BrightSource

DOCKET	
11-AFC-4	
DATE	APR 18 2012
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April 18, 2012

Pierre Martinez
Project Manager
Systems Assessment & Facility Siting Division
California Energy Commission
1516 Ninth Street, MS-15
Sacramento, CA 95814

SUBJECT: Letters from Dr. John Boone and Steve Carroll regarding Elf Owl Surveys for Rio Mesa Solar Electric Generating Facility (11-AFC-4)

Dear Mr. Martinez:

Rio Mesa Solar I, LLC, Rio Mesa Solar II, LLC, and Rio Mesa Solar III, collectively the "Applicant" for the Rio Mesa Solar Electric Generating Facility project ("Rio Mesa SEGF"), submits two letters regarding elf owl surveys. The first letter, dated April 5, 2012 is from Dr. John Boone, Research Coordinator for the Great Basin Bird Observatory. Dr. Boone has local expertise with elf owls in the Lower Colorado River Valley, and the attached letter provides Dr. Boone's recommendations regarding elf owl survey protocols for the Rio Mesa SEGF. The second letter, dated April 6, 2012, is from Scott Carroll, a pygmy owl specialist from Arizona. Mr. Carroll has thirteen years of pygmy owl survey experience, and Mr. Carroll's letter also provides a recommendation on elf owl survey protocols for the Rio Mesa SEGF.

If you have any questions about these letters, please do not hesitate to contact me.

Sincerely,

Todd Stewart
Senior Director of Project Development

BrightSource Energy, Inc.
1999 Harrison St.
Suite 2150
Oakland, CA 94612

www.BrightSourceEnergy.com

Great Basin Bird Observatory
1755 E. Plumb Lane, #256A
Reno NV 89502

5 April, 2012

Dear Jon and J.P.,

In 2010 and 2011, GBBO conducted Elf Owl studies at the Bill Williams River NWR (BWR NWR) in Arizona on behalf of the Lower Colorado River Multi-Species Conservation Plan (LCRMSCP) project, which is administered by the US Bureau of Reclamation. The purpose of this study was to develop an optimized discovery survey protocol for Elf Owl, a covered species under the LCRMSCP, in the habitat conditions that prevail (or will prevail, with ongoing restoration efforts) within the LCRMSCP project area. The BWR NWR was used as our study area because: 1) it approximated these habitat conditions in most respects, and 2) it currently has the only known breeding population of Elf Owls within the entire project area.

The BWR NWR is characterized by a wide riparian floodplain with exceptionally dense vegetation consisting primarily of willows, cottonwoods, and tamarisk. There is an adjoining transitional riparian area with more widely scattered riparian vegetation interspersed with saguaro cactus, mesquite thickets, Palo Verde, and upland shrubs. In various parts of their historical range, Elf Owls have been reported to nest in cottonwood cavities, saguaro cavities, and mesquite cavities, so both the riparian woodland and the riparian transitional zone were included in our study plan. With regard to call broadcast surveys, we referred to riparian woodland interior as “obstructed conditions”, and riparian transitional habitat as “unobstructed conditions”. Figure 1, below, shows typical “unobstructed” habitat at our study area. Figure 2 is an aerial view of what we considered to be “obstructed” habitat.

Our approach to determining an optimized protocol was to experimentally determine Elf Owl responsiveness rates while varying factors such as distance to bird, time of night, moon phase, time of season, and vegetation obstruction. This required us first to locate occupied territories and cavities, and then to perform responsiveness experiments when distance to bird could be treated as a known factor. In these experiments, we used both a call broadcast surveyor located a designated distance from the bird, and a passive observer located close to the nest cavity. Both recorded Elf Owl responses to each experimental broadcast permutation, and furthermore, the observer was generally able to confirm the presence of the owl in its expected location (regardless of whether a response was detected by the

Figure 1. Typical “unobstructed” habit conditions at GBBO’s Bill Williams River NWR study area.

Figure 2. Typical “obstructed” habit conditions (within the woodland interior) at GBBO’s Bill Williams River NWR study area.

surveyor). This study design is fully described in our final project report, which will be posted on the LCRMSCP web site and publicly available by the end of April 2012.

