

January 20, 2010

TO: James D. Boyd, Presiding Member
Jeffrey C. Byron, Associate Member

FROM: Stirling Energy Systems, Inc. / Tessera Solar

SUBJECT: SES Solar One (08-AFC-13) Response to California Energy Commission Staff Status Reports

DOCKET	
08-AFC-13	
DATE	JAN 20 2010
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We appreciate the Committee's continued involvement in the Solar One case and efforts to ensure that a decision is made in a timely manner to allow the project to meet ARRA deadlines.

In its December 29, 2009 and January 14, 2010 Status Reports, the Energy Commission staff raised concerns regarding the project schedule and our responsiveness to requested information. We fully appreciate the significant workload and resource challenges facing the staff, the complexities of large solar projects, as well as the pressures on all of us to meet the federally mandated deadlines. We also recognize that changes in individuals assigned to the case by the Energy Commission staff have resulted in new perspectives on issues, additional data requests, steep learning curves, and the need to revisit material that in some cases has already been covered. While we understand these pressures and staffing changes, we hope the results are not being characterized or perceived as non-responsiveness on the part of the applicant. We have and will continue to work diligently to provide all of the information requested and necessary to allow the Energy Commission and other agencies to make the required decisions. As shown in Attachment 1, it is our understanding that, with few exceptions, all of the information requested by the staff, other agencies, and intervenors has been submitted and responsive to the initial request. To our knowledge, the only item that has been delayed is a description of the final water supply. This is discussed in more detail below.

Specific statements in the Energy Commission staff's status report we would like to respond to are the following:

1. **Water Supply** - In both the December 29 and January 14 Status Reports the Commission staff noted that the applicant provided responses "...to some of the (soil and water) requests on December 4, 2009; however these responses were not complete."

We agree that finalizing the water supply for the project has been frustrating. This has primarily been as a result of our efforts to obtain water from reclaimed water sources that looked promising but did not materialize. We have kept the Commission staff fully informed on our efforts to secure a supply of water and discussed the final options of obtaining water from on-site wells and wells in the Cadiz area. We also provided the drilling schedule for the on-site wells with the Commission staff at the December 22, 2009 workshop. At that time, staff agreed we could provide them well data as it is produced. We filed an updated status of the on-site well drilling and a description of the Cadiz water supply on January 15, 2010. Results on the final aquifer test at the Cadiz wells and an analysis on the impacts associated with water transport will be provided on or around January 22, 2010. Because of time constraints, we are

considering Cadiz as our primary water source with on-site well water as our secondary source contingent on the drilling reports.

2. **Biological Resources** – In both its December 29 and January 14 Status Reports, the wording of the status report suggested that Tessera was either providing biological resources information for the first time or were behind in our responses: "The applicant filed an updated biological resources report on December 23, 2009. Staff and the intervenor CURE will need time to review the new information and address questions to the applicant at the continuation of the workshop." (December 29) and "Staff identified 27 outstanding data needs that will be addressed by the applicant in the next weeks." (January 14).

In fact Tessera has met all of our deadlines for responding to biological data requests from the agencies and intervenors, have responded to requests submitted after the typical close of discovery, and have agreed to respond to the 27 additional questions from staff newly assigned to the case as well as additional questions from CURE. While we understand the challenges being faced by the Commission staff we hope these are not being incorrectly portrayed as delays in responding to data requests.

3. **Cultural Resources** - The Commission staff's reports state that: "The Energy Commission and BLM cultural resources staff continue to work on resolving questions raised by the preliminary draft cultural resources report submitted by the applicant."

We are not aware of any outstanding questions that the agencies have on cultural resources. We have completed a 25% resurvey of the cultural sites using an approach approved by the agencies. During a recent conference call with BLM cultural resource experts, we were told that with the 25% resurvey and previous cultural data, they had sufficient data to prepare the SA/DEIS. They asked us to complete the 75% resurvey prior to the publication of the Supplemental SA/FEIS and we have taken steps to complete that work. Consequently we do not believe there is any outstanding information impeding work on the current agency documents. We do want to recognize with appreciation the Commission staff's recent decision to use BLM's consulting resources to prepare the required environmental documents.

