

**DOCKET**  
**08-AFC-13**  
DATE JUL 27 2010  
RECD. AUG 09 2010

July 27, 2010

California Energy Commission  
Attn: Docket No. 08-AFC-13  
1516 Ninth Street, MS-14  
Sacramento, California 95814-5512  
[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

[US MAIL & E-MAIL]

Re: Docket No. 08-AFC-13, Application for Certification for the  
Calico Solar Project (Formerly SES Solar 1)

Dear Docket Clerk:

Pursuant to the California Energy Commission's Notice of Pre-hearing Conference and Evidentiary Hearings (Notice), I am submitting my Pre-hearing Conference Statement in accordance with the Notice.

I certify under penalty of perjury that all of the comments in the Pre-hearing Conference Statement are true, correct and complete to the best of my knowledge and belief.

Respectfully submitted,

Original Signed By

Bob Burke, Intervener

Enclosure

FOR THE DIRECTOR OF THE CALIFORNIA ENERGY COMMISSION  
OFFICE OF THE CLERK  
SACRAMENTO, CALIFORNIA  
COMMUNICATIONS SECTION  
1516 NINTH STREET, MS-14  
SACRAMENTO, CALIFORNIA 95814-5512  
TEL: (916) 227-2300 FAX: (916) 227-2301  
WWW.CEC.CA.GOV

STATE OF CALIFORNIA

Energy Resources Conservation  
And Development Commission

In the Matter of:

Application for Certification  
For the Calico Solar Project  
(Formerly SES Solar One)

Docket No. 08-AFC-13

The Society for the Conservation of Bighorn Sheep has a concern about access to the crossing at Hector Road. We have two wildlife drinkers in the Cady Mountains that are used by Bighorn Sheep for water and as this is the only water for their use they need to be re-supplied with water 2 to 3 times a year. SCBS has used the Hector Road crossing for over 25 years to haul water to them and because it is closed we must drive 10 miles more to deliver water to them.

In May 2008, SES Solar One, LLC, the original Applicant, entered into an Agreement for Private Crossing (Agreement) with BNSF (Burlington Northern Santa Fe) Railway Company and added gates and barricades at the railway crossing at Hector Road. The gated crossing prevents SCBS from using Hector Road to deliver water to the Bighorn Sheep. The gated crossing does not meet the legal requirements of California Civil Code 1104.

The Applicant contends it has exclusive use of Hector Road under the terms of the Agreement to block Hector Road.

The Applicant states "the recent blockage of this crossing does not result in a conflict with SCBS to deliver water to the wildlife drinkers. This statement remains disputed as the private crossing granted to Calico Solar/Tessera is for the purposes of establishing an access to the western side of the proposed project site. But SES withdrew the Solar Three Application in December 2009 and the case file for SES Solar Three was closed by the BLM. The BLM's contention "the crossing is a physical access and not a legal access, and has been used in a passive and unauthorized manner" has been refuted. The SSA does not address Hector Road as an existing right of way pursuant to the Federal Land Policy and Management Act (FLPMA) or a designated open route pursuant to the California Desert Conservation Area (CDCA) Plan 1980 as amended.

The Bureau of Land Management, the Private Property Owners and SCBS contend private property owners and SCBS can use Hector Road to access their properties and wildlife drinkers as long as the use does not exceed a level defined as casual use. The BLM however refuses to acknowledge and enforce the Private Property Owners and SCBS right to use Hector Road.

The Private Property Owners and SCBS contend Hector Road is a CDCA designated open route and a FLPMA existing right of way and the Applicant and the BLM do not have the authority to block or close Hector Road. The Private Property Owners also contend the BLM does not have the authority to designate an alternative route.

The Private Property Owners and SCBS believe that this issue needs to be solved.

The Nelson Bighorn Sheep occupy the Cady Mountains and are present on the project site but there wasn't study done on the impact to sheep in regards to noise and activity during construction. Calico 1 proposes to stop work if sheep are seen within 500 feet of any construction but SCBS believes that 1,000 feet should be used because sheep will leave an area if they are continually disturbed.

There was no study done on the effect of noise of the sun catchers on the sheep when the project comes on line or during construction. SCBS believes that the sheep could abandon the area and lose far more area than the project site would occupy. If that occurs, then lambing areas and spring forage could be lost.

### **CLOSING STATEMENT**

The issue of the Private Property Owners and SCBS use of Hector Road remains disputed and the Land Use, Recreation and Wilderness section and the Traffic and Transportation section of the SSA are not ready for Evidentiary Hearings. These sections can not proceed until this issue is adjudicated.

The issue of the Private Property Owners use of Hector Road has been ongoing for over two years and the Applicant and the BLM have not made a good faith effort to resolve this issue.

A plan to monitor the Nelson Bighorn Sheep during construction and operation of the project must be developed. If the Nelson Bighorn Sheep are impacted by the project then mitigation plan would need to be implemented and there isn't a plan included in the SSA.

The Declaration of Service and the Proof of service are attached.

Original Signed By



Bob Burke

July 28, 2010

STATE OF CALIFORNIA

Energy Resources Conservation  
And Development Commission

In the Matter of:

Application for Certification  
For the Calico Solar Project  
(Formerly SES Solar One)

Docket No. 08-AFC-13

**DECLARATION OF SERVICE**

I, **Bob Burke**, declare that on **July 28, 2010**, I served and filed copies of the attached *Prehearing Conference Statement*. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent *Proof of Service* located on the web page for this project at:

<http://www.energy.ca.gov/sitingcases/calicosolar/>

The document has been sent to the Commission, as well as all parties in this proceeding as shown on the *Proof of Service*, in the following manner:

**FOR SERVICE TO THE APPLICANT AND ALL OTHER PARTIES:**

- XX sent electronically to all e-mail addresses on the Proof of Service list and  
XX by depositing in the United States mail at Yermo, California, with first-class postage thereon fully prepaid and addressed as provided on the attached *Proof of Service* to the mailing addresses shown on the Proof of Service NOT marked "E-mail Service Preferred."