In the BWR NWR, about 85% of territories were located in riparian transitional habitat, with cavities in saguaro cactuses. We found that distance, obstruction, and time of night affected responsiveness rates significantly. In transitional (i.e. unobstructed) habitat, responsiveness was very high (93%) during the early and middle parts of the night at distances up to 250m from the call broadcast station. Responsiveness was somewhat lower during the last few hours of the night. We found that effective call broadcast survey distance was substantially attenuated in obstructed conditions, although our data in these settings was more limited.

Based on the description and photograph of the URS project area I have received, it is clear that the habitat present in your project area is even less obstructed (with regard to call broadcast survey conditions) than what we regarded as "unobstructed conditions". Therefore, our determination of effective survey distance for unobstructed conditions at the BWR NWR should be fairly conservative when applied to your project area.

After analyzing and assessing our findings, we developed a detailed recommended discovery survey protocol, which is appended to the end of this document. We note that because BOR requested that this protocol be useful for obstructed conditions, it is very conservative, in our estimation, for unobstructed conditions. Specifically, the call broadcast station spacing that we recommend could be increased substantially for study areas where obstructed conditions are not present, without having any appreciable negative effect on likelihood of detection.

Immediately below, I highlight some areas where I believe, based on our findings, that your current protocol could be modified to be more appropriate for Elf Owls.

1) Although we did not survey before dusk, we conducted numerous dusk emergence observations on Elf Owls. With the exception of occasional "gurgle" calls emanating from within cavities or day roost sites, we never observed any Elf Owl activity or notable vocalization prior to sunset. Therefore, I would recommend that surveys commence at twilight, rather than before sunset.
2) Our findings suggest that Elf Owl activity is reduced somewhat during the last few hours of the night. Consequently, responsiveness rates during this period were somewhat lower than was the case between dusk and 2:30 am. Therefore, we recommend surveys occur within a 5 hour period commencing at twilight.
3) In unobstructed conditions, responsiveness is high at distances up to 250 m. This suggests that broadcast stations could be spaced approximately 400 m apart (allowing for some overlap in their "effective" zones) without significantly diminishing the likelihood of detecting owls that are present, especially given that survey effort will be replicated three times over the course of the breeding season. We note that establishing intermediate two-minute listening stations midway between broadcast stations provides extra assurance against missing potential responses if the broadcast station spacing is increased. Based on our current understanding of your project area conditions, we would feel comfortable with a broadcast station spacing of 300 m, or a spacing of

400 m with the use of intermediate listening stations (as described in our full protocol). We note further that the two-minutes of listening effort at intermediate stations can be "borrowed" from the final listening period at the call broad stations, and thereby add no net time to the survey effort.

4) We found no significant effect of illumination on responsiveness. Because the opportunities to experimentally vary illumination during a two-month experimental field season are necessarily limited, we do not feel comfortable drawing firm conclusions from these findings, other than to suggest that in our study area, low illumination did not result in lowered responsiveness.
5) Our playback / listening protocol at each station was reasonable similar to what you are currently using. We did find that for owls that responded to call broadcasts, 88% did so within two minutes of broadcast initiation, and 95% within three minutes. Therefore, a shortening of the time spent at each call station is probably warranted, especially if intermediate listening stations are used, as described above.
6) Our in-depth telemetry work was somewhat limited, but we did collect sufficient telemetry data over several nights for two males to calculate home range sizes (~ 8 ha for one bird, and 14 ha for the other). These substantially exceeded those reported in previous studies in Texas, but we note that the core use area for each bird was substantially smaller (~ 3 – 5 ha) than the entire home range. We concur with you that a 1-mile buffer zone around the project footprint is quite large relative to the movement patterns and home ranges of these birds.

Based on all of these considerations, we agree with your recommended protocol revisions, with the exception of the nightly survey timing (items 1 and 2, above). Our complete recommended protocol to BOR is provided below. If you have any additional questions, I would be glad to be of assistance.