4. **Transmission Upgrades** - Finally, the Commission staff raises concerns about "... the applicant's delays in filing critical data responses, including information on the reasonably foreseeable impacts associated with the SCE transmission line upgrade and substation expansion to provide for the full 850 MW project..."

The status and permitting of the transmission upgrades have added complexity to this case and the Commission staff is aware of numerous meetings and workshops that have been held to understand and coordinate the permitting, environmental review, and provision of information on Southern California Edison's (SCE) transmission upgrade project relative to the Solar One project. As discussed at meetings in October and December 2009, while SCE's upgrade of the Lugo to Pisgah transmission line is considered a foreseeable project in the Solar One case, it is under the permitting jurisdiction of the California Public Utilities Commission (CPUC). The applicant and SCE have provided overview information on the transmission upgrade both in response to data requests from CURE and also in response to the guidance memo from the

Commission staff that was docked on December 8, 2009. We believe the information provided is sufficient to prepare the necessary NEPA and CEQA documents required for permitting Solar One with the understanding that a more detailed environmental review will be performed once SCE completes detailed engineering of the upgrade and during permitting by the CPUC.

In addition, Tessera prepared a memo which we sent to the Commission staff discussing our legal analysis of the relationship between Solar One and the transmission upgrade; this is included as Attachment 2. If there are outstanding legal issues on the relationship between these two projects, we request that they be discussed and resolved in the near future rather than cause a delay in the proceeding.

In closing, we appreciate the Committee's efforts to monitor the schedule in this case and to resolve issues as soon as possible. We also appreciate the pressures the Commission staff is working under. We are doing our best to be responsive to the staff and facilitate a decision that meets the state and national objectives of permitting new renewable projects in a manner that helps stimulate our economy, provides needed jobs, and achieves our broader energy and environmental goals.

Finally, we observe that the scheduled publication date for the SA/DEIS, February 16 is now approximately five weeks away. Our current experience with the Imperial Valley Solar (SES Solar Two) project suggests that approximately three-four weeks is likely for review of the administrative draft chapters of the SA/DEIS, once they have been drafted (largely by CEC staff) and transmitted for review (largely by BLM). Tessera requests that staff provide regular updates indicating the status of each chapter of the SA/DEIS, and that the Committee hold periodic status conferences to monitor progress of the case against the scheduled permitting completion date of September 30.

Respectfully Submitted,



Felicia L. Bellows
Vice President of Development
SES Solar One, LLC

Solar One Docketed Items to Date
Key Technical Areas
January 15, 2010

TECHNICAL AREA	SPECIFIC ITEM	DATE
Biology		
	Setting, Impacts Analysis, and Proposed Mitigation (AFC)	12/1/08
	Discussion on MFTL habitat avoidance on-site (Response to CEC and BLM Data Request 52)	7/17/09
	Discussion on Project Evaporation Ponds (Response to CEC and BLM Data Requests 53 and 54)	7/17/09
	Discussion of Burrowing Owl Surveys (Response to CEC and BLM Data Request 56)	7/17/09
	Raven Monitoring and Control Plan	7/17/09
	Discussion on survey protocols, desert tortoises, burrowing owls, rare plants, MFTL, big horn sheep, drainages onsite, wildlife corridors/movement, and other various responses (Response to CURE Data Requests Set 1)	7/27/09
	Discussion of survey protocols (specifically desert tortoise, rare plants and burrowing owls) followed, impact discussion of rare plants, desert tortoise and big horn sheep (in response to CURE Data Requests 313-380)	11/13/09
	Biological Information related to CEC alternatives (CEC and BLM Data Requests Set 2, Part 1)	11/23/09
	Biological resources cumulative analysis, analysis of biological movement corridors, analysis of MFTL impacts (in response to Basin and Range Watch and Defenders of Wildlife Data Requests)	12/4/09
	Discussion on the biological resources located within the acquired parcels on the Solar One site	12/17/09

