

August 28, 2009

Mr. Christopher Meyer
CEC Project Manager
Attn: Docket No. 08-AFC-13
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Mr. Jim Stobaugh
BLM Project Manager
Attn: Docket No. 08-AFC-13
Bureau of Land Management
P.O. Box 12000
Reno, NV 89520

DOCKET
08-AFC-13

DATE	AUG 28 2009
RECD.	AUG 31 2009

RE: SES Solar One Project
Applicant's Responses to Patrick C. Jackson August 23, 2009 Letter

Dear Mr. Meyer and Mr. Stobaugh:

Mr. Patrick Jackson, a private land owner, has repeatedly contacted us with complaints about the locked gate at the Burlington Northern Santa Fe (BNSF) rail crossing on Hector Road and requests that we provide him access. The purpose of this letter is to provide you background on access at the rail crossing, Mr. Jackson's concerns, and our attempts to resolve the issue.

The proposed Stirling Energy Systems (SES) Solar One project currently has temporary site access via Hector Road at the BNSF at-grade private crossing. BNSF is a public utility, regulated at the state level by the Public Utilities Commission and at the Federal level by the Department of Transportation. The enforcement of use at the DOT #919188X Crossing (Hector Road at-grade railroad crossing) is under authority of BNSF and, as such, the authority to terminate any existing use.

As SES proceeded with the necessary field survey work on the proposed Solar One project site and within undeveloped portions of the BNSF right-of-way, survey crews and SES representatives needed to cross the BNSF railroad. BNSF informed SES that a request must be submitted for authorization to use the existing at-grade private crossing, as well as a list of vehicles and type of use. Per BNSF requisite, SES entered into an Agreement for Private Crossing allowing use of a private crossing in strict accordance with the drawings and specifications (attached) at the existing at-grade crossing, forty (40) feet wide ("Crossing"), DOT# 919188X, across the rail corridor at or near BNSF's Hector station, County of San Bernardino, State of California. In addition, BNSF installed a gate with a lock which is owned and operated by BNSF. BNSF would not provide a key to their lock and informed SES that another lock, owned and operated by SES would need to be brought and added to the BNSF gate if SES wanted to gain access across the railroad.

Based on our communications with BLM and BNSF, SES was informed that both agencies had contacted Patrick Jackson and requested that he file an application with them to cross the railroad tracks and the Bureau of Land Management land. In addition, SES has communicated with Mr. Patrick Jackson (see attached) and informed him that SES did not have authority at the Hector Road crossing and asked that he coordinate efforts through the BNSF. Denise Gautier of BNSF has also informed Mr. Jackson in an email dated October 15, 2008 that the railroad at Hector Road is a private at-grade crossing which was constructed for the use of BNSF Maintenance of Way personnel for maintenance purposes. BNSF also requested that additional information be provided by Mr. Jackson at which point BNSF would then

supply information to him as to the permit application process for those seeking use of the private crossing.

Long-term permanent access for the SES Solar One project would be provided by a bridge over the BNSF railroad along Hector Road, north of Interstate 40. Hector Road is the north-south roadway that starts at Historic Route 66 just south of the I-40 interchange and continues north towards the Project Site. San Bernardino County records reflect that the County only maintains Hector Road from National Trails Highway (Historic Route 66) north for 03.1 miles (see attached). SES anticipates utilizing this portion of Hector Road during operations of the SES Solar One project. The portion of Hector Rd. that would not be utilized by SES for the Solar One project will remain in its present condition.

SES continues to coordinate with BNSF Railway Coordinator, Field Safety Support and maintains an Agreement for Private Crossing accordingly. E-mails and correspondence with Mr. Jackson and BNSF on this issue are attached including a letter sent to him on August 28, 2009. If there is anything further the agencies would like us to do about Mr. Jackson's concerns, please let us know.