Best Regards,

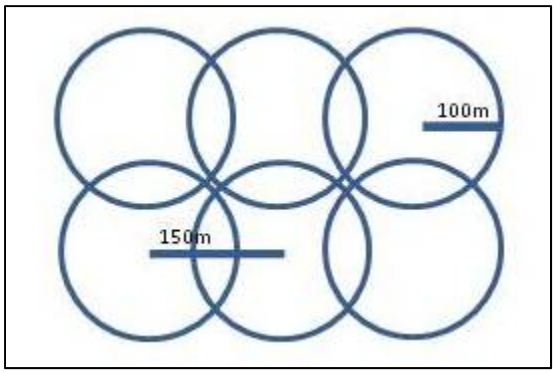
John Boone, Ph.D.
Research Coordinator
Great Basin Bird Observatory
1755 E. Plumb Lane, #256A
Reno NV 89502
www.gbbo.org
w. 775-323-4226
c. 775-233-4544
boone@gbbo.org

RECOMMENDED ELF OWL SURVEY PROTOCOL

(NOTE TO URS: Item 9, below, dealing with call broadcast station spacing, assuming that the protocol must be effective in highly obstructed conditions. Please see item 3, in the preceding section, for a discussion of broadcast station spacing that is more relevant to your project area conditions).

1) Surveyors should be trained to readily recognize Elf Owl vocalizations, and hearing tests should be conducted to ensure that they can hear recorded vocalizations in windless and obstruction-free conditions at a distance of at least 500 m.
2) We recommend that surveys be conducted in teams of two. It would be very difficult for one person to be responsible for operating call broadcasts, listening, data recording, and keeping track of broadcast station spacing and broadcast timing. Additionally, having a crew of two provides a backup pair of ears.
3) Surveys should be conducted only when wind conditions are favorable (< 12 km per hour on a sustained basis) and there is no precipitation.
4) The preferred seasonal window for conducting surveys begins after the first week of April, and concludes by 15 May. Responsiveness is still likely beyond this time frame, but will probably decline as young are fledged.
5) If USBR concludes that discovery surveys can be conducted in two weeks or less, surveys can be limited to nights with intermediate illumination (i.e. no new moon, set moon, or full moon). Otherwise illumination can be ignored.
6) Surveys should begin after dusk and conclude by three hours after dusk. (NOTE TO URS: this recommendation is partly a matter of convenience. Our data indicate that responsiveness should remain high up to five hours after dusk).
7) The call broadcast apparatus should generate a volume of 65 – 70 db measured at 1 m from the speaker. The recorded call loop should consist of 10 seconds of chatter calling (Calls A and/or B, as defined by Ligon (1968). Using locally recorded vocalizations may be advantageous, or alternately the recorded calls that we used in our field work (which are provided to USBR in mp3 format) could be used for consistency.
8) A broadcast cycle is defined as the playing of one 10-second vocalization loop, followed by 50 seconds of silent listening time. (NOTE TO URS: we have no indications that modest changes in the timing of broadcasts has any appreciable effect on responsiveness; we define our methods here simply to provide for standardization)
9) We provisionally assume a 100 m effective survey radius, noting that effective survey radius in obstructed conditions has not yet been adequately determined. Survey routes and stations should therefore be configured to ensure that no point within the survey zone lies farther than 100 m from a call broadcast station. By trigonometric calculation, this dictates a spacing of 141.42 m between broadcast stations, which we round off to 150 m for simplicity (Figure 33). For survey zones that are narrow, a single semi-linear survey route paralleling the drainage may be sufficient. For wider survey zones, multiple routes or winding routes may be required. Each route should include a call broadcast station every 150 m of linear distance, and intermediate listening stations halfway between each broadcast station. Intermediate listening stations provide a safety margin to mitigate against the possible failure of surveyors to hear responses at longer distances. If discovery survey routes are needed inside riparian zones (as opposed to along their edges), they may be constrained to established trails. If so, it should be determined the extent to which the survey zone can be effectively covered with this trail system, based on the assumption of a 100 m effective survey radius.

Figure 33. Schematic diagram showing how the effective survey areas (each with100 m radius) of six call broadcast stations spaced on 150 m centers cover nearly all of the survey zone.



