

DOCKET	
08-AFC-13	
DATE	<u>NOV 04 2009</u>
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STATE OF CALIFORNIA
California Energy Commission

Application for Certification)
for the Solar One Power Project) Docket No. 08-AFC-13
Stirling Energy Systems)
_____)

Application for Certification)
for the Solar Two Power Project) Docket No. 08-AFC-5
Stirling Energy Systems)
_____)

Response of Solar One and Solar Two
To
Joint Committee Request for Schedule Information

Tessera Solar appreciates the October 26 Notice setting the November 10 Scheduling Conference for our Imperial Valley Solar (Solar Two) and Calico (Solar One) projects. Tessera Solar understands that the immense promise of the solar power industry carries with it unprecedented challenges for the agencies charged with permitting, particularly the California Energy Commission (CEC) and Department of Fish & Game (DFG). We need your leadership, consistent with the state's new Memorandum of Understanding (MOU) with the Secretary of Interior, to ensure that the permitting process is completed in a timely fashion.

Establishment of Firm Schedules

Tessera Solar's two cases are at critical junctures in the permitting process. With the ARRA deadline for "commencing construction" looming less than 14 months from now, we must establish firm permitting timelines for each case, with effective milestones, oversight and accountability, so that California can see real, meaningful progress in building renewable energy in this state. The November 10 conference provides the opportunity to do so.

For the reasons set forth below, we request that you establish schedules that result in a CEC permit decision for Imperial Valley Solar (Solar Two) not later than August 15, 2010, and for Calico Solar (Solar One) not later than September 30, 2010. A detailed schedule proposal for each docket is attached to this letter as an appendix. We have worked closely with your staff to develop schedules that we believe are both workable and timely. We endorse the concept of eliminating the Preliminary Staff Assessment (PSA), and instead issuing a joint Staff Assessment/Draft Environmental Impact Statement (SA/DEIS), to facilitate commencement of hearings at an earlier point.

The Imperial Valley Solar (Solar Two) AFC was filed June 30, 2008 and reached data adequacy in October 2008, just over twelve months ago. The Calico (Solar One) AFC was filed in December 2008 and reached data adequacy in May 2009. Along with a handful of other projects filed in 2007 and 2008, these projects have the most realistic chance to complete permitting and commence construction to meet the ARRA deadline.

In order to meet the deadline, we must have a CEC licensing decision and BLM ROD well before December 2010. Although the ARRA deadline to commence construction is December 31, 2010, financing cannot be completed, funds cannot be expended and construction work cannot begin until the licensing decision is issued. In addition, for the Calico (Solar One) project, desert tortoise relocation must be accomplished in the fall, and must be accomplished both after the permitting is complete and prior to commencement of construction in order to satisfy ARRA requirements. Thus, the licensing decision must be issued several months before the deadline so that the necessary post-licensing financial and related work can be accomplished in a timely fashion.

For the Imperial Valley (Solar Two) project, we believe that permitting can and should be complete by August 15, 2010. This project has been data-adequate for over a year, the discovery

process is complete, and there is only a single third-party intervenor (CURE). The project site was selected in consultation with the BLM for its low potential for environmental conflicts, there are no threatened or endangered species present, and preparation of draft sections of the SA/DEIS has been underway for several months. While the need to develop additional data on cultural resources has been a principal reason for slippage of prior schedules, information was provided to the CEC staff in mid-October upon which the SA/DEIS can be prepared.

What's at Risk:

- **Federal Stimulus funding for shovel ready projects**
 - Federal ITC Grant (30% of project costs) requires that construction commence by December 31, 2010
 - Will require CEC decision not later than August 2010 Imperial Valley Solar (Solar Two)
 - Will require CEC decision not later than September 30, 2010 Calico (Solar One)
- **California's renewable and solar leadership**
 - These projects are two of a handful of shovel ready projects with best chance to complete permitting in a timely manner, and to start construction in 2010
 - PPAs in place
 - Transmission studies complete
 - LGIA in place for Imperial Valley Solar (Solar Two)
 - LGIA in final negotiation stages for Calico (Solar One)
 - California's reputation as a difficult place to build projects will be solidified if no solar projects can be permitted in time to commence construction by end of 2010
- **Jobs**
 - Each project will create 300 – 700 good paying construction jobs over a three-four year period, and over 150 permanent O&M jobs
 - Imperial Valley Solar (Solar Two) will be a leading source of economic development in Imperial County, where unemployment exceeds 25%
 - Calico (Solar One) will be a significant economic driver in the Barstow area, where unemployment is on the order of 15%.
- **Key funding decisions**
 - Commitment to \$30+ million in vendor tooling due in November 2009 to meet lead times
 - \$6.7 million fully cash collateralized letter of credit for transmission interconnection due by November 2009 to meet twelve-month lead time
 - \$4 million payment on transformers due in weeks to meet lead times
- **The projects themselves**
 - May be at risk unless commitments to schedule can be obtained in coming weeks