Sincerely,



Camille Champion
Project Manager

EXHIBIT "A"

ATTACHED TO CONTRACT BETWEEN
BNSF RAILWAY COMPANY
AND

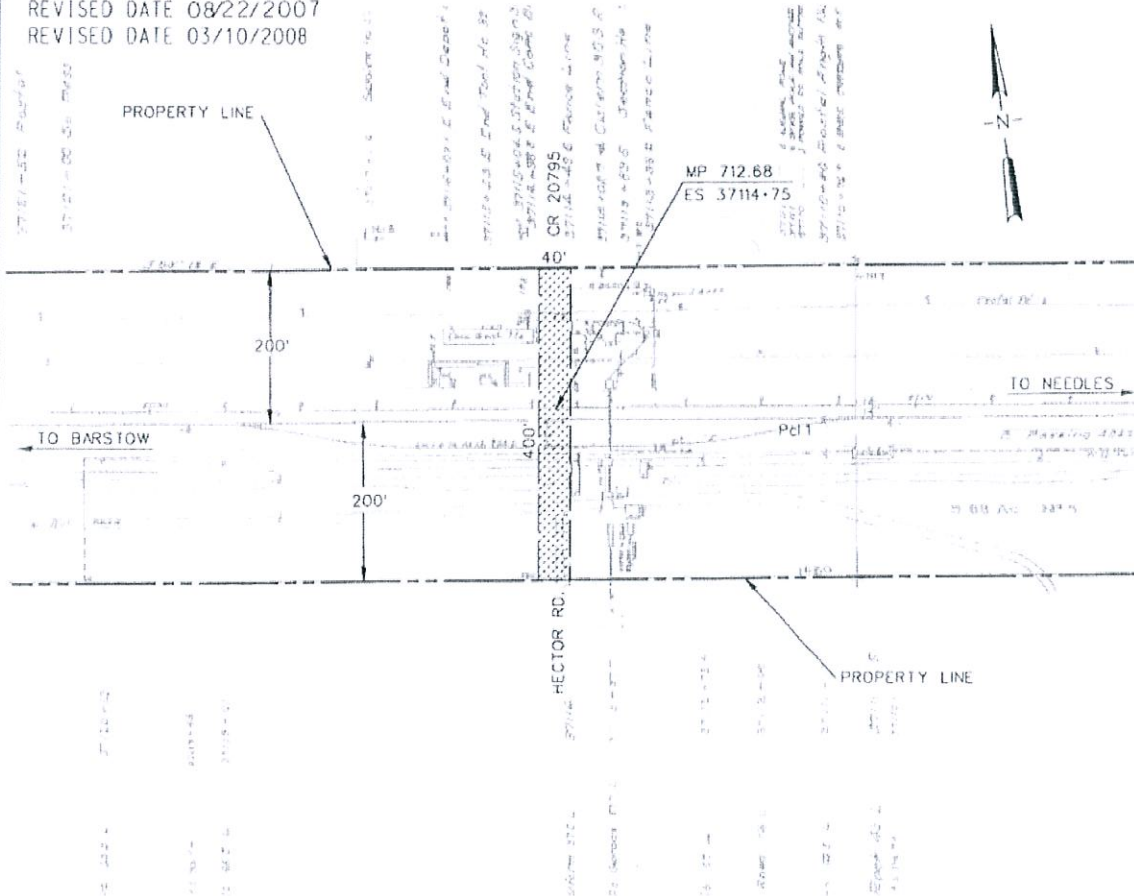
STIRLING ENERGY SYSTEMS, INC.

SCALE: 1 IN. = 200 FT.
CALIFORNIA DIV.
NEEDLES SUBDIV. L.S. 7200

DATE 07/02/2007
REVISED DATE 08/22/2007
REVISED DATE 03/10/2008



SECTION: 9
TOWNSHIP: 8N
RANGE: 5E
MERIDIAN: SBM



DESCRIPTION:
A 40 FT. PRIVATE ROAD CROSSING SHOWN SHADED.
DOT • 919188X

AT HECTOR
COUNTY OF SAN BERNARDINO STATE OF CA

JLG

MAP REF. 503601

Subj: RE: FW: BNSF Gates at Hector Road, San Bernardino County, California
Date: 10/15/2008 6:27:30 P.M. Pacific Daylight Time
From: ofoot@hkcf-law.com
To: IMMJFONTANA@aol.com, harshadi@stirlingenergy.com, allanori@comcast.net
CC: ibenavidez@hkcf-law.com

I just had an opportunity to review this. I'm afraid Mr. Jackson and his friends are out of luck. It's apparent they believe that they have established some type of prescriptive right to use BNSF's maintenance crossing to access their property. The law is quite specific that continued use of property, including rights of way, owned by a public utility, cannot ripen into a prescriptive right, simply because public utilities often carry on activities in open space and cannot afford to fence or prevent access to their property. BNSF is a public utility, regulated at the state level by the Public Utilities Commission and at the Federal level by the Department of Transportation. The fact (if indeed it is a fact) that the public has been crossing a public utility right of way for 50 years doesn't mean a thing. If the Railroad chooses to terminate that use (even though it may cause private property to be landlocked,) the property owners don't have a remedy. Someone should have told Mr. Jackson that when he bought the property.

