

# Memorandum

Date: October 27, 2009  
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To: Vice Chair James D. Boyd, Presiding Member  
Commissioner Jeffrey D. Byron, Associate Member

From: **California Energy Commission** – Christopher Meyer  
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<b>DOCKET</b>	
<b>08-AFC-13</b>	
DATE	<u>OCT 27 2009</u>
RECD	<u>OCT 27 2009</u>

Subject: **SES SOLAR ONE PROJECT (08-AFC-13) STATUS REPORT #2**

Pursuant to the Committee Scheduling Order dated July 29, 2009, the following is Energy Commission staff's Status Report #2 for the proposed Stirling Energy Systems Solar One (SES Solar One) Project.

### **Current Issues and Activities for Resolution (including a chronology of events in the case of on-going issues)**

- On October 23, 2009, the California Representative of the Defenders of Wildlife, Joshua Basofin, filed a petition to intervene in the SES Solar One Project proceedings. Staff expects that the Defenders of Wildlife will be submitting data requests if the petition to intervene is approved.
- The applicant is currently working with Southern California Edison (SCE) on reviewing the Lugo to Pisgah transmission line upgrades necessary to transmit the energy from part of SES Solar One Phase 1 and all of Phase 2 to the load centers. The California Public Utilities Commission (CPUC) has jurisdiction over any proposed changes to the Pisgah-Lugo line, but the Energy Commission must analyze all available information about the upgrades as they are part of the "whole of the project" which the Energy Commission, as Lead Agency, must review. Staff anticipates drafting data requests specific to the needed transmission upgrades, basing the requests on information needed from the applicant to supplement the information presented in Appendix EE of the Application for Certification (AFC). Staff and BLM have identified this process in conversations with the applicant, SCE and the CPUC.
- On August 27, 2009, the Mojave Water Agency (MWA) submitted a comment letter to the Energy Commission project manager on the possible use of water from the Mojave Area Basin as a back-up water supply for the proposed project. The MWA stated that regulatory restrictions on the exportation of water from the Mojave Area Basin could require judicial review and/or approval of any plans to export water for the project.
- On September 16, 2009, BLM and Energy Commission staff held a data response and issues resolution workshop in Barstow, California and determined that additional data requests were necessary. Other than concerns on biological resources raised by CURE, the primary issue was

related to access to private properties across the Burlington Northern Santa Fe (BNSF) railroad tracks that run through the project site. This issue is the subject of a contract between the applicant and BNSF to allow the applicant to use the private crossing, and the applicant and the San Bernardino County representative offered to assist the property owners in their discussion with BNSF. A subsequent meeting occurred between the applicant, BNSF, San Bernardino County, and some of the property owners, however no resolution has been reached to this point.

- On October 15, 2009, the applicant submitted responses to BLM and Energy Commission requests for clarification at the September 16, 2009 Data Response and Issues Resolution Workshop. The responses to Land Use questions on the planned use of private parcels on the southwestern portion of the project included a revised Figure 5.2-2 that excluded previous portions of the project, the elimination of the western Construction Staging Area, and an expansion of the N.A.P. (Not a Part) areas.
  - The Energy Commission staff is working with the applicant to clarify the intent of this revised figure and determine whether it represents any change to the project description. The applicant expects to file an amended Figure 5.2-2 shortly.
- The Energy Commission and BLM cultural resources staff continue to work on resolving challenges in the preliminary draft cultural resources report originally submitted by the applicant. The joint agency staffs are presently considering the resolution and the amount of data that would be required for the possible preparation of, under Section 106 of the National Historic Preservation Act, a Programmatic Agreement among the BLM, the California State Historic Preservation Officer, the Advisory Council on Historic Preservation, and the Energy Commission. This agreement would prescribe, for the purposes of NEPA, Section 106, and CEQA, a complete cultural resources compliance process and the mitigation measures required prior to groundbreaking, if the project is approved.
- The BLM scoping period on the Notice of Intent (NOI) to issue a DEIS ended on July 7, 2009. The Energy Commission and BLM staff are logging and reviewing the scoping comments received. Extensive comments were received from a number of organizations, including The Wilderness Society, The Wildlands Conservancy, The Off-Road Business Association, the Natural Resources Defense Council, Defenders of Wildlife, and Western Watersheds Project. Comments were also received from local residents and the U.S. Environmental Protection Agency. The BLM will organize the individual scoping comments by author and category to ensure all the comments are addressed in the joint Energy Commission/BLM analysis.