Comments on "Renewable Energy Action Team Milestones to Permit California Renewable Portfolio Standard Energy Projects by December, 2010" ("Milestones Document")

The October 26 Notice directs that parties comment on the Milestones Document. The Milestones Document represents an important commitment by the federal and state agencies towards the timely achievement of California's renewable energy goals. Tessera Solar appreciates the federal and state agencies' commitment to ensuring as many renewable projects as reasonably possible meet the federal stimulus deadlines to commence construction by December 31, 2010. However, the timeframes outlined in the Milestones Document will not provide developers with a sufficient amount of time to meet the federal stimulus deadlines. For the reasons detailed below, we recommend revising the Milestone Schedules to provide for final decisions for any project by 9/30/2010, with a final decision for Imperial Valley Solar (Solar Two) by 8/15/2010, as shown in the attached proposed schedules.

Renewable energy projects must commence construction by December 31, 2010. The Milestone schedules provided in the Milestones Document, specifically Schedule A, would provide for a final California Energy Commission ("CEC") decision on 11/3/2010. The thirty day reconsideration period would delay the start of construction until 12/3/2010, a date that is dangerously close to the ARRA deadline.

For federal stimulus purposes "commence construction" means that a developer must: (1) have all state, federal and local permits in place; (2) complete preconstruction design and prototype testing; (3) engage all contractors; and (4) order all necessary essential equipment and supplies so that physical construction can begin on or before 12/31/2010. While some of these activities like preconstruction design and securing permits occur before a final CEC decision, others cannot. A developer will only be able to finalize its financing arrangements once the CEC issues a final decision and the thirty day reconsideration period has passed. Ordering equipment is in turn dependent on financing. Before equipment can be delivered, endangered species present on project sites must be relocated. Many species can only be relocated during certain times of the year. For example, desert tortoises cannot be relocated during summer and winter months. A final decision in November may not allow relocation of such species as required before construction.

In short, there is a significant amount of work that must take place in the time frame after the CEC issues a final decision and before the 12/31/2010 construction deadline established by ARRA. The one-month time frame contemplated in Schedule A is not enough time for a developer to obtain financing, order equipment, and relocate species. Tessera respectfully recommends that the Milestone schedules be adjusted such that a final decision for any project occurs no later than 9/30/2010, and for Imperial Valley Solar (Solar Two) occurs no later than 8/15/2010, with other dates on the Milestones Document being adjusted accordingly.

Finally, the Commission should be clear about the implications of the need for permitting to be completed well before December 2010. While Tessera Solar believes that there is room in the market for a variety of projects and technologies to succeed, projects that are not already well advanced in the permitting process are unlikely to be able to meet realistic 2010 milestones.

Indeed, there is a risk that if the Commission spreads its resources too thinly in an attempt to process even very recently-filed AFCs by the 9/30/2010 permitting deadline, even projects which are well advanced in the permitting process will be jeopardized. We encourage the Commission to focus its efforts on a narrower group of projects with the best and most realistic chance to complete permitting by 9/30/2010. Doing so will maximize California's ability to create jobs, obtain federal stimulus funding, and advance toward its RPS goals in the most expeditious fashion.