Having said all this, it's still the railroad's responsibility to enforce its no access authority. Unless BNSF's right of way is on BLM land at the crossing, BLM has no enforcement authority. The railroad has erected a fence and my guess is that they'll keep it there. If Jackson et al choose to sue, good luck to them. On the other hand, it would be imprudent, to say the least, for Stirling to use Jackson's dilemma as leverage to encourage him to sell. He'll have to figure that out for himself, an eventuality that may be a long time in coming.

Without question, this interesting. Keeps the lawyers juices flowing. However, It may well be that Stirling will have to move forward with the project at this time without the Jackson property. I'm sure we haven't heard the last of this, and I look forward to discussing it on Friday.

Regards,



Orlando B. Foote
Horton, Knox, Carter & Foote, LLP
509 South Eighth Street
El Centro, CA 92243
Telephone (760) 352-2821
Cell Phone (760) 337-0597
Facsimile (760) 352-8540
E-mail ofoot@hkcf-law.com

THIS MESSAGE IS INTENDED SOLELY FOR THE USE OF THE ADDRESSEE(S) NOTED ABOVE AND IS FURTHER INTENDED TO BE PRIVILEGED AND CONFIDENTIAL WITHIN THE ATTORNEY-CLIENT PRIVILEGE. IF YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE IMMEDIATELY NOTIFY THE SENDER AND DELETE ALL COPIES OF THIS E-MAIL ALONG WITH ANY ATTACHMENTS. THANK YOU.

From: IMMJFONTANA@aol.com [mailto:IMMJFONTANA@aol.com]
Sent: Wednesday, October 15, 2008 10:58 AM
To: Orlando Foote; harshadi@stirlingenergy.com; allanori@comcast.net
Subject: Fwd: FW: BNSF Gates at Hector Road, San Bernardino County, California

Please read all of this, we can discuss further on Friday.

~~Monday, June 29, 2009 AOL: IMMJFONTANA~~

repeated

Irene James

From: ochsjack@earthlink.net
To: immjfontana@aol.com
Sent: 10/15/2008 8:03:39 A.M. Pacific Daylight Time
Subj: FW: BNSF Gates at Hector Road, San Bernardino County, California

Irene,

This might interest you.

Patrick C. Jackson

From: ochsjack [mailto:ochsjack@earthlink.net]
Sent: Wednesday, October 15, 2008 7:38 AM
To: 'Gauthier, Denise M'
Subject: RE: BNSF Gates at Hector Road, San Bernardino County, California

Denise Gauthier,

Thank you for your response.

I owned two properties north of the BNSF railroad tracks. They are identified by the San Bernardino County Assessor as 0530-241-11 and 0530-241-12, both of which are in the Southwest quarter of Section 36, Township 9 North, Range 5 East, San Bernardino Base & Meridian.

While it is true most of the land north of the crossing is the owned by the U.S. Government, there are four one-mile-square sections within three miles of the crossing owned by private individuals. My properties are within one of these sections.

While the crossing was constructed for "maintenance purposes" the locked gates and barricades are preventing me and the other property owners from accessing their properties. According to San Bernardino County and the Bureau of Land Management (BLM), Hector Road, both north and south of the railroad tracks, is an "open" public road and has been one for over 55 years. (Please refer to the attached BLM map.)

The "current permittee" you refer to is undoubtedly Stirling Energy Systems, Inc., (SES) who has a number of Solar Energy Applications with the BLM for its planned Solar One, Solar Three and Solar Six projects on both sides of the BNSF right-of-way at Hector Road. SES is also currently negotiating with the private property owners to acquire their lands within the project areas.

BNSF, the BLM and SES do not have the right to block a public road. By preventing "anyone other than the current permittee" to access the public and private lands north of the BNSF tracks, the BLM, BNSF and SES are:

- violating San Bernardino County Municipal Code 12.44.030,
- 'landlocking' the private lands north of the BNSF right-of-way and
- working together to force private property owners to sell their properties to SES at depressed prices.