The SES Solar One Project has had many complications and delays in the data requests process, which are summarized in Attachment A to this status report. These delays in the receipt of information from the applicant necessary for staff to complete the analysis have introduced corresponding delays in the publication schedule of the draft Energy Commission/BLM document.

## **Schedule**

Due to delays in filing complicated data responses by the applicant, the high volume of projects currently under review by the Energy Commission and the BLM, a reduction in Energy Commission staff hours due to the Governor's Executive Order S-13-09 and related staff resource issues, and the general complexity of the coordinated CEQA/NEPA document, additional time will be needed to complete the technical sections required for the Staff Assessment (SA)/DEIS.

As a result of these circumstances, staff recognizes that it may not be possible to meet the schedule presented in the July 29, 2009 Committee Scheduling Order. Therefore, staff proposes expediting the process by changing to a schedule based on the SA/DEIS follow with a Supplemental SA/Final EIS developed by the BLM and Energy Commission for the 2009 fast-track projects. In addition to this change, the BLM and Energy Commission staff will continue working to accelerate the schedule where appropriate and feasible.

The following table summarizes staff recommended changes to Committee Scheduling Order dated July 29, 2009 based on the proposed fast-track schedule for renewable energy projects undergoing joint BLM/Energy Commission review:

## STAFF'S PROPOSED REVISIONS TO COMMITTEE SCHEDULE

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 Energy Commission staff Data Requests Set 2, Part 1	11/22/2009
Final Data Responses/Reports from Applicant to staff for review	12/15/2009
<b>NOA of SA/DEIS in Federal Register</b>	2/15/2010
<b>SA/DEIS filed (90-day comment period begins)</b>	2/15/2010
<b>BLM submits BA to USFWS (Start 135-day consultation)</b>	2/15/2010
SA workshop/DEIS public meetings	4/1/2010
Prehearing/Evidentiary hearings start (evidentiary record remains open till key items such as <b>USFWS Biological Opinion</b> are received)	5/1/2010
<b>Close BLM comment period</b>	5/15/2010
<b>BLM and USFWS consultation</b>	7/15-9/1/2010
<b>USFWS issues Biological Opinion</b>	7/1/2010
Prepare responses to comments and add to SA/FEIS	7/1/2010
Administrative Supplemental SA (SSA)/FEIS circulated for internal staff review	7/10/2010
<b>NOA of SSA /FEIS in Federal Register</b>	7/15/2010
<b>SSA/FEIS distributed</b>	7/15/2010
<b>Plan Amendment Protest period ends</b>	8/15/2010
Committee files proposed decision	9/1/2010
Hearing on the proposed decision	9/15/2010
Close of public comments on the proposed decision	10/1/2010
Addendum/revised proposed decision	10/15/2010
<b>BLM Record of Decision</b>	11/1/2010
Commission Decision	11/1/2010

