

STATE OF CALIFORNIA
Energy Resources Conservation
and Development Commission

DOCKET

08-AFC-13

DATE JUL 29 2010

RECD. JUL 29 2010

In the Matter of:

The Application for Certification for the
Calico Solar Project

Docket No. 08-AFC-13

INTERVENOR DEFENDERS OF WILDLIFE

APPLICATION FOR WITNESS SUBPOENA

July 29, 2010

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Pursuant to the relevant sections of the California Code of Regulations, Intervenor Defenders of Wildlife (“Defenders”) hereby respectfully requests that the California Energy Commission (“CEC”) issue subpoenas for the attendance of the following individuals at the Calico Solar Project Hearings set for August 4-6, 2010.

I. CEC’S AUTHORITY TO ISSUE SUBPOENAS

The CEC's power to issue the requested subpoenas is reposed within Title 20, section 1203 of the California Code of Regulations. This section provides that the chairman or presiding member of the CEC may "[I]ssue subpoenas and subpoenas duces tecum at the direction of the Commission, on his motion or upon application of any party."

II. IDENTIFICATION OF INDIVIDUALS TO WHOM DEFENDERS REQUEST THE COMMISSION TO ISSUE WITNESS SUBPOENAS AND THE REASON THEIR ATTENDANCE IS REQUESTED

Defenders requests that the CEC issue a subpoena to the following person requiring their attendance at the Calico Solar Project Hearing currently scheduled for August 4-6, 2010:

- The appropriate California Department of Fish and Game (“CDFG”) representative – California Department of Fish and Game, 1416 9th Street, Sacramento, CA 95814.

CDFG has been actively involved in assessment of the Calico Solar Project. There has not been a public document detailing the comments and recommendations of CDFG regarding the Calico Solar Project proceeding to date.

CDFG is the state agency charged with administering the California Endangered Species Act (“CESA”) (Cal Fish and Game Code section 2050 et seq.). CDFG generally maintains authority under CESA to issue incidental take permits (See Cal Fish and Game Code section 2081). In most previous projects, CDFG has directly issued an incidental

take permit pursuant to the Fish and Game Code. However, in the instant proceeding, the CEC intends to consider the Application for Certification in lieu of an incidental take permit, but in conjunction with DFG's complete review and recommendations (See Cal Public Resources Code section 25500).

As stated in the Supplemental Staff Assessment ("SSA") for this project, "[T]he Energy Commission, BLM, and the applicant have consulted with CDFG regarding impacts and appropriate mitigation for the desert tortoise, and staff has proposed Conditions of Certification/Mitigation Measures that contain recommendations and guidance consistent with a CDFG Incidental Take Permit (see SSA, page A-17).

It is important that the parties and the public are afforded an opportunity to solicit information directly from CDFG regarding the applicable impacts and mitigation measures for desert tortoise. Therefore, attendance of a CDFG representative is necessary to better understand CDFG's opinions regarding impacts and mitigation associated with the Calico Solar Project.

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DECLARATION OF GOOD CAUSE FOR SUBPOENA APPLICATION


I, Joshua Basofin, declare as follows:

1. The requested witness's attendance is material to this proceeding. California Department of Fish and Game ("CDFG") representatives possess special expertise in reviewing the impacts of proposed power plants on biological resources, and in particular on state listed species such as the desert tortoise. CDFG representatives also possess special expertise in assessing appropriate mitigation measures for such projects. CDFG plays a significant role in power plant siting proceedings by transmitting recommendations to the CEC regarding the anticipated take of listed species and necessary mitigation.
2. The requested witness's attendance is important to the position of Intervenor Defenders of Wildlife ("Defenders"). Defenders disputes the analysis, Conditions for Certification, and mitigation measures included in the Biological Resources section of the Supplemental Staff Assessment. CDFG's recommendations were instrumental in the development of those items.
3. The information cannot be acquired by other means. Representatives of CDFG have declined to serve as a sponsored witness for Defenders. Defenders can acquire the information referenced above only from a CDFG representative.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct and that this declaration was executed

At: Sacramento, CA

On: July 29, 2010

Signature: 

DECLARATION OF SERVICE

I, Joshua Basofin, declare that on July 29, 2010, I served and filed copies of the Attached:

1. Defenders of Wildlife's Prehearing Conference Statement
2. Rebuttal testimony of James M. Andre
3. Declaration of James M. Andre
4. Rebuttal testimony of Jeffrey B. Aardahl
5. Declaration of Jeffrey B. Aardahl
6. Application for Subpoena of a CDFG Representative
7. Declaration for Application for Subpoena

The original documents, filed with the Docket Unit, are 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/calicosolar]. 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 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

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

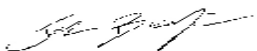
Attn: Docket No. 08-AFC-13

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.





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 CALICO SOLAR (Formerly SES Solar One)

Docket No. 08-AFC-13

PROOF OF SERVICE
(Revised 7/12/10)

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