AND

**FOR FILING WITH THE ENERGY COMMISSION:**

- XX sending the original signed document and one electronic copy mailed and e-mailed respectively, to the address below:

CALIFORNIA ENERGY COMMISSION  
Attn: Docket No. 08-AFC-13  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512  
[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

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

Original Signed By

  
\_\_\_\_\_  
Bob Burke

07/28/10

\_\_\_\_\_  
date



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)

**APPLICANT**

Felicia Bellows  
Vice President of Development &  
Project Manager  
Tessera Solar  
4800 North Scottsdale Road,  
#5500  
Scottsdale, AZ 85251  
[felicia.bellows@tesserasolar.com](mailto:felicia.bellows@tesserasolar.com)

**CONSULTANT**

Angela Leiba  
AFC Project Manager  
URS Corporation  
1615 Murray Canyon Rd., #1000  
San Diego, CA 92108  
[angela\\_leiba@URSCorp.com](mailto:angela_leiba@URSCorp.com)

**APPLICANT'S COUNSEL**

Allan J. Thompson  
Attorney at Law  
21 C Orinda Way #314  
Orinda, CA 94563  
[allanori@comcast.net](mailto:allanori@comcast.net)

Ella Foley Gannon, Partner  
Bingham McCutchen, LLP  
Three Embarcadero Center  
San Francisco, CA 94111  
[ella.gannon@bingham.com](mailto:ella.gannon@bingham.com)

**INTERESTED AGENCIES**

California ISO  
[e-recipient@caiso.com](mailto:e-recipient@caiso.com)  
Jim Stobaugh  
BLM – Nevada State Office  
P.O. Box 12000  
Reno, NV 89520  
[jim\\_stobaugh@blm.gov](mailto: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](mailto:richard_rotte@blm.gov)

Becky Jones  
California Department of  
Fish & Game  
36431 41st Street East  
Palmdale, CA 93552  
[dfqpalm@adelphia.net](mailto:dfqpalm@adelphia.net)

**INTERVENORS**

County of San Bernardino  
Ruth E. Stringer, County Counsel  
Bart W. Brizzee, Deputy County Counsel  
385 N. Arrowhead Avenue, 4<sup>th</sup> Floor  
San Bernardino, CA 92415-0140  
[bbrizzee@cc.sbcounty.gov](mailto:bbrizzee@cc.sbcounty.gov)

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

Defenders of Wildlife  
Joshua Basofin  
1303 J Street, Suite 270  
Sacramento, California 95814  
*e-mail service preferred*  
[jbasofin@defenders.org](mailto:jbasofin@defenders.org)

Society for the Conservation of  
Bighorn Sheep  
Bob Burke & Gary Thomas  
P.O. Box 1407  
Yermo, CA 92398  
[cameracoordinator@sheepsociety.com](mailto:cameracoordinator@sheepsociety.com)

Basin and Range Watch  
Laura Cunningham & Kevin Emmerich  
P.O. Box 70  
Beatty, NV 89003  
[atomicoadranch@netzero.net](mailto:atomicoadranch@netzero.net)

Patrick C. Jackson  
600 N. Darwood Avenue  
San Dimas, CA 91773  
*e-mail service preferred*  
[ochsjack@earthlink.net](mailto:ochsjack@earthlink.net)

Gloria D. Smith, Senior Attorney  
Sierra Club  
85 Second Street, Second floor  
San Francisco, CA 94105  
[gloria.smith@sierraclub.org](mailto:gloria.smith@sierraclub.org)

\*Newberry Community Service District  
Wayne W. Weierbach  
P.O. Box 206  
Newberry Springs, CA 92365  
[newberryCSD@gmail.com](mailto:newberryCSD@gmail.com)

**ENERGY COMMISSION**

ANTHONY EGGERT  
Commissioner and Presiding Member  
[aeggert@energy.state.ca.us](mailto:aeggert@energy.state.ca.us)

JEFFREY D. BYRON  
Commissioner and Associate Member  
[jbyron@energy.state.ca.us](mailto:jbyron@energy.state.ca.us)

Paul Kramer  
Hearing Officer  
[pkramer@energy.state.ca.us](mailto:pkramer@energy.state.ca.us)

Lorraine White, Adviser to  
Commissioner Eggert  
*e-mail service preferred*  
[lwhite@energy.state.ca.us](mailto:lwhite@energy.state.ca.us)

Kristy Chew, Adviser to  
Commissioner Byron  
*e-mail service preferred*  
[kchew@energy.state.ca.us](mailto:kchew@energy.state.ca.us)

Caryn Holmes  
Staff Counsel  
[cholmes@energy.state.ca.us](mailto:cholmes@energy.state.ca.us)

Steve Adams  
Co-Staff Counsel  
[sadams@energy.state.ca.us](mailto:sadams@energy.state.ca.us)

Christopher Meyer  
Project Manager  
[cmeyer@energy.state.ca.us](mailto:cmeyer@energy.state.ca.us)

Jennifer Jennings  
Public Adviser  
[publicadviser@energy.state.ca.us](mailto:publicadviser@energy.state.ca.us)