

Memorandum

Date: May 5, 2009
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DOCKET	
08-AFC-5	
DATE	MAY 05 2009
RECD.	MAY 05 2009

To: Commissioner Jeffrey D. Byron, Presiding Member
Commissioner Julia Levin, Associate Member

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

Subject: **SES SOLAR TWO PROJECT (08-AFC-5) STATUS REPORT #3**

Pursuant to the Committee Scheduling Order dated December 3, 2008, the following is Energy Commission staff’s Status Report 3 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 Air Quality (Data Requests 53-110) and Cultural Resources (Data Requests 111-127 and BLM appendix). Details on these data requests can be found in staff’s Status Report #2.
 - 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. In addition the applicant informed staff that they still planned to supplement the previous responses and filings to address staff comments received at the December 18, 2008 BLM scoping meeting and workshop.
 - On March 20, 2009, the applicant filed information to supplement its previous responses to the Energy Commission and Bureau of Land Management (BLM) Data Requests 1-3, 5-10, 14, 24-26, 31-33, 36-38, 44 and 111-127 (originally filed December 10, 2008). Details on these revised responses to the data requests can be found in staff’s Status Report #2.
 - Staff has reviewed the applicant’s responses to the data requests and has determined that a second data response workshop and additional data requests are necessary. The additional data requests are required to clarify information received in the March 20, 2009 responses and address project changes reflected in those responses. Staff is working to file the second round of data requests prior to the May 7, 2009 data response workshop in order to address easily answered questions at that time.
- The Energy Commission and BLM cultural resources staff continue to work with the applicant’s cultural resources specialists to address cultural resource concerns on the 6,500 acre site and review the latest final draft cultural resources report received on April 13, 2009. Due to the sheer volume of

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information in the report, it was submitted on eight compact disks. Staff is working to review this information as quickly as possible.

- 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 National Environmental Policy Act (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.
- 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 NEPA and the Energy Commission's certified regulatory process.
- 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. Several follow-up meetings have been held between agency staff to finalize the alternatives and cumulative impacts that will be analyzed as part of the joint process. The BLM and Energy Commission staff continue to work to address how recent legislation and federal policy changes impact the requirements of the joint document.
- In addition to the project-level meetings on the joint Energy Commission/BLM process and filing of joint documents, the Energy Commission and BLM met on April 21, 2009 to identify methods of expediting the review of renewable energy projects outlined in the August 8, 2007 Memorandum of Understanding between the BLM and the Energy Commission.
- 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.
- The applicant contacted the BLM and Energy Commission project managers in February of 2009 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 extending the proposed water supply line to Seely in order to access reclaimed water rather than fresh water from the Westside Canal. In addition, in a response to one of staff's data

requests, the applicant stated that the project description would be changed to reflect the on-site production of hydrogen. If the applicant moves forward with these proposed changes, a supplement to the Application for Certification (AFC) would be required. Although the applicant initially expressed interest in bringing a small natural gas service line in to the project site to fuel construction and operations vehicles and reduce greenhouse gas impacts, the applicant will attempt to reduce these emissions through other means.

- On April 6, 2009, California Unions for Reliable Energy (CURE) submitted 143 data requests to the applicant on the proposed project. On April 24, 2009, the applicant filed a letter objecting to seven of the 143 data requests. The applicant expects to provide responses to the remaining data requests by May 6, 2009. Staff will consider the responses in the preparation of the technical sections of the Preliminary Staff Assessment (PSA)/Draft Environmental Impact Statement (DEIS).

Schedule

Due to the high volume of projects currently under review by the Energy Commission and the BLM, reduced staff hours due to the state furlough policy, 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 will be needed to complete the technical sections required for the PSA/DEIS. In addition, the applicant continues to modify the project description to minimize potential environmental impacts and address public concerns raised during the scoping process and is providing the Energy Commission staff with additional information on these changes. Staff anticipates a supplemental filing to the AFC to outline the changes in the project and provide the necessary environmental and engineering information. At this point, staff recognizes that it is not possible to meet the schedule presented in the March 4, 2009 Revised Committee Scheduling Order and that it will be necessary to adjust the publication of the PSA/DEIS and the date of the PSA/DEIS workshop in the future. The BLM and Energy Commission staff anticipate publishing the PSA/DEIS within 45 to 60 days of receiving both the supplemental filing with project changes and responses to staff data requests. 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 with additional information on the status of several milestones:

Revised Committee Schedule – March 4, 2009

SCHEDULE DATE	ACTUAL DATE	EVENT
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	<i>Nov 14, 2008 Dec 2, 2008</i>	CEC/BLM staff file data requests (round 1, part 1) <i>CEC/BLM staff file data requests (round 1, part 2)</i>
Nov 17, 2008		CEC/BLM staff file Issues Identification Report
Nov 24, 2008		Informational Hearing and Site Visit/BLM Scoping Meeting
Dec 08, 2008	<i>Dec 10, 2008 Mar 20, 2009 Apr 1, 2009</i>	Applicant provides data responses (round 1, part 1) <i>Applicant provides data responses (round 1, part 1 revisions and plans) Applicant provides data responses (round 1, part 2)</i>
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	<i>May 5, 2009</i>	CEC/BLM staff file data requests (round 2, if necessary)
Jan 15, 2009		Status Report # 1 due
Mar 3, 2009	<i>June 5, 2009</i>	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)
Apr 1, 2009		BLM NOA on PSA/DEIS sent to WO and ASLM (4-6 weeks)
May 05, 2009		Status Report #3 due
May 6, 2009		PSA/DEIS filed (90-day comment period required)
May 28, 2009		PSA Workshop/DEIS public meetings
Jul 21, 2009		Local, state and federal agency final determination
Aug 6, 2009		BLM comment period closes
Aug 7, 2009		Status Report # 4 due
Sep 17, 2009		Prepare responses to comments and prepare FSA/FEIS
Nov 15, 2009		NOA FEIS to WO and ASLM (4-6 weeks)
Dec 15, 2009		NOA of FSA/FEIS in FR
Dec 15, 2009		Final Staff Assessment/FEIS filed
TBD		Evidentiary hearings start
TBD		Energy Commission Committee files proposed decision
TBD		Hearing on proposed decision
TBD		BLM ROD (start 60-day federal review, 30-day protest, IBLA appeal
TBD		Close of the public comment period on the proposed decision
TBD		Addendum/revised proposed decision
TBD		Committee Decision

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

Staff clarifications show in italics

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
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**APPLICATION FOR CERTIFICATION
For the SES SOLAR TWO PROJECT**

Docket No. 08-AFC-5

PROOF OF SERVICE

(Revised 4/14/09)

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DECLARATION OF SERVICE

I, Mineka Foggie, declare that on May 5, 2009, I served and filed copies of the attached SES Solar Two Project- Status Report #3, dated May 5, 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 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 _____ 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. _____
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docket@energy.state.ca.us

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

Original Signature in Dockets
Mineka Foggie