Patrick C. Jackson
600 N. Darwood Avenue
San Dimas, Calif. 91773

From: Gauthier, Denise M [mailto:Denise.Gauthier@bnsf.com]

Monday, June 29, 2009 AOL: IMMJFONTANA

Sent: Wednesday, October 15, 2008 6:14 AM
To: ochsjack@earthlink.net
Cc: Kent, Lena L; Gauthier, Denise M
Subject: FW: BNSF Gates at Hector Road, San Bernardino County, California

Mr. Jackson,

The above crossing, DOT 919188X, is a private at-grade crossing, which was constructed for the use of BNSF Maintenance of Way personnel for maintenance purposes. My records show no permit with anyone for use of the crossing prior to 2007. Bureau of Land Management has not, and does not intend to, maintain a crossing for the benefit of the public.

The gates will remain locked to protect the current permittee, which is working on a project and leasing the BLM land to which you refer below. Any use of the crossing by anyone other than the current permittee is unauthorized.

I could not find property that was owned by you which is adjacent to our right of way for which you would request access. My records show that there is approximately 13 square miles owned by the US Government north of Hector Road. Please send me the parcel number, township, range and section so that I may research further. Once you have supplied this information to me, I will send information to you as to the permit application process for those seeking use of a private crossing. California Public Utilities Commission requires all private crossings to be permitted per General Order 75-D.

Please e-mail me should you have any other questions.

*Thank you,
Denise Gauthier
BNSF Railway
Coordinator, Field Safety Support
760-255-7802*

From: Kent, Lena L
Sent: Tuesday, October 14, 2008 3:18 PM
To: Gauthier, Denise M
Subject: Fw: BNSF Gates at Hector Road, San Bernardino County, California

From: ochsjack
To: Kent, Lena L
Sent: Tue Oct 14 17:06:28 2008
Subject: FW: BNSF Gates at Hector Road, San Bernardino County, California
Lena Kent,

This is my third request for information.

Patrick C. Jackson
600 N. Darwood Avenue
San Dimas, Calif. 91773

E-mail: ochsjack@earthlink.net

From: ochsjack [mailto:ochsjack@earthlink.net]
Sent: Sunday, October 05, 2008 6:11 AM
To: 'lena.kent@bnsf.com'
Subject: BNSF Gates at Hector Road, San Bernardino County, California

Monday, June 29, 2009 AOL: IMMJFONTANA

Lena Kent,

I tried to access my Hector property twice in the last month and on both occasions the recently added BNSF gates at Hector Road were locked. The locked gates prevent me and other property owners from accessing our property north of the railroad tracks from Hector Road. They also prevent the public from using the "open" BLM land north of the tracks.

Why were these gates added? People have been using this crossing for over fifty years?

Will the gates always be locked? If so, what accommodations are being made for property owners to access their properties and the public?

I sent you an e-mail on September 7th but I didn't receive a response.

Patrick C. Jackson
600 N. Darwood Avenue
San Dimas, Calif. 91773

E-mail: ochsjack@earthlink.net

New **MapQuest Local** shows what's happening at your destination. Dining, Movies, Events, News & more. [Try it out!](#)

Monday, June 29, 2009 AOL: IMMJFONTANA

Subj: **RE: BNSF Gates at Hector Road, San Bernardino County, California**
Date: 10/30/2008 12:27:39 P.M. Pacific Daylight Time
From: HArshadi@stirlingenergy.com
To: foote@hkcf-law.com
CC: IMMJFONTANA@aol.com, allanori@comcast.net

Hi Lanny – thanks for speaking with BLM regarding this issue.

Please note the following:

- SES does not currently have any BLM related land lease agreement with BLM. It will happen following BLM granting the right of way application. In other words, SES currently does not have any rights (except those limited rights granted by BNSF & BLM; i.e., environmental surveys, test well drilling, private crossing) for the use of the BLM land or the railroad tracks.
- BNSF installed the gate; it was not the SES desire to have the gate.
- You are right, we should stay out of it for now and let him deal with the BNSF and/or BLM directly. We are required by BNSF to use the gate at all times until the over-pass bridge is constructed.

Thanks,
Hamid

From: Orlando Foote [mailto:foote@hkcf-law.com]
Sent: Thursday, October 30, 2008 10:51 AM
To: Hamid Arshadi
Cc: IMMJFONTANA@aol.com; allanori@comcast.net
Subject: FW: BNSF Gates at Hector Road, San Bernardino County, California

All: I spoke to Ms Gauthier yesterday evening. She said that she was waiting for language to be supplied by BNSF's in-house counsel to include in a communication to Mr. Jackson. I gather that the content of this e-mail to Mr. Jackson is a statement of BNSF's legal position, since it directly reflect the substance of our conversation last night. The only question I'd have is the inclusion of a reference to "property leased by BLM to SES. I was unaware that any lease between SES and BLM was in place. One other item Denise communicated that is reflected in the information she obtained from the County is that the County has abandoned, and therefore no longer maintains that the portion of Hector Road leading to the crossing. Mr. Jackson has incorrectly assumed that the road leading to and crossing the tracks is a public road. It is not.

