

Developer fighting to keep Liberty Utilities' Douglas County solar plant proposal alive

By Anne Knowles

The developer of a solar project rejected by Douglas County last month is contesting the county's ruling.

Greenstone Renewables LLC filed a petition for judicial review of the Douglas County Commissioners' decision to uphold an appeal of the special use permit allowing Greenstone to build a 20-megawatt, 260-acre solar plant on Muller Lane in Minden.

The permit had been granted by the Douglas County Planning Commission in May and then appealed by Steve and Mary Walker, whose residential parcel borders the planned facility's site.

During a long and contentious public meeting on **July 2**, the commissioners upheld the appeal, effectively killing the solar project.

Greenstone's **petition** alleges that by supporting the appeal the county acted "capriciously and arbitrarily" and that in the process Greenstone was denied "substantive and procedural due process rights" resulting in "real and significant damages."

The 34-page petition outlines the project's history, including the county staff's recommendation to the Planning Commission to approve, and the Walkers' subsequent appeal.

The petition alleges county commissioners and the Walkers, which it repeatedly describes as long-time lobbyists for the county, had opportunity to discuss the solar project on an ex

parte basis – that is, without Greenstone present.

Specifically, the developer claims that in a meeting with Vice Chairwoman Nancy McDermid, the commissioner said she considered the solar project a “visual blight” and would be sure to submit into the record two aspirational documents – the Open Space Plan and the Valley Vision Plan – even though neither plan, unlike the county’s master plan, has legal status and had not been included in the Walkers’ appeal.

The petition then claims the Walkers were allowed to submit additional material after the appeal deadline, including a reference to the two vision plans, which were cited by commissioners during the decision to uphold the appeal.

The Walkers disagree.

“The record of the Douglas County Board of County Commissioners was very clear. It was a 5-0 vote which was firmly grounded in the fact the Greenstone solar industrial plant application did not meet the requirements of the Douglas County Master Plan,” Mary Walker told *Lake Tahoe News*.

The petition contends Greenstone’s project met all the requirements set out by the county, including disclosure of a possible, on-site battery storage facility, which became a bone of contention during the July 2 commission meeting when commissioners said they were unaware of it.

Douglas County District Court Judge Tod Young will be conducting the review, which should take between six and nine months, according to Cynthea Gregory, deputy district attorney for the county.

The next step is for Greenstone, with the coordination of the county, to submit to the court the entire record, including commissions’ meeting minutes, email and other documents, and for the county to file its opposition to the petition.

The judge will then decide if there is “substantial evidence” to support the commissioners’ decision, said Gregory.

Greenstone did not respond to a request for comment on the suit.



Liberty Utilities would like to use more power from renewable sources. Photo/Provided

Meanwhile, Liberty Utilities, which had signed a preliminary power purchase agreement with Greenstone, is looking elsewhere for solar power in order to meet its next compliance goal set by California’s renewable energy portfolio.

“At this time, Liberty Utilities is not pursuing the Minden solar project,” Travis Johnson, Liberty’s director of utility planning and business development, told *Lake Tahoe News*.

The power company, which serves customers in Truckee, Alpine County and the California side of Lake Tahoe, is hoping to bump up the power generated by a second project its pursuing.

In April, Liberty applied to the California Public Utilities Commission to operate two solar projects, the 20 MW facility in Minden and a 40 MW plant in Luning, an unincorporated, small town about 140 miles southeast of Minden and 80 miles

northwest of Tonopah.

The Luning project process has gone more smoothly. The operation is to be built entirely on Bureau of Land Management land in a much more remote area of Nevada. (The town has 38 registered voters, according to Mineral County, where Luning is located.)

In late July, the BLM approved the 560-acre project. Mineral County had already granted it a special use permit in 2014 and was able to review and comment during the BLM approval process, according to Laura Miner, business development manager, at Invenergy LLC, the project developer. (Liberty plans to purchase the facility from Invenergy once it is built.)

After the Minden plant was nixed, Liberty amended its application with the CPUC to increase the Luning plant capacity from 40 MW to 50 MW.

Johnson said the plant was originally designed for 50 MW but the company was shooting for a combined total between the two projects of 60 MW to meet the RPS.

“We sized our solar projects at 60 megawatts to get us close to compliance,” said Johnson. “Luning can’t do 60 megawatts on its own, it can only do 50 megawatts. We’re hoping for a CPUC decision by the fourth quarter.”

Johnson said he’s optimistic the project will be approved. The filing was protested by the CPUC’s Office of Ratepayer Advocates in a routine procedure to guarantee ratepayers are represented.

“ORA thoroughly reviewed Liberty’s application, and entered into settlement negotiations with Liberty Utilities to resolve our concerns. The Motion for Settlement will be filed this week,” Lisa-Marie Salvacion with ORA told *Lake Tahoe News* in an email.

If the Luning project is approved, construction will start in early 2016 and Liberty should be producing power by the end of the year.

That will bring Liberty's portfolio to 25 percent renewable, up from 22 percent currently, but the RPS requires the company to use 27 percent by 2017.

So, assuming no other projects go online before then, Liberty will acquire the other 2 percent from NV Energy.

Liberty and NV Energy have a new power purchase agreement that goes into effect January 2016. The new PPA, if approved by the CPUC, eliminates all coal-fired energy from Liberty's portfolio.

The new PPA will save Liberty \$2.34 million through a reduction in demand charges, improvements in system transmission, solar credits and drop in costs due to elimination of coal, according to Rich Salgo, Liberty Utilities vice president of operations.

Liberty is also awaiting CPUC approval for a 17.34 percent rate increase. The increase would go into effect in January 2016 and raise \$13.6 million to cover costs associated with the distribution of power to its 49,000 customers.