

## Memorandum

Date: March 9, 2009  
Telephone: (916) 653-1639

To: Commissioner Jeffrey D. Byron, Presiding Member

From: California Energy Commission – Christopher Meyer  
1516 Ninth Street Project Manager  
Sacramento, CA 95814-5512

<b>DOCKET</b>	
<b>08-AFC-5</b>	
DATE	MAR 04 2009
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Subject: **SES SOLAR TWO PROJECT (08-AFC-5) STATUS REPORT #2**

Pursuant to the Committee Scheduling Order dated December 3, 2008, the following is Energy Commission staff's Status Report 2 for the proposed Stirling Energy Systems Solar Two (SES Solar Two) Project.

### Current Issues and Activities for Resolution

- Staff filed Data Request Set 1, Part 2 on December 2, 2008 for the following technical areas.
  - Data Requests 53-110 (Air Quality): Requests clarification of air quality impacts such as construction air quality impacts from material delivery and operational air quality impacts from the mirror washing operation.
  - Data Requests 111-127 and BLM appendix (Cultural Resources): The cultural resources data requests attempt to address the challenges of analyzing all cultural resources on over 6,500 acres, including recommendations for the participation of a geoarchaeologist for the planned geotechnical study to potentially reduce archaeological monitoring requirements and requests for more information on several of the previously known and newly discovered archaeological resources in the project area.

On December 22, 2008, the applicant requested additional time to respond to the staff's Data Requests 53-127. The data responses were originally expected in early February of 2009. The applicant has subsequently notified the Energy Commission project manager that additional time will be needed to complete these data responses beyond February and expects to file an official request shortly and provide the data requests themselves the week of February 16, 2009. The applicant still plans to supplement its previous responses and filings to address staff comments received at the December 18, 2008 BLM scoping meeting and workshop, in addition to the responses to the Air Quality and Cultural data requests.

PROOF OF SERVICE (REVISED 3/9/09) FILED WITH  
ORIGINAL MAILED FROM SACRAMENTO ON 2/25/09  
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This additional material will address the following technical areas and data requests:

- Biology:
  - Data Request response 1. A final determination of the US Army Corps of Engineers regarding jurisdiction and if jurisdictional, Applicant will describe the “project-specific circumstances” that necessitate temporary or permanent impacts to jurisdictional waters.
  - Data Request response 2. A determination from CDFG that the project is jurisdictional due to the construction of roads through washes and channels on the site. Applicant will provide a description of the necessity of constructing these roads and their impacts.
  - Data Request response 3. Applicant will describe the likely mitigation measures that will be included in RWQCB and USACE permits.
  - Data Request response 4. Applicant will provide a description of the mitigation measures that will be employed to compensate for project related grading impacts.
  - Data Request responses 5 & 6. Applicant will provide engineering details of the proposed evaporation ponds, including location, size and slope ratios. A monitoring plan to test for pond leakage will be described.
  - Data Request responses 8 – 11. A facility closure and decommissioning plan will be described including closure requirements and the anticipated bond level necessary to satisfy BLM requirements.
  
- Land Use:
  - Data Request responses 16-21. Applicant will describe the private parcels of land within the project site, identify which ones are currently owned or leased by SES Two and describe plans for merging these parcels into other owned parcels. Private parcels which are not owned by the Applicant will be identified and access plans for these parcels will be described. For leased lands, the Applicant will describe how conformance with local land use regulations will be achieved.
  
- Soil and Water:
  - Data Request Response 31. Applicant will provide a draft Erosion and Sedimentation Control Plan, or if not available, a detailed outline illustrating the components of the plan.
  - Data Request response 32. A draft of Applicant’s Storm Water Pollution Prevention Plan will be submitted.
  - Data Request response 33. Applicant will provide the maximum water requirements for mirror washing.
  - Data Request response 34. A reference for the US Gypsum mitigation measures will be provided.
  - Data Request response 36. Applicant will review the submitted water balance and revise as necessary to show the maximum water requirements.

Staff will review the applicant's responses to the data requests and determine if a second data response workshop or additional data requests are necessary.

- The Energy Commission and BLM cultural resources staff continue to work on addressing deficiencies in the preliminary draft cultural resources report originally submitted by the applicant. The report was submitted to the Energy Commission before approval by the BLM, contrary to the Memorandum of Understanding between the Energy Commission and BLM.
- On February 10, 2009, the Energy Commission and the BLM conducted a staff workshop for the SES Solar Two Project to discuss the potential alternatives and cumulative impacts to be addressed in the joint environmental document. Energy Commission staff presented a proposed strategy for addressing cumulative impacts and alternatives that would comply with the National Environmental Policy Act (NEPA) and the Energy Commission's certified regulatory process. Action items were assigned to agency staff to be discussed at a follow-up meeting between agency staff. In addition, the applicant gave a presentation of the information they have independently collected on alternatives and potential projects and/or areas that they considered appropriate for the cumulative impacts analysis.
- On March 3, 2009, the Energy Commission staff and BLM staff from the various offices met in Moreno Valley to continue refining the joint approach to alternatives and cumulative impacts. Energy Commission staff presented alternatives and cumulative impacts outlines to date and worked with the BLM staff to refine the approaches for these sections. Energy Commission staff also presented a revised draft outline for the joint document that addressed additional areas required either by NEPA or the Energy Commission's certified regulatory process.
- The BLM scoping period ended on January 2, 2009, 15 days after the second BLM scoping meeting on December 18, 2008. The Energy Commission and BLM staff have logged and reviewed the scoping comments received. The BLM is organizing the individual scoping comments by author and category to insure all the comments are addressed in the joint Energy Commission/BLM analysis. In addition, the BLM is completing its scoping report for the project that will further serve to focus staff on the issues needing resolution.
- Although some Energy Commission staff have completed the initial draft of their technical areas in the format of a standard Preliminary Staff Assessment (PSA), considerable work will be required to meet the minimum requirements of NEPA on cumulative impacts and alternatives. NEPA requires alternatives to be examined to the same level of detail as the proposed project and the failure to properly address alternatives and cumulative impacts is one of the most common procedural flaws in Environmental Impact Statements.
- The applicant contacted the BLM and Energy Commission project managers in February to discuss the procedure for changing certain aspects of the project in response to the Issues Identification Report and comments received at the scoping meetings. The applicant is reviewing moving the main access road into the site and extending the proposed water supply line to Seely in

