STATE OF CALIFORNIA-THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, *Governor*

DEPARTMENT OF FISH AND GAME
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4593

DOCKET
08-AFC-2
DATE AUG 08 2008
RECD. AUG 14 2008

August 8, 2008

Kenneth Stein
Beacon Solar, LLC
700 Universe Boulevard, MS JES/JB
Juno Beach, Florida 33408

Dear Mr. Stein:

Lake or Stream Alteration Notification No. 2008-0146-R4
Pinetree Creek and unnamed tributary - Kern County

The Department of Fish and Game (Department) received the notification package for the re-routing of Pinetree Creek and the re-routing of an unnamed tributary as a component of the Beacon Solar Plant (Project). The Department has determined that your notification package is incomplete for the following reasons:

- Figures 2 and 4 of Attachment 1 depicting site design and layout were not of sufficient size to be legible. Please provide either an electronic version of these figures, or printouts that are large enough for all details to be legible.

- The project description in Field 10 of the notification, and in Attachment 2 does not provide sufficient site specific detail regarding the realignment of Pinetree Creek and the unnamed tributary. The Project description should fully discuss the Project-related activities pertaining to the realignment of the two streams, and minimally reference other attachments or documents. Please provide a complete, detailed, bulleted summary of all construction related activities that are proposed for the realignment of Pinetree Creek, and the unnamed tributary. Include details such as the estimated volume of excavated material, disposal of excavated materials, proposed methods and materials that will be used for channel and bank stabilization, construction and equipment access, how runoff will be diverted from the solar plant site, etc.. When referencing attachments, please reference specific page number(s).

- In order to deem the Stream Alteration Notification package complete, the Department must receive the Final Staff Assessment (FSA) from the California Energy Commission (CEC, Lead Agency), along with mitigation measures or conditions of approval, <u>and</u> the Final Commission Decision (FCD). It is our understanding that the FSA and FCD is the California Environmental Quality Act (CEQA) equivalent of an Environmental Impact Report (EIR) and a Notice of Determination (NOD), respectively. The Department is a Responsible Agency when a subsequent permit or other type of discretionary approval is required from the Department, such as a Streambed Alteration Agreement (SAA) issued under Fish and Game Code Section 1600 et seq. The issuance of an SAA by the Department is considered a "project" (CEQA Guidelines Section15378) and is subject to CEQA. The Department typically relies on the Lead Agency's CEQA document or CEQA equivalent process on which to make our own CEQA findings. For the FSA to suffice for permit/agreement issuance, it must fully describe the potential Project-related impacts to stream/riparian resources and listed species, as well as commit to measures to avoid, minimize, and mitigate impacts to these resources. If the FSA does not contain the minimum necessary information, the Department may need to act as a Lead CEQA Agency for the purpose of issuing an SAA, and complete a subsequent CEQA document. This could significantly delay permit issuance and, subsequently, Project

implementation. In addition, CEQA grants Responsible Agencies the authority to require changes in a project to lessen or avoid effects of that part of the project which the agency will be called on to approve, such as the proposed rerouting of Pinetree Creek (CEQA Guidelines Section 15041).

Please note that you may not proceed with your project or activity until after you submit a completed notification package to the Department and, obtained a Lake or Stream Alteration Agreement.

If the Department does not receive a response from you within 90 days in reference to the requested information, we shall conclude that you are no longer interested in pursuing this project and your file shall be closed. If after your file is closed you wish to pursue the project, you must submit a new notification along with a filing fee.

If you have any questions regarding this matter or the process for obtaining a Lake or Stream Alteration Agreement, please contact me at the above telephone number or address. Thank you for your cooperation.

Sincerely,

Kerrie Tucker

Kerrie Tucker
Staff Services Analyst