APPLICANT'S PROPOSED SOLAR TWO SCHEDULE

EVENT	DATE
Final Data Responses/Reports from Applicant to staff for review	10/15/2009
NOA of SA/DEIS in Federal Register	12/15/2009
Draft Programmatic Agreement (PA) for cultural resources	12/15/09 1/
SA/DEIS filed (90-day comment period begins)	12/15/2009
BLM submits BA to USFWS (Start 135-day consultation)	12/15/2009
SA workshop/DEIS public meetings start	1/7/2010 2/
Least Environmentally Damaging Practicable Alternative (LEDPA) determination by U.S. ACE	2/21/2010 3/
Prehearing/Status Conference	2/7/2010 4/
Prehearing/Evidentiary hearings start (evidentiary record remains open till key items such as USFWS Biological Opinion and Final PA are received)	2/21/2010 5/
Final cultural resource Determinations of Eligibility	3/15/2010 1/
Close BLM comment period	3/15/2010
BLM and USFWS consultation	3/15-5/1/2010
USFWS issues Biological Opinion	3/15/2010 6/
U.S. ACE Issues Individual Permits (IP)	3/15/2010 3/
Cultural resource PA signed	3/15/2010 1/
Prehearing/Status Conference	4/1/2010 4/
Prepare responses to comments and add to SA/FEIS	4/15/2010
Administrative Supplemental SA (SSA)/FEIS circulated for internal staff review	4/25/2010
NOA of SSA /FEIS in Federal Register	5/1/2010
SSA/FEIS distributed	5/1/2010 7/
Evidentiary hearings end	5/21/2010 8/

Plan Amendment Protest period ends	6/1/2010
Committee files proposed decision	6/15/2010
Hearing on the proposed decision	7/1/2010
Close of public comments on the proposed decision	7/15/2010
Addendum/revised proposed decision	8/1/2010
U.S. ACE Record of Decision	8/15/2010
BLM Record of Decision	8/15/2010
Energy Commission Decision	8/15/2010

Notes:

1/ Items required for cultural resources agreements and determinations.

2/ The workshops begin soon after the SA/DEIS is issued to determine the level of agreement on issues, begin discussions on mitigation, and seek agreement on conditions of certification.

3/ Items required for U.S. Army Corps of Engineers determinations related to jurisdictional waters.

4/ The Committee holds a Prehearing/Status Conference four weeks and eight weeks after the workshops begin to determine if there are issues where all parties are in agreement and can be subject of initial hearings and to determine the overall hearing process and schedule.

5/ The hearings begin approximately 6 weeks after the workshops begin to close out resolved issues and proceed to deal with unresolved issues.

6/ The CEC and BLM staff and/or the CEC Committee and BLM State Director request the U.S. Fish and Wildlife Service to complete their Biological Opinion with 90 days after the Biological Assessment is submitted.

7/ The CEC/BLM staff issue the SSA/FEIS no more than 4 weeks after the close of comments on the SA/DEIS.

8/ The evidentiary hearings end within three weeks of the publication of the SSA/FEIS. The final hearing is to take comment on SSA/FEIS.

APPLICANT'S PROPOSED SOLAR ONE SCHEDULE

Changes from the CEC Staff's proposed schedule are identified in italics.

EVENT	DATE
BLM and Energy Commission staff file Data Requests Set 2, Part 1	10/22/2009
BLM and Energy Commission file Data Requests Set 2, Part 2	11/06/2009
Applicant files responses to BLM and the Energy Commission staff Data Request Set 2, Part 1	11/22/2009
Final Data Responses/Reports from Applicant to staff for review	12/15/2009
NOA of SA/DEIS in Federal Register	<i>2/1/2010 1/</i>
SA/DEIS filed (90-day comment period begins)	<i>2/1/2010 1/</i>
BLM submits BA to USFWS (Start 135-day consultation)	<i>2/1/2010</i>
SA workshop/DEIS public meetings start	<i>2/21/2010 2/</i>
<i>Prehearing/Status Conference</i>	<i>3/21/2010 3/</i>
Prehearing/Evidentiary hearings start (evidentiary record remains open till key items such as USFWS Biological Opinion are received)	<i>4/7/2010 4/</i>
<i>Prehearing/Status Conference</i>	<i>4/21/2010 3/</i>
Close BLM comment period	<i>5/1/2010</i>
BLM and USFWS consultation	<i>5/1-6/15/2010</i>
USFWS issues Biological Opinion	<i>5/1/2010 5/</i>
Prepare responses to comments and add to SA/FEIS	<i>6/1/2010 6/</i>
Administrative Supplemental SA (SSA)/FEIS circulated for internal staff review	<i>6/10/2010</i>
NOA of SSA /FEIS in Federal Register	<i>6/15/2010</i>
SSA/FEIS distributed	<i>6/15/2010</i>
<i>Evidentiary hearings end</i>	<i>6/21/2010 7/</i>