So now the question is what, if anything you wish to do with Mr. Jackson. I doubt that he's going to take all this lying down. If you were to ask my opinion, I would say that, for safety reasons, you should not agree to remove the gate. I would certainly expect that BLM would take the same position. Mr. Jackson's property can't be accessed at all, according to Denise, without crossing BLM land, so if he want a license to do that, he'd have to talk to BLM, but my view is to let him figure that out for himself. In addition, you might want to ask BLM to be sure, if it is willing to consider providing a license to Jackson, that the license doesn't interfere with your proposed development.

Regards,



Orlando B. Foote
Horton, Knox, Carter & Foote, LLP
509 South Eighth Street
El Centro, CA 92243
Telephone (760) 352-2821
Cell Phone (760) 337-0597
Facsimile (760) 352-8540

Thursday, October 30, 2008 AOL: IMMJFONTANA

E-mail ofoote@hkcf-law.com

THIS MESSAGE IS INTENDED SOLELY FOR THE USE OF THE ADDRESSEE(S) NOTED ABOVE AND IS FURTHER INTENDED TO BE PRIVILEGED AND CONFIDENTIAL WITHIN THE ATTORNEY-CLIENT PRIVILEGE. IF YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE IMMEDIATELY NOTIFY THE SENDER AND DELETE ALL COPIES OF THIS E-MAIL ALONG WITH ANY ATTACHMENTS. THANK YOU.

From: Gauthier, Denise M [mailto:Denise.Gauthier@bnsf.com]
Sent: Thursday, October 30, 2008 8:41 AM
To: ochsjack@earthlink.net
Cc: Orlando Foote; Shana Druffner; Gauthier, Denise M
Subject: FW: BNSF Gates at Hector Road, San Bernardino County, California

Dear Mr. Jackson:

Thank you for your email of October 15, 2008. Please see the attached email below from Mary Anne Causey, County of San Bernardino, Department of Public Works, stating unequivocally that the crossing at Milepost 712.68, DOT #919188X, is a private crossing, not a public crossing as you have alleged.

The only authorized user of the private crossing is Stirling Energy Systems (SES). The private crossing is gated and locked for safety reasons.

From the information you provided from the San Bernardino County Assessor, you purchased your property with full knowledge that there was no access. It further appears that in order to access your property you would have to traverse property currently owned by the Bureau of Land Management (BLM) and leased to SES for approximately three miles. Even if BNSF were to grant access pursuant to the terms of a private crossing agreement, you would still require written permission from BLM and SES, either in the form of a license agreement or easement, to cross their property to access your property. We would request that you provide such written documentation to BNSF before pursuing any further requests for the use of the private crossing.

As information, your property does not appear to be within the City limits of San Bernardino. As such, the municipal code you forwarded would not apply.

Very truly yours,
Denise Gauthier
BNSF Railway
Coordinator, Field Safety Support
760-255-7802

From: Causey, Mary Anne [mailto:mcausey@dpw.sbcounty.gov]
Sent: Wednesday, October 15, 2008 9:44 AM
To: Gauthier, Denise M
Cc: Petre, Ed
Subject: RE: BNSF Gates at Hector Road, San Bernardino County, California

Denise, Our records reflect that we only maintain from National Trails Highway north for 0.31 mile. Back in 2004 we use to maintain up to the south R/W of the rail road tracts but we removed all but the 0.31 mile, so you are correct, it is a private crossing.