order to access reclaimed water rather than fresh water from the Westside Canal. If the applicant moves forward with these proposed changes, a supplement to the Application for Certification (AFC) would be required. Although the applicant expressed interest in bringing a small natural gas service line in to the project site to fuel construction and operations vehicles, it is uncertain if this part of the proposed changes will move forward.

### **Schedule**

Due to the high volume of projects currently under review by the Energy Commission and the BLM, state furlough days, the requirement for the Energy Commission and the BLM to determine the approach for alternatives and cumulative impacts analysis that satisfies NEPA requirements, and the general complexity of the coordinated document, additional time may be needed to complete the technical sections required for the Preliminary Staff Assessment (PSA)/Draft Environmental Impact Statement (DEIS). At this point, staff will work to meet the schedule presented in the March 4, 2009 Revised Committee Scheduling Order, recognizing that it may be necessary to adjust the publication of the PSA/DEIS and the date of the PSA/DEIS workshop in the future. Nonetheless, staff will work with the BLM and the applicant to accelerate the schedule where appropriate and feasible.

The following table summarizes the schedule per the Revised Committee Scheduling Order dated March 4, 2009:

## Revised Committee Schedule – March 4, 2009

<b>DATE</b>	<b>EVENT</b>
Jun 30, 2008	Application for Certification (AFC) filed by project owner
Aug 13, 2008	AFC Deemed Data Inadequate
Oct 08, 2008	AFC Deemed Data Adequate
Oct 08, 2008	Energy Commission Committee assigned to oversee AFC process
Oct 17, 2008	BLM publishes NOI in FR (60-day scoping)
Nov 14, 2008	CEC/BLM staff file data requests (round 1)
Nov 17, 2008	CEC/BLM staff file Issues Identification Report
Nov 24, 2008	Informational Hearing and Site Visit/BLM Scoping Meeting
Dec 08, 2008 (see above)	Applicant provides data responses
Dec 18, 2008	Data Response and Issue Resolution workshop/Second BLM Scoping Meeting
Jan 2, 2009	Formal BLM scoping period closes (15 days after last meeting)
Feb 13, 2009	CEC/BLM staff file data requests (round 2, if necessary)
Jan 15, 2009	Status Report # 1 due
Mar 3, 2009	Applicant provides data responses (round 2)
Mar 05, 2009	Status Report #2 due
Mar 17, 2009	Local, state, and federal agency determinations
Mar 23, 2009	Data Response and Issue Resolution workshop (round 2)
<b>Apr 1, 2009</b>	<b><i>BLM Notice of Availability (NOA) on PSA/DEIS sent to WO and ASLM (4-6 weeks)</i></b>
May 05, 2009	Status Report #3 due
<b>May 6, 2009</b>	<b><i>PSA/DEIS filed (90-day comment period required)</i></b>
May 28, 2009	PSA Workshop/DEIS public meetings
Jul 21, 2009	Local, state and federal agency final determination
<b>Aug 6, 2009</b>	<b><i>BLM comment period closes</i></b>
Aug 7, 2009	Status Report # 4 due
<b>Sep 17, 2009</b>	<b><i>Prepare responses to comments and prepare FSA/FEIS</i></b>
<b>Nov 15, 2009</b>	<b><i>NOA FEIS to WO and ASLM (4-6 weeks)</i></b>
<b>Dec 15, 2009</b>	<b><i>NOA of FSA/FEIS in FR</i></b>
Dec 15, 2009	<b>Final Staff Assessment/FEIS filed</b>
<b>TBD</b>	Evidentiary hearings start
<b>TBD</b>	Energy Commission Committee files proposed decision
<b>TBD</b>	Hearing on proposed decision
<b>TBD</b>	<b><i>BLM ROD (start 60-day federal review, 30-day protest, IBLA appeal)</i></b>
<b>TBD</b>	Close of the public comment period on the proposed decision
<b>TBD</b>	Addendum/revised proposed decision
<b>TBD</b>	Committee Decision

TBD = To Be Determined (Shaded events have already taken place)

**BLM Schedule Acronyms:**

ASLM - Assistant Secretary for Lands and Minerals  
 BLM - Bureau of Land Management  
 DEIS –Draft Environmental Impact Statement  
 FEIS - Final Environmental Impact Statement  
 FR - Federal Register  
 IBLA - United States Interior Board of Land Appeals  
 NOA - Notice of Availability  
 NOI - Notice of Intent  
 ROD - Record of Decision  
 WO - BLM Washington Office



**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 SES SOLAR TWO PROJECT**

**Docket No. 08-AFC-5**

**PROOF OF SERVICE**

**(Revised 2/25/09)**

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**DECLARATION OF SERVICE**

I, April Albright, declare that on March 9, 2009, I served and filed copies of the attached SES Solar Two Project (08-AFC-5) Status Report #2, dated March 3, 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](http://www.energy.ca.gov/sitingcases/solartwo)]**. 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:**

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**

Attn: Docket No. 08-AFC-5

1516 Ninth Street, MS-4

Sacramento, CA 95814-5512

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

Original signed by \_\_\_\_\_  
**April Albright**