



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

APPLICATION FOR CERTIFICATION FOR THE
IVANPAH SOLAR ELECTRIC
GENERATING SYSTEM

DOCKET No. 07-AFC-5

DOCKET	
07-AFC-5	
DATE	<u>OCT 29 2008</u>
RECD.	<u>OCT 29 2008</u>

REVISED COMMITTEE SCHEDULING ORDER

On October 31, 2007, the Application for Certification (AFC) filed by Solar Partners, LLC (Applicant), was deemed data-adequate for the twelve-month review process prescribed in Public Resources Code section 25540.6.

The U.S. Bureau of Land Management (BLM) is concurrently deciding whether to issue a right-of-way (ROW) grant and amend the 1980 California Desert Conservation Area Plan to allow the Applicant to use the proposed site, which is on federal lands. The BLM and Commission staff are preparing a joint environmental analysis to satisfy both the California Environmental Quality Act (CEQA), applicable to the Energy Commission's decision, and the National Environmental Policy Act (NEPA), which applies to the BLM's decisions. The BLM's process requires longer public review periods than those applicable to the Commission's proceedings. The information required for each process differs in some respects, which necessitates additional time for discovery.

While the time to a decision will likely be longer than a typical Energy Commission review, the total time to receipt of all permits necessary to begin construction will be reduced by this coordinated process. Further, the possibility of inconsistent environmental conclusions, mitigation strategies, or conditions, any of which could add additional review or re-review time, is significantly reduced. As the first of perhaps many solar projects to go through this coordinated process, there have been some inevitable learning experiences which we hope will inform and streamline future reviews.

The Committee conducted a public informational hearing on January 25, 2008, to discuss the schedule and other issues of concern. On January 31, 2008, we issued a Committee Schedule which called for the filing of the joint Final Staff Assessment and Environmental Impact Statement by September 10, 2008. In its September 12, 2008, Status Report, Commission staff projected January 20, 2009, as the filing date for a Preliminary Staff Assessment/Draft Environmental Impact Statement. On September 26, 2008, following review of Staff's and other status reports, we issued a revised schedule generally based on Staff's proposal. Finding that schedule unsatisfactory, the

Applicant petitioned for its review. On October 15 and 27, 2008, we held a Committee Conference to review the status and schedule to complete this proceeding.

While the parties were able to narrow the differences in their proposed schedules, they were not able to find a mutually satisfactory schedule. We are encouraged, however, by the degree of cooperation between the parties and their interest, which is shared by the Committee, in completing the analysis of the proposed project and reaching a final decision in the most expeditious manner possible.

The parties have agreed to an approach in which the Commission staff's Final Staff Assessment will serve as the BLM's Draft Environmental Impact Statement and the Final Environmental Impact Statement will coincide (using a combination of documents to be decided later) with the Committee's Presiding Member's Proposed Decision. This is a change from the process contemplated in the Memorandum of Understanding between Commission staff and BLM. We agree that is a sound approach in these circumstances. It will allow public review and discussion of most of the topic areas to commence sooner and may reduce the total time to a final decision.

In setting the attached schedule, we are mindful of the Applicant's desire to obtain a timely decision on its application as well as the resource constraints on the staffs and the practical aspects of consulting with the several state and federal agencies involved in the review of this project. We have advanced the Staff-proposed date for publication of the Preliminary Staff Assessment by ten days to allow additional time for review by the Applicant and public. The scheduling of the PSA workshop is within the parties' discretion; we show it in early January 2009 out of deference for the holiday season.

As to the remainder of the schedule, the key event is the publication of the Final Staff Assessment/Draft Environmental Impact Statement (FSA/DEIS). Our Evidentiary Hearings cannot begin until after its release, nor can the BLM's 90-day public comment period start. BLM staff is firm in its belief that, in large part due to the need to resolve the adequacy of the biological assessment,¹ the FSA/DEIS cannot be published sooner than March 3, 2009, which they describe as the "best case." We respect that judgment. A fully considered and complete FSA/DEIS is critical to the completion of the remaining tasks. Premature publication might add significant time to the overall process. Nonetheless, we encourage the Commission and BLM staffs to make their best efforts to publish prior to March 3, 2009.

In scheduling the Committee's and full Energy Commission's work, we intend to affect a final Commission Decision, including the running of the 30-day period to petition for judicial review, before or at the equivalent time in the BLM's process.

