generators, fire-pump and NOx burners, and to include a federally-enforceable restriction with regard to the Project's emissions of NOx.

Sincerely,

/s/

Elizabeth Klebaner

EK:bh

cc: Eric Solorio
Kourtney Vaccaro
California Energy Commission Docket Unit (09-AFC-9)

**DECLARATION OF SERVICE
RIDGECREST SOLAR POWER PROJECT
Docket No. 09-AFC-9**

I, Bonnie Heeley, declare that on March 17, 2010, I served and filed copies of the attached California Unions for Reliable Energy Comments on the Preliminary Determination of Compliance for the Solar Millennium Ridgecrest Solar Power Project (09-AFC-9) dated March 17, 2010. The original document, filed with the Docket Office, 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/Ridgecrest_POS.pdf.

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 Office via email and U.S. Mail as addressed below.

I declare under penalty of perjury that the foregoing is true and correct.
Executed at South San Francisco, CA on March 17, 2010.

/s/
Bonnie Heeley

CALIFORNIA ENERGY COMMISSION Attn: Docket No. 09-AFC-9 1516 Ninth Street, MS-4 Sacramento, CA 95814-5512 docket@energy.state.ca.us	Alice Harron Senior Project Manager 1625 Shattuck Avenue, Suite 270 Berkeley, CA 94709-1161 harron@solarmillennium.com	Elizabeth Copley AECOM Project Manager 2101 Webster Street, Suite 1900 Oakland, CA 94612 Elizabeth.copley@aecom.com
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<p>Billy Owens Director, Project Development Solar Millennium 1625 Shattuck Ave. #270 Berkeley, CA 94709-1161 owens@solarmillennium.com</p>	<p>Basin and Range Watch Laura Cunningham Kevin Emmerich PO Box 70 Beatty, NV 89003 bluerockiguana@hughes.net</p>	<p>Western Watersheds Project Michael J. Connor, Ph.D. California Director PO Box 2364 Reseda, CA 91337-2364 mjconnor@westernwatersheds.org</p>
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