Mary Anne Causey

Thursday, October 30, 2008 AOL: IMMJFONTANA

Office Assistant IV
Traffic Division
(909) 387-8186



-----Original Message-----

From: Petre, Ed

Sent: Wednesday, October 15, 2008 9:16 AM

To: Causey, Mary Anne

Cc: 'Gauthier, Denise M'

Subject: RE: BNSF Gates at Hector Road, San Bernardino County, California

Mary Anne

Please look this up and respond to Denise

Thanks

Ed

Thursday, October 30, 2008 AOL: IMMJFONTANA

TRAFFIC INFORMATION SYSTEM
COUNTY MAINTAINED ROADBOOK
BY ROAD NAME, NUMBER, AND SEQUENCE

ROAD NAME	ROAD NBR	ROAD EAST CORD	ROAD NRTH CORD	SEQ	S S Y E S C	ROAD LIMITS	S Y U A P R V D	LOC	MAP NBR	T E R R E	P A V E	MIN WTH	FUNC CLASS	A U T H	ADD DATE	CITY MILES	ROAD CNTY MILES
HECTOR ROAD	408450	467.0	89.2	010	S B	NATIONAL TRAILS HWY N 0031M	1 12 NEB	17700	3 4	3 4	4 4	41	09	13	67/10/01	0.00	0.31
HELEN STREET	408600	399.8	59.3	010	J A	CEDAR SE/RENE	1 11 WWD	14U34	2 3	2 3	3 19	19	08	57	73/10/01	0.00	0.47
HELENDALE ROAD	408750	414.6	77.1	025	J G	OLEANDER ST N/SHADOW MTN RD	1 11 ADL	15T52	3 1	3 1	20	20	07	11	30/01/01	0.00	5.38
		414.6	77.1	030	A C	SHADOW MTN RD NLY/VISTA RD	1 11 SRL	15T42	3 4	3 4	34	34	07	11	75/03/01	0.00	1.43
		414.6	77.1	040	A E	VISTA RD N/WILD RD	1 11 SRL	15T42	3 4	3 4	24	24	07	11	30/01/01	0.00	1.80
		414.6	77.1	050	A F	WILD RD N0050M	1 11 HLN	15T32	3 3	3 3	20	20	07	11	30/01/01	0.00	0.50
		414.6	77.1	060	A G	0050M N,WILD RD N/0417M	1 11 HLN	15T32	3 1	3 1	20	20	07	11	30/01/01	0.00	4.17
		414.6	77.1	070	A H	0467M N,WILD RD N/SH58	1 12 HLN	15T32	3 1	3 1	20	20	07	11	30/01/01	0.00	6.18
HELIOTROPE DRIVE	408900	426.0	52.1	010	S A	SUNSET DR(S INTERSECTION) N/END	3 08 LAW	15U44	2 3	2 3	18	18	19	00	00/00/01	0.00	0.45
HELM COURT	409225	415.8	86.2	010	S A	SILVER LAKES PKY E/END	1 11 SRL	15T42	3 4	3 4	0	0	09	00	00/00/01	0.00	0.05
HEMLOCK AVENUE	409300	436.4	97.6	010	S A	0004M W,HAWTHORN DR E/IRIS DR	1 12 BAR	16T21	3 4	3 4	36	36	09	12	69/03/01	0.00	0.09
		408.9	38.8	031	S C	VALLEY BLVD N/CERES AVE	2 03 FTA	15V21	1 3	3 24	24	24	19		/ 01	0.00	1.57
		408.9	38.8	040	S D	WHITTRAM AVE N/FOOTHILL BLVD	2 03 FTA	15V11	1 3	3 24	24	24	19	12	29/06/01	0.07	0.68
HEMLOCK DRIVE	409650	426.1	52.0	010	S A	SH173 N/CEDAR DR	3 08 LAW	15U44	2 3	3 20	20	20	19	55	66/07/01	0.00	0.37
HEMLOCK DRIVE	409800	432.1	51.5	010	S A	GREEN VALLEY LK RD N/END	3 08 GEV	15U55	2 2	2 14	14	14	09	00	00/00/01	0.00	0.13
HEMLOCK DRIVE	409950	441.6	40.6	010	S A	VAL OF THE FALLS DR N/VAL OFF	3 05 FOH	16V21	2 3	3 12	12	12	09	00	00/00/01	0.00	0.17
HEMLOCK LANE	410100	418.9	51.5	010	S A	REDWOOD DR E/END	2 07 CRS	15U53	2 3	3 10	10	10	19	00	00/00/01	0.00	0.06
HEMLOCK LANE	410125	447.6	51.3	010	S A	MANZANITA LN N/MAHOGANY LN	3 09 MRG	16U00	2 4	4 26	26	26	09	11	70/12/01	0.00	0.17
HEMLOCK STREET	410150	414.7	158.3	010	S A	ELEVENTH ST E/TRONA RD	1 13 TRO	15R12	2 3	3 36	36	36	09	11	67/02/01	0.00	0.25
HEREFORD ROAD	410400	451.8	94.6	010	J A	SILVER VLY N/VALLEY CENTER	1 12 NEB	16T23	3 3	3 24	24	24	07	57	73/10/01	0.00	0.97
		451.8	94.6	020	J B	VALLEY CENTER N/KILORAN	1 12 NEB	16T23	3 1	1 14	14	14	07	57	68/01/01	0.00	1.53
HERITAGE TRAIL	410650	446.3	51.4	010	S A	APPALOOSA TR N/BALDWIN LN	3 09 SUG	16U52	2 4	4 26	26	26	19	11	04/06/29	0.00	0.80
HESPERIA ROAD	411000	418.6	62.7	030	A C	TERRA LINDA ST(N/M) N/EUREKA ST	1 16 V/C	15U23	3 3	3 0	0	0	19		/ 01	0.08	0.07
HESS BOULEVARD	411150	460.0	37.8	010	S A	CONEJO RD N/SH62	3 10 MOR	16V25	3 4	4 25	25	25	09	56	66/09/01	0.00	0.22
		460.0	37.8	020	J C	SH62 N/PIONEER DR	3 10 MOR	16V25	3 3	3 21	21	21	09		/ 01	0.00	0.76
HESS ROAD	411300	404.5	59.9	020	S A	PARAMOUNT RD E/SH 138	1 11 WWD	14U35	3 1	3 26	26	26	09	57	67/11/01	0.00	0.40
HIBISCUS AVENUE	411750	408.4	40.7	010	S C	REDWOOD AVE E/0002M E,BOX ELDE	2 03 FTA	15V11	1 4	4 0	0	0	19	11	88/03/01	0.00	0.12