Shaded events have already taken place

**Bolded items indicate the BLM (NEPA) process**

## Attachment A – Data Requests

### Bureau of Land Management and California Energy Commission Staff

- Staff filed Data Request Set 1, Part 1 on June 17, 2009. Part 1 of this set of data requests (#1-91) was made in the areas of Air Quality (#1- 48), Alternatives (#49), Biological Resources (#50-56), Efficiency (#57-60), Geology and Paleontology (#61), Land Use (#62-67), Noise and Vibration (#68), Soil and Water Resources (#69-85), and Waste Management (#86-91).
  - On July 6, 2009, the applicant requested additional time beyond the 30 days, as specified under Title 20, California Code of Regulations, Section 1716 (f), to develop responses to the staff's data requests for Air Quality (#1-48) and some of the data requests for Soil and Water Resources (#69-85).
  - On July 17, 2009, the applicant filed responses to staff's data requests #49-70, 74-75, 80, 82-84, and 86-91. Staff is reviewing the data responses received and coordinating with the applicant on the submittal of the remaining responses. The remaining responses were originally expected by August 31, 2009, however the applicant informed staff that additional time would be needed to address the data requests for Soil and Water Resources (#71-73, 76-79, and 85).
  - On August 31, 2009, the applicant filed responses to staff's data requests #1-48, and 81.
  - On October 1, 2009, the applicant submitted an interim status report stating that the outstanding data requests for Soil and Water Resources (#71-73, 76-79, and 85) will be submitted no later than November 21, 2009. Staff may need to issue additional data requests for clarification and/or follow-up information once the data responses are received from the applicant. The four-month delay in providing the responses to staff has raised concerns on the availability of ground water for the proposed project.
- Staff filed Data Request Set 1, Part 2 on July 20, 2009. Part 2 of this set of data requests (#92-127) is being made in the areas of Cultural Resources (#92-108), Public Health (#109-112), Socioeconomics (#113-114), Traffic and Transportation (#115-119), and Visual Resources (#120-127).
  - On August 10, 2009, the applicant requested additional time beyond the 30 days to develop responses to the staff's data requests for Cultural Resources (#92-108) and Public Health (#109-112).
  - On August 24, 2009, the applicant filed responses to staff's data requests on Socioeconomics (#113-114), Traffic and Transportation (#115-119), and Visual Resources (#120-127). Staff is reviewing the data responses received and coordinating with the applicant on the submittal of the remaining responses.
  - On August 31, 2009, the applicant filed responses to staff's data requests on Public Health (#109-112).

- On October 1, 2009, the applicant submitted an interim status report stating that the outstanding data requests for Cultural Resources (#92-108) will be submitted no later than November 21, 2009.

### **California Unions for Reliable Energy (CURE)**

- On June 26, 2009, California Unions for Reliable Energy (CURE) submitted its first set of data requests on Biological Issues (#1-228). The applicant filed responses to CURE data requests #1-228 on July 27, 2009.
- On July 13, 2009, CURE submitted its second set of data requests (#229-275) on transmission system engineering and environmental issues related to the Pisgah to Lugo transmission line upgrades necessary to transmit the energy from part of Phase 1 and all of Phase 2 to the load centers. The applicant filed responses to CURE data requests #229-275 on August 17, 2009. BLM and Energy Commission staff are reviewing the responses to both sets of data requests for the preparation of the Preliminary Staff Assessment/Draft Environmental Impact Statement (PSA/DEIS).
- On October 15, 2009, CURE submitted its third set of data requests (#276-380) to clarify earlier questions on transmission system engineering and environmental issues related to the proposed project and the Pisgah to Lugo transmission line upgrades necessary to transmit the energy from part of Phase 1 and all of Phase 2 to the load centers. The applicant is currently reviewing the CURE data requests in order to prepare responses. BLM and Energy Commission staff are reviewing the data requests for the preparation of the Staff Assessment/Draft Environmental Impact Statement (SA/DEIS).



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
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**APPLICATION FOR CERTIFICATION  
For the SES SOLAR ONE PROJECT**

**Docket No. 08-AFC-13**

**PROOF OF SERVICE**

*(Revised 7/20/09)*

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**DECLARATION OF SERVICE**

I, Hilarie Anderson, declare that on October 27, 2009, I served and filed copies of the attached, Status Report #2 dated October 27, 2009. 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](http://www.energy.ca.gov/sitingcases/solarone)].**

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)**

**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 Sacramento, CA 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**

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

Original signed by: \_\_\_\_\_  
**Hilarie Anderson**