	Updated Biological Reports including Baseline Report, Biological Resources Technical Report, and the Weed Management Plan	12/23/09
	Biological Resources Discussion of Applicant's proposed alternatives	1/7/2010
Cultural Resources		
	Setting, Impacts Analysis, and Proposed Mitigation (AFC)	12/1/08
	Results of 25% Survey Efforts using requested site description template (included both site descriptions and DPR forms)	11/20/2009
	Geoarcheological Sensitivity Analysis (response to CEC and BLM Data Request 92-95)	11/20/2009
	Revised Taxonomy (response to CEC and BLM Data Requests 98 and 99)	11/20/2009
	Additional information of Manganese mining within the Project area (response to CEC and BLM Data Requests 104 and 105)	11/20/2009
	Additional District Discussion (response to CEC and BLM Data Request 106)	11/20/2009
	Cultural Information related to CEC alternatives (CEC and BLM Data Requests Set 2, Part 1)	11/23/09
	Discussion on the cultural resources located within the acquired parcels on the Solar One site	12/17/2009
	Cultural Resources Discussion of Applicant's proposed alternatives	1/7/2010
Soil/Water Resources		
	Setting, Impacts Analysis, and Proposed Mitigation (AFC)	12/1/08
	Status Report on Federal Jurisdictional Water (Initial indication of non-jurisdictional)	7/17/09
	Report to Map Federal and State Surface Waters	7/17/09
	DESCP/SWPP	8/31/09
	Discussion on the use of culverts onsite (in response to CEC and BLM Data Request 142)	12/3/09

	Discussion on the soil/water resources located within the acquired parcels on the Solar One site	12/27/09
	Discussion on water disposal/sediment removal, roadway and culver design, flood plain and scour discussion (in response to CEC and BLM Data Requests 144-161)	12/4/2010
	Geotechnical Report	1/6/10
	Soil and Water Resources Discussion of Applicant's proposed alternatives	1/7/2010
	Hydrologic and Hydraulic Study	1/8/10
Water Supply		
	Description of regional and site water supply and groundwater basins (AFC)	12/1/08
	Discussion of Ground Water Well Locations (Response to CEC Data Request Set 1, Part 1)	7/17/09
	Discussion on analysis to be conducted should the Project utilize ground water (Applicant's Responses to Comments from June 22nd Public Meeting)	7/30/09
	Discussion on expected water supply source from BNSF and efforts made to use recycled water (Response to CURE Data Requests 288-295)	11/13/09
	Discussion on water supply source and potential impacts based on existing, available data for the region (in response to CEC and BLM Data Requests Set 1, Part 1)	11/23/09
	Complete description of action taken by the Applicant to secure a water supply source, impact analysis and expected water quality based on best available data of using an onsite groundwater source (responses to CEC and BLM Data Requests 151-143)	12/4/09
	Update on Water Supply including description of Cadiz Supply	1/15/10
Transmission Upgrade		
	General Description including detailed maps showing alignment, habitat types, land use (AFC)	12/1/08

	Discussion on transmission capacity and studies done for the Project (in response to CURE Data Requests Set 2)	8/13/09
	Discussion on impacts, costs and schedule of the transmission line upgrades (in response to CURE Data Requests 304-309)	11/13/2009
	Vegetation types, survey protocols, results of surveys to map federal and state surface waters, discussion of special-status species, and discussion on substation expansion (response to CURE Data Requests Set 4)	12/2/09
	SCE Description of 275 MW Early Interconnection	12/23/09
	CAISO Reports	1/6/10
	Discussion on construction methods and potential impacts for biological, cultural, and soil and water resources (in response to the CEC transmission line memo)	1/8/10



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
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**APPLICATION FOR CERTIFICATION
For the SES SOLAR ONE PROJECT**

Docket No. 08-AFC-13

PROOF OF SERVICE

(Revised 12/2/09)

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DECLARATION OF SERVICE

I Corinne Lytle, declare that on January 20, 2010, I served and filed copies of the attached Applicant's Response to CEC Staff Status Report. 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 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:

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

original signed by

Corinne Lytle