

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov

DOCKET**08-AFC-5**DATE OCT 21 2009RECD. OCT 21 2009

October 21, 2009

Ms. Vicki L. Wood, Field Manager
El Centro Field Office
Bureau of Land Management
US Department of the Interior
1661 South 4th Street
El Centro, California 92243-4561

Re: CR CA-670-06-07/EIS CA-670-2006-33/CA-47740/ 8100 P [Response to Invitation to Participate in the Section 106 Consultation for the SES Solar Two Project (08-AFC-5), Imperial County, California]

Dear Ms. Wood,

I am in receipt of your August 25, 2009 invitation to California Energy Commission staff to become an Invited Signatory to a Programmatic Agreement (PA) currently under development among the El Centro Field Office of the Bureau of Land Management (BLM), as lead Federal agency, the California State Historic Preservation Officer, and the Advisory Council on Historic Preservation (Advisory Council) for the proposed SES Solar Two project in Imperial County. I understand the PA to be the primary means by which the BLM intends to meet its obligations under Section 106 of the National Historic Preservation Act (NHPA; 16 U.S.C. § 470f) and under the regulations that implement Section 106 (36 C.F.R. § 800) to take into account the effects of the subject project or undertaking on historic properties and to afford the Advisory Council a reasonable opportunity to comment on the undertaking.

The BLM appears to have chosen to resolve the potential adverse effects of the subject undertaking on historic properties in accordance with part 800.14(b)(1)(ii) of the federal regulations, where the effects of a project on historic properties cannot be fully determined prior to approval of the undertaking. I understand, on the basis of part 800.6(c)(2)(i), which follows from part 800.14(b)(3), that an Invited Signatory shall have all the same rights with regard to seeking amendment or termination of the PA as the other Signatories to the agreement.

I would like to take the opportunity here to clarify, for the public record, the distinction between the Energy Commission proper and Energy Commission staff. The Energy Commission is the impartial decision-making body that considers testimony or comments from the applicant, Energy Commission staff, interveners, and members of the public as it develops decisions on matters before it. Energy Commission staff, an independent party, provides the Energy Commission with analyses and recommendations to which the Energy Commission is not bound. With regard to the development of the subject PA, Energy Commission staff will participate in the

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negotiation of the document, will sign it, and will recommend the document and a number of other conditions of certification outside the document to the Energy Commission as appropriate resolutions to the significant effects that the proposed project would have on cultural resources. A decision by the Energy Commission to approve the proposed project with the PA and the other conditions of certification would bind Energy Commission staff to enforcing the PA and the conditions for compliance by the project. To clarify further, the participation of Energy Commission staff in the Section 106 process will not conflict or interfere with the independent decision-making authority of the Energy Commission or its obligation to comply with State law.

Under these terms, I, Terrence O'Brien, on behalf of the Siting, Transmission and Environmental Protection Division staff of the California Energy Commission, accept the invitation to become an Invited Signatory to the PA for the proposed SES Solar Two project. I appreciate the opportunity and intend, through my designee Michael McGuirt, to participate earnestly in the development and implementation of the agreement. Energy Commission staff hopes that its participation in the Section 106 process will further the goals set out in the *Memorandum of Understanding between the U.S. Department of the Interior, Bureau of Land Management, California Desert District, and the California Energy Commission Staff Concerning Joint Environmental Review for Solar Thermal Power Plant Projects* to avoid duplication of staff efforts, to promote intergovernmental coordination, to facilitate public review, and to streamline the environmental review process by reaching consensus on the potential effects of the proposed project and the resolution of any such effects that are found to be adverse or significant.

Sincerely,

TERRENCE O'BRIEN, Deputy Director
Siting, Transmission and
Environmental Protection Division

cc: Docket (08-AFC-5)
POS



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 8/17/09)

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*indicates change

DECLARATION OF SERVICE

I, Julie C. Mumme, declare that on October 21, 2009, I served and filed copies of the attached Letter Re: CR CA 670-06-07/EIS CA-670-2006-33/CA-47740/ 8100 P [*Response to Invitation to Participate in the Section 106 Consultation for the SES Solar Two Project (08-AFC-5), Imperial County, California*, dated, October 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:
[\[http://www.energy.ca.gov/sitingcases/solartwo/index.html\]](http://www.energy.ca.gov/sitingcases/solartwo/index.html).

The documents have 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, California, 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
docket@energy.state.ca.us

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

Original signed by Julie Mumme