10) A survey of a given area should consist of replicated survey efforts on two different nights within the previously defined seasonal survey window. For the second survey, stations previously used for call broadcasts should become intermediate listening stations, and vice versa. This step effectively staggers the broadcast stations by 75 m on the two different nights, providing additional assurance given the uncertainties regarding effective call broadcast radii in obstructed conditions.
11) The procedure for conducting a survey of a single defined survey zone is given below:
    a. Stop at the first call broadcast station.
    b. Use an initial two minute listening period to determine if owls are already vocalizing. If so, the detection should be recorded. (During the dusk period of the preferred seasonal window, Elf Owls are expected to be relatively vocal).
    c. Play four broadcast cycles (as defined in #6, above). For each cycle, point the speakers in a different cardinal direction. Our data indicate that nearly every responsive bird was heard within this time frame.
    d. After conclusion of the last call playback cycle, proceed directly to the intermediate listening station.
    e. Listen for 2 minutes at the intermediate station.
    f. Proceed to the next call broadcast station.
    g. Repeat steps b. – f. until the survey is complete.
12) If responses are obtained at sequential call broadcast stations, additional effort may be required to determine whether one or two owls are responsible. The specific prescription may vary from situation to situation, and is best left to the judgment of the surveyor. In our field work, we concluded that detections on sequential stations were usually attributable to a single owl.
13) In some cases, USBR may wish to determine whether Elf Owls are present at a site during the immediate post-migration period, before territories are established. This might be desirable, for instance, in determining where to place nest boxes. In these cases, surveys should be conducted as close as possible to the 15 – 25 March period. It is possible that conducting call broadcasts

during this period, before birds are committed to a territory, could interfere with successful territory establishment. However, we have no firm basis for assessing this possibility.

14) Distribution records and anecdotal information provided by biologists familiar with southwestern birds suggest that Elf Owls colonize newly-available breeding habitat slowly. Assuming this to be the case, our recommendation is to conduct call broadcast discovery surveys at a given site every 4 – 5 years. However, USBR may wish to examine particular sites of interest more frequently (for instance, locations where nest boxes are placed).

April 6, 2012

To Whom It May Concern:

I am writing this letter in order to address the issue of call station spacing for Elf Owl surveys which are taking place in microphyll woodland habitat in an area west of Blythe, California. The survey protocol which is being used on these surveys is similar to the survey protocol used in Arizona for the cactus ferruginous pygmy owl (*Glaucidium brasilianum cactorum*; CFPO). This survey protocol was developed in January 2000 by USFWS and AGFD.

My name is Scott Carroll, I have been a professional field biologist for the past 20 years. I have surveyed throughout southern Arizona for CFPO for the past 13 years, having received my own Endangered Species Permit TE37118-0 from USFWS on 3/15/2001. Over the years I have completed well over 1,000 survey sessions for CFPO throughout the historical range of the species in southern Arizona. Although the species was delisted in 2006 I am still surveying for CFPO, having completed my most recent surveys west of Casa Grande, Arizona early this week. I have worked independently under my own business name Pygmy Owl Biosurveys LLC, and for an environmental consulting firm, Westland Resources, Inc., located In Tucson, Arizona.

During all my years of surveying for CFPO, I have strictly followed the January 2000 Revised Survey Protocol developed by USFWS and AGFD. The only occasions I have used 150 meter spacing between call stations was in areas where there was excessive noise which would impair my ability to detect a CFPO calling. These areas were along roadways with excessive traffic or in riparian areas where stream flow or wind induced leaf movement from tree species such as Cottonwood (*Populus fremontii*) or Willow species (*Salix goodingii* or *Salix exigua*) created excessive background noise.

I have worked on CFPO survey projects where the only suitable CFPO habitat on the site was in xeroriparian drainages. The company that I worked for on these projects sought and received the approval from USFWS to survey only these xeroriparian drainages with the standard 400 meter spacing between call stations.

In all my years of surveying I have never surveyed with 150 meter spacing between calling stations in any xeroriparian drainages.

