

STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

DOCKET

08-AFC-5

DATE JAN 19 2010

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In the Matter of:

The Application for Certification for the
SES Solar Two Project

Docket No. 08-AFC-5

**CALIFORNIA UNIONS FOR RELIABLE ENERGY
STATUS REPORT NO. 6**

January 19, 2010

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INTRODUCTION

California Unions for Reliable Energy (“CURE”) provides this sixth status report pursuant to the Committee’s Revised Scheduling Order from December 3, 2009 regarding SES Solar Two Project (“Project”). CURE participated in the scheduling workshop on November 10, 2009 and is currently reviewing the Mitigated Negative Declaration issued by the Seeley Water District for the conversion of the Seeley Waste Water Treatment Facility to a Recycled Water Facility to serve as the Project’s primary water source.

There are a number of significant informational gaps that should be filled prior to the release of the Staff Assessment. If the Staff releases its assessment before obtaining the required information, Staff would be unable to adequately complete its analysis. As a result, the public comment and evidentiary process would effectively be bifurcated, resulting in a duplication of effort by all parties.

There are still unresolved questions about the impacts associated with the Project’s water supply. The Seeley Waste Water Treatment Facility is proposing to undergo a major upgrade in order to supply recycled water for the Project. The Commission must review this upgrade as part of the direct, indirect and cumulative impacts from the Solar Two Project. The Commission must also review the Applicant’s proposal to drill groundwater wells. However, information is needed from the Applicant about the purpose of its proposed groundwater well drilling.

DISCUSSION

Bifurcation of Project Review

Although the Staff Assessment is expected to be released soon, it will be lacking in significant information necessary for an adequate evaluation of the Project under the California Environmental Quality Act (“CEQA”). Missing information includes the Applicant’s proposed mitigation for significant adverse cultural resource impacts and significant water supply impacts. There is also fundamental information lacking about hydrologic processes and sediment transport modeling relevant to the Project’s significant cultural, biological and soil and water impacts.

As the Committee and Commission Staff stated at the last scheduling conference, the Staff Assessment should be complete and final for purposes of Staff’s review of the Project since the Commission has eliminated the Preliminary Staff Assessment. Additionally, the Staff Assessment should be complete prior to its publication because it would provide a clear understanding of what is being proposed, it would avoid duplication of efforts, and Commission regulations require that the Staff and agency assessments be presented during evidentiary proceedings.¹ If Staff issues an incomplete analysis and later files significant new information, a noticed addendum to the Staff Assessment must be circulated for public review and comment prior to additional evidentiary hearings, resulting in a duplication of effort and a bifurcation of the proceeding.

¹ Cal. Code Regs., tit. 20, § 1748.

Water Supply for Project

As CURE explained in our prior status report, CEQA requires that the Commission act as the lead agency to conduct environmental review of the Seeley Waste Water Treatment Facility (“SWWTF”). Although the Commission does not have permitting jurisdiction over the SWWTF, it has statutory responsibility under CEQA to review the environmental impacts of the SWWTF upgrade because this upgrade constitutes related infrastructure necessary for Project operations.

The SWWTF is being converted into a recycled water facility to supply water to the Project as a direct result of a contract between SES Solar Two, LLC and the Seeley County Water District signed on May 18, 2009. The Seeley County Water District released a Mitigated Negative Declaration for an upgrade of its wastewater treatment facility on January 2, 2010. CURE is currently reviewing this document and associated reference materials. Staff must likewise review all impacts related to the construction and operation of the SWWTF and incorporate required mitigation in the Staff Assessment, since the facility upgrade is a integral part of the ‘whole of the action’ under CEQA.

Groundwater on Project Site

In the Applicant’s fifth status report, it was disclosed that an environmental assessment regarding drilling water wells on the Project site was initiated with the Bureau of Land Management (“BLM”). Communication with the BLM Project Manager Jim Stobaugh confirmed that this was not correct and that no application

had been filed with BLM regarding water wells on the Project site. No further clarification has been provided by the Applicant.

CONCLUSION

Since the Energy Commission has taken the extraordinary step of eliminating the Preliminary Staff Assessment, and in turn eliminating much of the public and Intervenors' opportunity to provide comments prior to a Final Staff Assessment, it would be more expedient and logical for the Commission staff to wait until it has obtained all necessary information and has completed its analysis before releasing the Staff Assessment. If Staff issues its assessment prior to completing its analysis, the Committee would be required to bifurcate the proceeding and require circulation of an addendum for public review prior to additional evidentiary hearings.

Dated: January 19, 2010

Respectfully submitted,

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DECLARATION OF SERVICE

I, Bonnie Heeley, declare that on January 19, 2010, I served and filed copies of the attached CALIFORNIA UNIONS FOR RELIABLE ENERGY STATUS REPORT NO. 6, dated January 19, 2010. 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 19th day of January, 2010.

_____/s/_____
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