

STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

In the Matter of:

The Application for Certification for the
SES Solar Two Project

Docket No. 08-AFC-5

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CALIFORNIA UNIONS FOR RELIABLE ENERGY
STATUS REPORT NO. 5

December 21, 2009

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INTRODUCTION

The California Unions for Reliable Energy (“CURE”) provides this status report pursuant to the Committee’s Revised Scheduling Order from December 3, 2009. CURE participated in the recent scheduling conference and has reviewed the data responses that were docketed in November from the applicant to the Energy Commission Staff.

Although the Staff Assessment is scheduled to be released in just three weeks on January 8, 2009, there is still a lot of information that is needed prior to the completion of the Staff Assessment. This includes the jurisdictional determination by the US Army Corps of Engineers and information about the water treatment plant upgrades which are needed to supply all of the water for the Solar Two Project.

Since the Commission has eliminated the Preliminary Staff Assessment, the Staff Assessment must be complete and final for purposes of Staff review. In this status report, we will comment specifically on needed information concerning the primary water source for the Project. This status report also includes a recommendation regarding the cultural resources review of the Project.

DISCUSSION

Water Treatment Plant Upgrades

As was stated by CURE in a letter to Energy Commission Staff Council Caryn Holmes on November 18, 2009, the planned Seeley Waste Water Treatment Facility (“SWWTF”) upgrades necessary to provide water to the Project must be studied as part of the CEQA review for the Solar Two Project. The Energy Commission, as lead agency, must evaluate the environmental impacts of the sewage treatment plant upgrades.

The SWWTF upgrades will result in significant environmental impacts that must be mitigated or avoided, as feasible. The SWWTF is located between a residential neighborhood and the New River. The review of these upgrades is likely to raise air quality and soil contamination issues, among others. Additionally, the applicant must provide information on the impacts that flow from diverting a small, but potentially vital, amount of water away from the severely impaired New River and Salton Sea.

SES acknowledges that these upgrades will require environmental review, but explains that the analysis will be provided in “separate environmental documentation.”¹ Because the sewer treatment upgrades are necessary elements of the Solar Two Project, any environmental impacts from these upgrades must be

¹ See letter from Matt Moore, URS Project Engineer, to Mr. David Dale, Seeley County Water District, on September 23, 2009. This was docketed at the CEC by Angela Leiba on September 23, 2009.

reviewed and mitigated by the Energy Commission as the CEQA lead agency in the Energy Commission’s CEQA-equivalent proceeding.

Cultural Resources Programmatic Agreement

The El Centro Field Office of the Bureau of Land Management (“BLM”) is currently developing a Programmatic Agreement for the analysis and mitigation of impacts to cultural resources on the Solar Two Project site, pursuant to Section 106 of the National Historic Preservation Act.² The Siting, Transmission and Environmental Protection Division Staff will be a signatory to this Programmatic Agreement.

According to a letter submitted by Terrence O’Brian, Deputy Director of Siting, Transmission and Environmental Protection at the Energy Commission, “the BLM appears to have chosen to resolve the potential adverse effects” ... “in accordance with 800.14(b)(1)(ii).”³ These regulations allow an agency to develop “alternate procedures” to implement Section 106. The regulations require the agency to seek public input during the development of alternate procedures.⁴

At this time neither the BLM nor the CEC has provided any opportunity for the public to participate or comment on the development of these alternative procedures. Since the Energy Commission siting website is the primary location for information about the joint BLM/CEC review of this Project, information about the opportunity for public involvement should be maintained on this website.

² NHPA; 16 USC § 470f.

³ 36 CFR 800.14. Regulations of the Advisory Council for Historic Preservation.

⁴ *Id.* at subd. (b)(1).

CONCLUSION

The Energy Commission Staff cannot move forward with the release of the Staff Assessment until the requisite information has been submitted by the applicant concerning the environmental impacts of the water treatment plant upgrades. Without this information, the Staff Assessment will be incomplete. Since the Energy Commission has taken the extraordinary step of eliminating the Preliminary Staff Assessment, and in turn eliminating much of the public and Intervenor opportunity to participate in the formulation of the Staff's analysis, it is imperative that the Energy Commission Staff withhold their Staff Assessment until this information is submitted for review and analysis.

Dated: December 21, 2009

Respectfully submitted,

/s/
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DECLARATION OF SERVICE

I, Bonnie Heeley, declare that on December 21, 2009, I served and filed copies of the attached CALIFORNIA UNIONS FOR RELIABLE ENERGY STATUS REPORT NO. 5, dated December 21, 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/solartwo. The document has been sent (1) electronically, and (2) via US Mail by depositing in the US mail at South San Francisco, California, with first-class postage thereon fully prepaid and addressed as provided on the attached Proof of Service list to those addresses NOT marked "email preferred." It was sent for filing to the Energy Commission by sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address shown on the attached Proof of Service list.

I declare under penalty of perjury that the foregoing is true and correct. Executed at South San Francisco, CA, this 21st day of December, 2009.

_____/s/_____
Bonnie Heeley

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