Finally and briefly, I would like to address the issue of the difference between the microphyll woodland biotic community which is present at the Blythe Elf Owl survey site and the Arizona Upland subdivision of the Sonoran Desert scrub biotic community which is present in a large portion of southern Arizona. It is my understanding that the microphyll woodland habitat at the Elf Owl survey site is relatively sparsely vegetated with only 2 dominant tree species, Ironwood (*Olneya tesota*), and Paloverde (*Cercidium floridum*), and low numbers of shrub species. In contrast, many of the drainages in Sonoran Desert scrub habitat in southern Arizona have high vegetation density and diversity with well developed structural diversity. Some of the dominant tree species include mesquite (*Prosopis velutina*), blue paloverde (*Cercidium floridum*), foothill paloverde (*Cercidium microphyllum*), Ironwood (*Olneya tesota*), and occasionally canyon hackberry (*Celtis reticulata*). Common shrub species include catclaw acacia (*Acacia greggii*), whitethorn acacia (*Acacia constricta*), desert hackberry (*Celtis pallida*), lycium (*Lycium* sp.), desert broom (*Bacharis sarathroides*), Burro bush (*Hymenoclea salsola*), canyon ragweed (*Ambrosia ambroisiodes*) and wait a minute bush (*Mimosa biuncifera*). Certain cacti species such as Christmas cactus (*Opuntia leptocaulis*) and pencil cholla (*Opuntia arbuscula*) can form thickets at the edges of xeroriparian drainages. In my opinion, if it is appropriate to use 400 meter spacing between call stations for CFPO surveys in the more dense and diverse xeroriparian drainages of the Sonoran Desert scrub habitat of southern Arizona, it would be appropriate to use 400 meter spacing between call stations in the less dense and diverse vegetation of the xeroriparian drainages of the microphyll woodland habitat at the Elf Owl survey site outside of Blythe.

Sincerely,

Scott Carroll

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 *RIO MESA SOLAR*
ELECTRIC GENERATING FACILITY

DOCKET NO. 11-AFC-04
PROOF OF SERVICE
(Revised 2/27/12)

APPLICANTS' AGENTS

BrightSource Energy, Inc.
Todd Stewart, Senior Director
Project Development
1999 Harrison Street, Suite 2150
Oakland, CA 94612
tstewart@brightsourceenergy.com

BrightSource Energy, Inc.
Michelle Farley
1999 Harrison Street, Suite 2150
Oakland, CA 94612
mfarley@brightsourceenergy.com

BrightSource Energy, Inc.
Brad DeJean
1999 Harrison Street, Suite 2150
Oakland, CA 94612
e-mail service preferred
bdejean@brightsourceenergy.com

APPLICANTS' CONSULTANTS

Grenier and Associates, Inc.
Andrea Grenier
1420 E. Roseville Parkway,
Suite 140-377
Roseville, CA 95661
e-mail service preferred
andrea@agrenier.com

URS Corporation
Angela Leiba
4225 Executive Square, Suite 1600
La Jolla, CA 92037
angela_leiba@urscorp.com

COUNSEL FOR APPLICANTS

Ellison, Schneider, & Harris
Christopher T. Ellison
Brian S. Biering
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816-5905
cte@eslawfirm.com
bsb@eslawfirm.com

INTERESTED AGENCIES

Mojave Desert AQMD
Chris Anderson, Air Quality Engineer
14306 Park Avenue,
*Victorville, CA 92392-2310
canderson@mdaqmd.ca.gov

California ISO
e-mail service preferred
e-recipient@caiso.com

Bureau of Land Management
Cedric Perry
Lynnette Elser
22835 Calle San Juan De Los Lagos
Moreno Valley, CA 92553
cperry@blm.gov
lelser@blm.gov

INTERVENORS

Center for Biological Diversity
Lisa T. Belenky, Senior Attorney
351 California Street, Suite 600
San Francisco, CA 94104
e-mail service preferred
lbelenky@biologicaldiversity.org

Center for Biological Diversity
Ileene Anderson
Public Lands Desert Director
PMB 447, 8033 Sunset Boulevard
Los Angeles, CA 90046
e-mail service preferred
ianderson@biologicaldiversity.org

ENERGY COMMISSION – DECISIONMAKERS

CARLA PETERMAN
Commissioner and Presiding Member
CPeterma@energy.state.ca.us

KAREN DOUGLAS
Commissioner and Associate Member
e-mail service preferred
kldougla@energy.state.ca.us

ENERGY COMMISSION – DECISIONMAKERS (cont.)