August 28, 2009

Mr. Patrick Jackson
600 North Darwood Avenue
San Dimas, CA 91773

RE: SES Solar One Project

Dear Mr. Jackson:

We are in receipt of your recent letter in which you express your concerns regarding the locked gate at the Burlington Northern Santa Fe (BNSF) rail crossing on Hector Road and your request to be provided access.

The proposed Stirling Energy Systems (SES) Solar One project currently has temporary site access via Hector Road, at a Burlington Northern Santa Fe (BNSF) at-grade private crossing. BNSF is a public utility, regulated at the state level by the Public Utilities Commission and at the Federal level by the Department of Transportation. The enforcement of use at the DOT #919188X Crossing (Hector Road at-grade railroad crossing) is under authority of Burlington Northern Santa Fe and, as such, the authority to terminate any existing use.

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It is our understanding that BLM and BNSF have contacted you and requested that you file an application with them to cross the railroad tracks and the Bureau of Land Management land. In addition, SES representatives have informed you, via email and letters, that SES does not have authority at the Hector Road crossing and asked that efforts be coordinated through BNSF. Please refer to an e-mail from Denise Gautier of BNSF dated October 15, 2008 that the railroad at Hector Road is a private at-grade crossing which was constructed for the use of BNSF Maintenance of Way personnel for maintenance purposes.

In reference to your concern over longer term use of Hector Road, long-term permanent access for the SES Solar One project would be provided by a bridge over the BNSF railroad along Hector Road, north of Interstate 40. Hector Road is the north-south roadway that starts at Historic Route 66 just south of the I-40 interchange and continues north towards the Project Site. San Bernardino County records reflect

Sent: Wednesday, October 15, 2008 6:14 AM
To: ochsjack@earthlink.net
Cc: Kent, Lena L; Gauthier, Denise M
Subject: FW: BNSF Gates at Hector Road, San Bernardino County, California

Mr. Jackson,

The above crossing, DOT 919188X, is a private at-grade crossing, which was constructed for the use of BNSF Maintenance of Way personnel for maintenance purposes. My records show no permit with anyone for use of the crossing prior to 2007. Bureau of Land Management has not, and does not intend to, maintain a crossing for the benefit of the public.

The gates will remain locked to protect the current permittee, which is working on a project and leasing the BLM land to which you refer below. Any use of the crossing by anyone other than the current permittee is unauthorized.

I could not find property that was owned by you which is adjacent to our right of way for which you would request access. My records show that there is approximately 13 square miles owned by the US Government north of Hector Road. Please send me the parcel number, township, range and section so that I may research further. Once you have supplied this information to me, I will send information to you as to the permit application process for those seeking use of a private crossing. California Public Utilities Commission requires all private crossings to be permitted per General Order 75-D.

Please e-mail me should you have any other questions.