¹ Biology appears to be the key topic for this project, which will affect six square miles of habitat for at least one, and perhaps more, protected or endangered species, and may indirectly affect others. This topic requires careful coordination among the various state and federal agencies to assure that a single comprehensive plan for mitigating biological impacts is applied to the project, which unfortunately takes time. The biological assessment was submitted by the Applicant in September 2008. We are told that this assessment is not yet adequate for consultation and eventual preparation of a Biological Opinion.

The revised schedule is attached. It contains both expected dates and formulaic intervals between the key events. Should it be possible to advance the publication of the FSA/DEIS, for example, the subsequent steps would be correspondingly advanced. Again, we encourage the parties, where possible, to complete the milestones ahead of the specified dates.

The Committee may modify the schedule at any time upon either our own motion or that of a party. [Cal. Code Regs., tit. 20, § 1709.7(c).] The frequency of Status Reports is increased to six week intervals to aid in our monitoring of progress.

Dated October 29, 2008, at Sacramento, California.

Original Signed By:

JEFFREY D. BYRON
Commissioner and Presiding Member
Ivanpah AFC Committee

Original Signed By:

JAMES D. BOYD
Vice Chair and Associate Member
Ivanpah AFC Committee

REVISED COMMITTEE SCHEDULE
 FOR THE
IVANPAH SOLAR ELECTRIC GENERATING SYSTEM
 (07-AFC-5)

DATE	EVENT - Related BLM Actions are Shown for Convenience	
October 31, 2007	AFC data adequate	
January 4, 2008	Staff conducts data response/issue resolution workshop	
January 25, 2008	Site Visit and Informational Hearing	
February 28, 2008	Local, State and Federal Agency draft determinations, including air district's Preliminary Determination of Compliance (PDOC) filed	
Late March, 2008	Staff conducts data response/issue resolution workshop	
Winter – Summer, 2008	Data exchanged among parties	
September 22, 2008	Applicant Files Data Responses required by Staff to complete its preliminary analysis	
October 15 & 27, 2008	Committee Conference	
December 5, 2009	Staff publishes Preliminary Staff Assessment	
When all concerned agencies' concerns are addressed	Formal consultation on Biological Assessment initiated	
December 5, 2008 and every six (6) weeks thereafter	Parties file status reports	
December 30, 2008	Local, State and Federal Agency final comments and determinations, including air district's Final DOC filed	
Early January, 2009	Staff conducts PSA workshops	
March 3, 2009	Staff files Final Staff Assessment/Draft Environmental Impact Statement (FSA/DEIS)	
March 3, 2009	BLM Notice of Availability (NOA) of DEIS published	
March 18, 2009	15 days after FSA filed	Prehearing Conference
April 2, 2009	15 - 20 days after prehearing conference	Evidentiary Hearings
May 28, 2009	8 weeks after Evidentiary Hearings close	Presiding Member's Proposed Decision (PMPD) issued for 30-day comment period
June 1, 2009	90 days after NOA published	BLM DEIS public comment period ends
June 17, 2009 or sooner		Federal Biological Opinion issued
June 29, 2009	Appx. 25 days after PMPD issued	PMPD comment hearing

REVISED COMMITTEE SCHEDULE (CONTINUED)

DATE	EVENT - Related BLM Actions are Shown for Convenience	
July 9, 2009	35 days after PMPD issued	Revised PMPD issued* for 15-day review period*
August - September, 2009	As FEIS final approaches publication	Energy Commission Decision adoption hearing
October 2, 2009		BLM NOA of FEIS published
September - October, 2009	30 days after Commission adoption hearing	Judicial review period for Energy Commission Decision ends
December 2, 2009	60 days after NOA of FEIS published	Governor's consistency review period ends (this schedule assumes the Governor finishes his review in 30 days)
November 3, 2009	30 days after NOA of FEIS published	FEIS protest period ends
November 3, 2009		BLM issues Record of Decision, Right of Way grant and Plan Amendment

* = if necessary

Issued: October 29, 2009



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PROOF OF SERVICE
 (Revised 7/14/08)

INSTRUCTIONS: All parties shall 1) send an original signed document plus 12 copies OR 2) mail one original signed copy **AND** e-mail the document to the web address below, **AND** 3) all parties shall also send a printed OR electronic copy of the documents that shall include a proof of service declaration to each of the individuals on the proof of service:

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DECLARATION OF SERVICE

I, RoseMary Avalos, declare that on October 29, 2008, I deposited copies of the attached Revised Committee Scheduling Order in the United States mail at Sacramento, CA with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

OR

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

I declare under penalty of perjury that the foregoing is true and correct.


RoseMary Avalos

Attachments