Kourtney Vaccaro
Hearing Adviser
e-mail service preferred
kvaccaro@energy.state.ca.us

Galen Lemei
Advisor to Commissioner Douglas
e-mail service preferred
glemei@energy.state.ca.us

Jennifer Nelson
Advisor to Commissioner Douglas
e-mail service preferred
jnelson@energy.state.ca.us

Jim Bartridge
Advisor to Commissioner Peterman
jbartrid@energy.state.ca.us

ENERGY COMMISSION STAFF

Pierre Martinez
Project Manager
pmartine@energy.state.ca.us

Lisa DeCarlo
Staff Counsel
e-mail service preferred
ldecarlo@energy.state.ca.us

Eileen Allen
Commissioners' Technical
Advisor for Facility Siting
e-mail service preferred
eallen@energy.state.ca.us

ENERGY COMMISSION – PUBLIC ADVISER

Jennifer Jennings
Public Adviser's Office
e-mail service preferred
publicadviser@energy.state.ca.us

*indicates change

DECLARATION OF SERVICE

I, Darin Neufeld, declare that on April 18, 2012, I served and filed copies of the attached, dated April 18, 2012. This document is accompanied by the most recent Proof of Service list, located on the web page for this project at: [http://www.energy.ca.gov/sitingcases/riomesa/index.html].

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

(*Check all that Apply*)

For service to all other parties:

X Served electronically to all e-mail addresses on the Proof of Service list;

X Served by delivering on this date, either personally, or for mailing with the U.S. Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses NOT marked "e-mail preferred."

AND

For filing with the Docket Unit at the Energy Commission:

X by sending electronic copies to the e-mail address below (preferred method); *OR*

___ by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

CALIFORNIA ENERGY COMMISSION – DOCKET UNIT
Attn: Docket No. 11-AFC-4
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:

___ Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

California Energy Commission
Michael J. Levy, Chief Counsel
1516 Ninth Street MS-14
Sacramento, CA 95814
mlevy@energy.state.ca.us

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

Original Signed by
Darin Neufeld

*indicates change

CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov

TO: *All Parties* *Date: February 27, 2012*

RE: ***RIO MESA SOLAR ELECTRIC GENERATING FACILITY***
Proof of Service List
Docket No. 11-AFC-04

Attached is the ***newly revised*** Proof of Service List for the above-mentioned project, current as of February 27, 2012. Please pay particular attention to the ***new*** filing instructions.

Energy Commission regulations (Cal. Code Regs., tit. 20, § 1210) require, in addition to any electronic service, that a paper copy be served in person or by first class mail except where a party requests to receive an electronic copy when one is available. Individuals and groups on the Proof of Service list who prefer to receive filings by e-mail and do not require a paper copy shall inform the Hearing Adviser assigned to the proceeding.

The Proof of Service list for this matter will delineate those individuals and groups and it is sufficient to serve those individuals with an e-mailed copy only. Those not so delineated must be served with a paper copy in addition to any e-mailed copy that the filing party chooses to provide. Signatures may be indicated on the electronic copy by **"*Original Signed By*"** or similar words. The original signed copy or an electronic copy shall be filed with the Energy Commission's Dockets Unit.

Unless otherwise specified in a regulation, all materials filed with the Commission must also be filed with the Docket Unit. (Cal. Code Regs., tit. 20, § 1209(d).) Some regulations require filing with the Commission's Chief Counsel instead of the Docket Unit. For example, Section 1720 requires a petition for reconsideration to be filed with the Chief Counsel and served on the parties. Service on the attorney representing Commission staff does not satisfy this requirement. This Proof of Service form is not appropriate for use when filing a document with the Chief Counsel under Title 20, sections 1231 (Complaint and Request for Investigation) or 2506 (Petition for Inspection or Copying of Confidential Records). The Public Advisor can answer any questions related to filing under these sections.

New addition(s) to the Proof of Service are indicated in **bold font** and marked with an asterisk (*). Additionally, if two or more persons are listed on a Proof of Service List with a single address, only one physical copy of a document need be mailed to the address.

Use this newly revised list for all future filings and submittals. This Proof of Service List will also be available on the Commission's Project Web Site at:

[http://www.energy.ca.gov/sitingcases/riomesa/index.html]

Please review the information and contact me at sharris@energy.state.ca.us or (916) 654-3893, if you would like to be removed from the Proof of Service or if there are any changes to your contact information.

Sandra Harris
Hearing Adviser's Office

Attachment