Plan Amendment Protest period ends	7/1/2010
Committee files proposed decision	8/1/2010
Hearing on the proposed decision	8/15/2010
Close of public comments on the proposed decision	9/1/2010
Addendum/revised proposed decision	9/15/2010
BLM Record of Decision	9/30/2010
Commission Decision	9/30/2010

The following are the applicant's proposed changes in the schedule:

1/ The SA/DEIS be released 6 weeks after the final information is received from the applicant. This assumes that staff will have completed their analysis in those areas not requiring the final information. All subsequent dates shift by two weeks from the staff's proposed schedule.

2/ The workshops begin soon after the SA/DEIS is issued to determine the level of agreement on issues, begin discussions on mitigation, and seek agreement on conditions of certification.

3/ The Committee holds a Prehearing/Status Conference four weeks and eight weeks after the workshops begin to determine if there are issues where all parties are in agreement and can be subject of initial hearings and to determine the overall hearing process and schedule.

4/ The hearings begin approximately 6 weeks after the workshops begin to close out resolved issues and proceed to deal with unresolved issues.

5/ The CEC and BLM staff and/or the CEC Committee and BLM State Director request the U.S. Fish and Wildlife Service to complete their Biological Opinion with 90 days after the Biological Assessment is submitted.

6/ The CEC/BLM staff issue the SSA/FEIS no more than 4 weeks after the close of comments on the SA/DEIS. All subsequent dates shift two weeks from the staff's proposed schedule.

7/ The remainder of the schedule moves up at least two weeks to reflect the earlier publication date of the SSA/FEIS.

8/ The evidentiary hearings end within three weeks of the publication of the SSA/FEIS. The final hearing is to take comment on SSA/FEIS.



**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
atombtoadranh@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 Oct. 1st, 2009, I served and filed copies of the attached Applicant's Response for the November 10th Hearing. 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:

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

X 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:

X 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



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 TWO PROJECT**

Docket No. 08-AFC-5

PROOF OF SERVICE

(Revised 8/17/09)

APPLICANT

Richard Knox
Project Manager
SES Solar Two, LLC
4800 N Scottsdale Road.,
Suite 5500
Scottsdale, AZ 85251
richard.knox@tesseractosolar.com

***Kim Whitney,**
Associate Project Manager
SES Solar Two, LLC
4800 N Scottsdale Road.,
Suite 5500
Scottsdale, AZ 85251
kim.whitney@tesseractosolar.com

CONSULTANT

Angela Leiba, Sr. Project
Manager URS Corporation
1615 Murray Canyon Rd.,
Ste. 1000
San Diego, CA 92108
Angela_Leiba@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

Daniel Steward, Project Lead
BLM – El Centro Office
1661 S. 4th Street
El Centro, CA 92243
daniel_steward@ca.blm.gov

Jim Stobaugh,
Project Manager &
National Project Manager
Bureau of Land Management
BLM Nevada State Office
P.O. Box 12000
Reno, NV 89520-0006
jim_stobaugh@blm.gov

INTERVENORS

CURE
c/o Tanya A. Gulesserian
Loulena Miles
Marc D. Joseph
Adams Broadwell Joseph
& Cardozo
601 Gateway Blvd., Ste. 1000
South San Francisco,
CA 94080
tgulesserian@adamsbroadwell.com
lmiles@adamsbroadwell.com

ENERGY COMMISSION

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

JULIA LEVIN
Commissioner and Associate
Member
jlevin@energy.state.ca.us

Raoul Renaud
Hearing Officer
rrenaud@energy.state.ca.us

Caryn Holmes, Staff Counsel
Christine Hammond, Co-Staff
Counsel
cholmes@energy.state.ca.us
chammond@energy.state.ca.us

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

Public Adviser
publicadviser@energy.state.ca.us

*indicates change

DECLARATION OF SERVICE

I, Angela Leiba, declare that on November 4, 2009, I served and filed copies of the attached, Applicant's Response for 11/10 Hearing. 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: [\[http://www.energy.ca.gov/sitingcases/solartwo/index.html\]](http://www.energy.ca.gov/sitingcases/solartwo/index.html).

The documents have 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)

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CALIFORNIA ENERGY COMMISSION

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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

Angela Leiba