

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

September 12, 2011

US Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585
Attn: Angela Colamaria
Loan Guarantee Program (LP-10)

Subject: Final Environmental Impact Statement for a Proposed Federal Loan Guarantee to Support Construction of the Topaz Solar Farm, San Luis Obispo County, California (CEQ# 20110258)

Dear Ms. Colamaria,

The U.S. Environmental Protection Agency has reviewed the Final Environmental Impact Statement for the US Department of Energy Loan Guarantee to Royal Bank of Scotland for Construction and Startup of the Topaz Solar Farm, San Luis Obispo County, California. Our review and comments are provided pursuant to the National Environmental Policy Act, the Council on Environmental Quality Regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

EPA reviewed the Draft Environmental Impact Statement and provided comments to the DOE on May 17, 2011. We rated the DEIS as *Environmental Concerns – Insufficient Information* (EC-2) due to concerns about potential impacts to water resources, biological resources, the scope of the cumulative impacts analysis, and the need for additional information to reflect updated proposed alternatives, mitigations, and measures to avoid potential and cumulative impacts.

We appreciate the combined efforts of DOE, the applicant, and consultants to discuss and respond to our DEIS comments. We commend the applicant, State, and federal agencies for working together to develop alternatives and mitigations that support environmentally preferable outcomes. In particular, we are pleased to see that the FEIS included analysis on the updated Alternative A with County-approved layout (formerly Alternative 3B.1) and updates on the ongoing coordination with the US Army Corp of Engineers to obtain a Section 404 individual permit. The DOE responded to our concerns about biological resources by prohibiting the use of rodenticides and increasing buffer zones for burrowing owls and larger birds from 100 feet to 250 feet and 500 feet, respectively. We note that the FEIS also includes updated surveys and plans, an expanded cumulative impacts analysis, and clarification on cadmium telluride issues.

In response to EPA's comments, the FEIS incorporated Table 2-11, which organizes the compensatory mitigation requirements, ratios and acres in a format that allows for a clearer understanding of the mitigation strategy. In addition, EPA is pleased to learn of the August 4, 2011 settlement agreement between the applicant (Topaz Solar Farms, LLC,) and conservation

groups (Defenders of Wildlife, Sierra Club and Center for Biological Diversity) in which the applicant agrees to implement additional conservation protections and acquire an additional 5,373 acres of land for conservation and mitigation.

The FEIS includes a floodplain assessment for the new alternative, as required by Executive Order 11988; and the DOE has determined that the Proposed project would not adversely affect the 100-year floodplain, and conforms to applicable floodplain standards. The FEIS also states, however, that the solar arrays in the Alternative A with County-approved layout will be placed in the areas susceptible to flooding during a 100-year event, with the bottom of the panels installed 6-12 inches above the 100-year flood level (p. 3-110). No explanation is provided regarding how the 6-12 inch height was determined to be adequate nor whether this height complies with local floodplain standards. We have learned that the HEC-RAS model used to map the floodplain and floodplain boundary utilizes a 6 hour, 100-year storm event to determine storm-event depth. The HEC-RAS model, however, does not incorporate or account for any increase in severity or frequency of storm events that may be attributed to climate change. This issue should be considered prior to construction of the proposed project. We recommend that the Record of Decision explain the basis for the proposed panel height, and discuss the potential for higher intensity and more frequent storms and how this could affect the solar arrays located in the floodway boundary.

EPA appreciates the opportunity to review the FEIS and we are available to discuss all recommendations provided. Please send one hard copy and one CD ROM copy of the ROD to this office when it is filed with our Washington, D.C. office. If you have any questions, please contact me at 415-972-3521, or contact Anne Ardillo, the lead reviewer for this Project. Anne can be reached at 415-947-4247 or ardillo.anne@epa.gov.

Sincerely,

/s/

Kathleen Martyn Goforth
Environmental Review Office (CED-2)

Cc: Steven McMasters, Project Manager, County of San Luis Obispo