*Thank you,
Denise Gauthier
BNSF Railway
Coordinator, Field Safety Support
760-255-7802*

From: Kent, Lena L
Sent: Tuesday, October 14, 2008 3:18 PM
To: Gauthier, Denise M
Subject: Fw: BNSF Gates at Hector Road, San Bernardino County, California

From: ochsjack
To: Kent, Lena L
Sent: Tue Oct 14 17:06:28 2008
Subject: FW: BNSF Gates at Hector Road, San Bernardino County, California
Lena Kent,

This is my third request for information.

Patrick C. Jackson
600 N. Darwood Avenue
San Dimas, Calif. 91773

E-mail: ochsjack@earthlink.net

From: ochsjack [mailto:ochsjack@earthlink.net]
Sent: Sunday, October 05, 2008 6:11 AM
To: 'lena.kent@bnsf.com'
Subject: BNSF Gates at Hector Road, San Bernardino County, California

Monday, June 29, 2009 AOL: IMMJFONTANA



**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 SES SOLAR ONE PROJECT**

Docket No. 08-AFC-13

PROOF OF SERVICE

(Revised 7/20/09)

APPLICANT

Felicia Bellows,
Vice President of Development
Tessera Solar
4800 North Scottsdale Road,
Ste. 5500
Scottsdale, AZ 85251
felicia.bellows@tesseractosolar.com

Camille Champion
Project Manager
Tessera Solar
4800 North Scottsdale Road,
Suite 5500
Scottsdale, AZ 85251
camille.champion@tesseractosolar.com

CONSULTANT

Bill Magdych
AFC Project Manager
URS Corporation
1615 Murray Canyon Rd.,
Ste. 1000
San Diego, CA 92108
bill_magdych@urscorp.com

APPLICANT'S COUNSEL

Allan J. Thompson
Attorney at Law
21 C Orinda Way #314
Orinda, CA 94563
allanori@comcast.net

INTERESTED AGENCIES

California ISO
e-recipient@caiso.com

Jim Stobaugh
BLM – Nevada State Office
P.O. Box 12000
Reno, NV 89520
jim_stobaugh@blm.gov

Rich Rotte
Project Manager
Bureau of Land Management
Barstow Field Office
2601 Barstow Road
Barstow, CA 92311
Richard_Rotte@blm.gov

*Becky Jones
California Department of
Fish & Game
36431 41st Street East
Palmdale, CA 93552
dfgpalm@adelphia.net

INTERVENORS

California Unions for Reliable
Energy (CURE)
Loulena A. Miles,
Marc D. Joseph
Adams Broadwell Joseph &
Cardozo
601 Gateway Boulevard,
Ste. 1000
South San Francisco, CA 94080
lmiles@adamsbroadwell.com

Basin and Range Watch
Laura Cunningham
Kevin Emmerich
P.O. Box 70
Beatty, NV 89003
atomicoadranch@netzero.net

Patrick C. Jackson
600 N. Darwood Avenue
San Dimas, CA 91773
E-MAIL SERVICE PREFERRED
ochsjack@earthlink.net

ENERGY COMMISSION

JAMES D. BOYD
Vice Chair and Presiding Member
jboyd@energy.state.ca.us

JEFFREY D. BYRON
Commissioner and Associate Member
jbyron@energy.state.ca.us

Paul Kramer
Hearing Officer
pkramer@energy.state.ca.us

Caryn Holmes, Galen Lemei
Staff Counsels
cholmes@energy.state.ca.us
glemei@energy.state.ca.us

Christopher Meyer
Project Manager
cmeyer@energy.state.ca.us

Public Adviser
publicadviser@energy.state.ca.us

DECLARATION OF SERVICE

I, Corinne Lytle declare that on Aug. 31, 2009, I served and filed copies of the attached Applicant's Letter in Response to a Letter from Mr. Patrick Jackson. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [www.energy.ca.gov/sitingcases/solarone].

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

(Check all that Apply)

FOR SERVICE TO ALL OTHER PARTIES:

sent electronically to all email addresses on the Proof of Service list;

by personal delivery or by depositing in the United States mail at _____ with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses NOT marked "email preferred."

AND

FOR FILING WITH THE ENERGY COMMISSION:

sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (preferred method);

OR

depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 08-AFC-13

1516 Ninth Street, MS-4

Sacramento, CA 95814-5512

docket@energy.state.ca.us

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

Original Signed By

Corinne Lytle