



ORIGINAL



FOTOWATIO
RENEWABLE
VENTURES

RECEIVED

2011 JAN 10 P 4: 31

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

January 10, 2011

Chairman Gary Pierce
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

Arizona Corporation Commission
DOCKETED

JAN 10 2011

Re: Docket No. E-01933A-09-0340

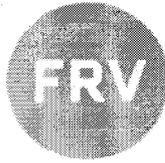
DOCKETED BY

Dear Chairman Pierce,

Fotowatio Renewable Ventures, Inc. ("FRV" or the "Company") is submitting these comments in response to the Commission's recent decision to reopen Decision No. 71640, as stated in its Procedural Order (PO) issued January 4, 2011. The Commission stated in this PO that the purpose of reopening this Decision is solely to consider whether FRV has made sufficient efforts to mitigate the impacts of the FRV Tucson Solar project ("the Project") on Mr. Rick Westfall's property.

FRV has had several communications with Mr. Westfall since February 2010, as summarized in the Attachment to this letter. In our initial communications with Mr. Westfall, he expressed general interest and support of the Project and sought information from FRV about the proposed solar facility. At that time, the Project was in an early stage of development and we had not yet developed a site layout of the Project design that could be shared with Mr. Westfall or the local community. By the time an initial site layout was complete in September 2010, Mr. Westfall had decided that he was no longer in support of the Project and his communications with FRV were solely focused on his desire for FRV to purchase his property for an amount several times in excess of its market value. Since Mr. Westfall's interest in the Project has changed, it has not been possible for FRV to have a constructive dialogue with him about any substantive concerns about the Project that FRV could address through modifications to its site plan. FRV interpreted project specific changes to be the type of "mitigation" that the Commission is inquiring about in its PO and not a buyout of Mr. Westfall's property. This interaction with Mr. Westfall also stands in contrast to FRV's dialogue with other members of the community regarding aspects of the project we can modify to address concerns, such as the visual aspects of the fence.

Since August 2010, FRV has been working closely with Pima County Development Services (PCDS) to fulfill the requirements for approval of a Conditional Use Permit (CUP). The CUP review is designed to address all zoning requirements for development of the solar facility on the Project site, including an assessment of its visual impact. The CUP process includes two public hearings, the first of which for this Project was held by a Pima County Hearing Administrator ("HA") on 11/10/10. Following a review of the Project and public comment input (including comments from Mr. Westfall), the Hearing Administrator issued a recommendation of approval for the Project, noting the following:



FOTOWATIO
RENEWABLE
VENTURES

- HA Comment - *The applicant is proposing a perimeter buffering scheme that is far in excess of the width and the plant-density requirements as normally prescribed by the Pima County Zoning Code and its Landscape Design Manual. It is the Hearing Administrator's position that this demonstrates a clear sensitivity to the surrounding properties and a clear good-faith effort to integrate that sensitivity into the project design.*
- Special Condition for Approval - *The perimeter security fence shall be placed behind the perimeter buffer in all locations and shall be painted a desert tan color for mitigative purposes. No razor wire nor three-strand barbed wire shall be allowed atop the fence.*
- Special Condition for Approval - *No special architectural requirements are placed on the site's permanent buildings, except for the requirement that they utilize a southwestern color palette (desert tans, browns, rusts, greens) for those building portions that are not of indigenous or natural building materials.*

FRV has a strong interest in working with its neighbors and community to develop a solar PV facility that earns local support for renewable energy. As summarized in FRV's letter to the Commission (dated November 4, 2010), FRV has held two community meetings for FRV Tucson Solar (both of which were attended by Mr. Westfall), to provide information about the Project and to solicit community feedback. FRV's project plan incorporated feedback from the first community meeting which we then presented in the second community meeting.

FRV believes it has made every possible effort to inform Mr. Westfall about the Project and make ourselves available to discuss his concerns.. FRV believes the Commission should conclude that PCDS' CUP review of the Project will adequately address mitigation of the Project's impacts to the local community (including Mr. Westfall).

Sincerely,

Tim Lasocki
Vice President and Head of Central Region
Fotowatio Renewable Ventures, Inc.

Cc: Commissioner Newman
Commissioner Stump
Commissioner Kennedy
Commissioner Burns
Docket Control



FOTOWATIO
RENEWABLE
VENTURES

Attachment

The following dates summarize FRV communications with Mr. Rick Westfall (“RW”):

- **February 25, 2010** – FRV introduction call with RW
- **March 31, 2010** – FRV visit to RW property for in-person introduction and to talk about Project
- **April 28, 2010** – RW call to FRV to express concern that FRV was not holding community meeting on his property (FRV had never committed to hosting community meeting on RW’s property)
- **May 5, 2010** – FRV Tucson Solar first community meeting
- **May 6, 2010** – FRV call with RW. First discussion with RW about RW invitation to visit one of FRV’s operating solar projects
- **May 17, 2010** – FRV call with RW. RW declines invitation to visit FRV operating solar facility
- **August 19, 2010** – FRV call to check in with RW because RW had expressed concern about Project earlier that week to an FRV technical consultant during a Project site visit
- **Mid September, 2010** – FRV’s technical consultant meets with RW at his property to discuss Project concerns; RW communicates to technical consultant a desire for \$5 million buyout of his property
- **September 20, 2010** – FRV call to RW to state the FRV had no intention of a buyout of RW’s property for the proposed amount
- **September 29, 2010** – FRV call to RW to provide notice of upcoming community meeting and to indicate FRV’s availability for a personal meeting with RW
- **October 21, 2010** – FRV call to RW in response to RW’s attempts to contact FRV’s CEO in Spain. RW reiterates his request for a \$5 million buyout ; FRV declines request again
- **October 22, 2010** – FRV receives letter from RW’s attorney stating his understanding that FRV had contacted RW about a possible purchase of his property
- **October 26, 2010** – FRV Tucson Solar second community meeting; FRV speaks directly with RW after the meeting and again states that FRV is not interested in purchasing RW’s property