

Date: March 9, 2010

To: Commissioner Jeffrey D. Byron, Presiding Member
Commissioner Anthony Eggert, Associate Member
Hearing Officer, Raoul Renaud
Project Manager, Christopher Meyers

From: Richard Knox, Project Manager

Subject: **Imperial Valley Solar Project Status Report (08-AFC-5)**

DOCKET	
08-AFC-5	
DATE	MAR 9 2010
RECD.	MAR 12 2010

Dear Sirs

I would like to take this opportunity to update you the Imperial Valley Solar Project (IVSP) as seen through the lens of the Applicant.

Project Schedule

We appreciate the continuing efforts of the California Energy Commission (Commission), Bureau of Land Management (BLM), and other agencies in considering the IVSP Application for Certification (AFC) but also need to continue to stress the importance of a late August 2010 decision date. Publication of the Staff Assessment/Draft Environmental Impact Statement (SA/DEIS) on February 12, 2010 will go a long way in reaching the Commission's Decision and a Record of Decision (ROD) from the BLM in the August timeframe. We understand that the public comment period will end on May 26, 2010. Meeting the **American Recovery and Reinvestment Act (ARRA)** "shovel ready" status by near year end is critical for this work. We are encouraged that staff moved quickly in scheduling workshops, and that the Committee scheduled the pre hearing conference, and the evidentiary hearings upon publication of the SA/DEIS. Thank you.

Attached is a schedule we propose for the remainder of the case. We have added slightly more detail related to key target dates. Specifically, we have included the Army Corps of Engineers (ACOE) permitting processes and the signing of the Programmatic Agreement (PA) that would conclude consultation pursuant to Section 106 of the National Historic Preservation Act (NHPA).

Water Supply

Seeley Wastewater Treatment Facility (SWWTF) published a Draft Mitigated Negative Declaration (DMND) evaluating, under the California Environmental Quality Act (CEQA), potential impacts associated with the proposed upgrade of the existing facility to a Title 22 compliant facility. As Commission knows, up to 200,000 gallons per day (GPD) of treated water from this facility will be used for the IVSP. As a result of comments received on the DMND from intervenors for this project and others, SWWTF made a reasoned and appropriate decision to evaluate the impacts of the upgrade project in an Environmental Impact Report (EIR). The EIR will be completed before a ROD is issued for IVSP. Because the SWWTF did not issue a Final Mitigated Negative Declaration and approve the upgrade project, the Commission and the BLM

need to independently review the potential impacts associated with this related project. To assist in these efforts, the Applicant's environmental consultants (i.e., URS Corp and Ecosphere Environmental Services) recently prepared and docketed additional information evaluating the potential impacts associated with the upgrade project. Once Seeley completes the EIR for the upgrade project, (anticipated to be completed end of March), the Applicant will docket additional information. The Applicant understands that the staff is currently conducting an independent review of the potential impacts associated with the SWWTF upgrade project and intends to release this review for public comment by late Spring. This information will then be incorporated into the Supplemental Staff Assessment (SSA)/Final Environmental Impact Statement (FEIS).

Rare Plant Surveys

An Interagency Memorandum (IM) was issued by the BLM in the October/November 2009 timeframe related to rare plant surveys required for large-scale solar projects. This IM includes more stringent surveying requirements. Given the ten year rain event the project site received early this year, Tessera Solar recommended that early and late spring surveys be completed in an effort to ensure that potential impacts on rare plants are avoided and minimized to the extent practicable and that unavoidable impacts are fully mitigated. It is currently believed the BLM may compel the Applicant to conduct Fall 2010 rare plant surveys. It should be noted that surveys in the Fall timeframe may have a significant effect on beginning construction. Based on the potential species list provided to the Applicant, it is not anticipated that the fall surveys would result in any additional information that cannot be obtained through the two Spring surveys currently underway. The Applicant continues to seek clarity on this issue from the BLM.

Biological Resources

The United States Fish and Wildlife Service (USFWS) accepted the Applicant's Biological Assessment (BA) on January 29, 2010. The BA discussed potential impacts on the Peninsular Big Horn Sheep (PBHS) and the Flat Tailed Horned Lizard (FTHL) and their associated habitats. It should be noted that on March 1, 2010 the USFWS reopened the public comment period on the proposed rule to list the FTHL as *Threatened* under the Endangered Species Act (ESA). It is the Applicant's understanding that the BLM has issued a memorandum stating that the project is likely to adversely affect the FTHL. Conversely, the Applicant understands that the BLM has concluded that the project is not likely to adversely affect the PBHS. The applicant awaits a Conference Opinion from the USFWS related to the FTHL.

Cultural Resources

It is the Applicant's understanding that a draft Programmatic Agreement is a work in progress and a draft should be transmitted to participating entities by March 22, 2010. In an effort to be responsive to participating entities in the Section 106 process; Tessera Solar has recommended that a comprehensive ethnographic study be completed within the Area of Potential Effect. The scope and schedule of this effort have yet to be defined.

Glint and Glare Analysis

In an effort to be responsive to CEC and BLM concerns related to potential glint and glare issues along Interstate 8 (I-8) and on sensitive viewers elsewhere; the Applicant has commissioned a glint and glare analysis that will determine the potential impacts associated with reflections from the SunCatcher on viewers. This study is being completed by POWER Engineers and will be completed by mid to late April.

ACOE - Section 404 (B) (1) Alternatives Analysis

The Applicant has been in close coordination with the ACOE related to potential impact on Waters of the United States (WUS); working through criteria and analysis that will assist the ACOE in making a determination of the Least Environmentally Damaging Practicable Alternative. As a part of this consultation the ACOE requested that the California Rapid Assessment Model (CRAM) be completed on the washes located on the site. The Applicant has agreed and the CRAM should be completed in the late April to early May timeframe. Occurring parallel with the CRAM effort, the Applicant has been developing the 404 (B) (1) Alternatives Analysis and will complete this effort within the same timeframe as the CRAM. The Applicant seeks clarity on what additional mitigation the ACOE may compel that has not already been agreed upon by California Department of Fish and Game (CDFG), USFWS, the Regional Water Quality Control Board (RWQCB), the BLM and CEC.

Public Comment Period

On February 22, 2010, the Department of Interior published a Notice of Availability (NOA) in the Federal Register (75 FR 7624-25) informing the public of the issuance of the SA/DEIS. The NOA stated that the BLM would consider all written comments on the DEIS submitted within 90 days of the publication of the Environmental Protection Agency's (EPA) NOA in the federal register. The EPA published the NOA for the BLM's DEIS on February 26, 2010 (75 FR 8937), commencing the public comment period. The EPA's NOA incorrectly provided a 45 day comment period, the comment period required for issuances of a Grant for Right of Way (not a Resource Management Plan Amendment that requires a 90 day review period). We understand that the EPA published a correction noting that the public comment period extends for ninety days of the original publication of the EPA's NOA and that therefore, the comment period closes on May 26, 2010.

It should be noted that the DOI mistakenly issued a NOA for the SA/DEIS on February 19, 2010 (75 FR 7515-7517). On February 23, 2010, the DOI published a correction in the Federal Register withdrawing the February 19th NOA (75 FR 8105). This notice served to clarify that the NOA published on February 22, 2010 is the operative NOA and that NOA remains in effect.

Errors and Omissions in the SA/DEIS

The Applicant has thoroughly reviewed the Commission's and BLM's SA/DEIS (dated February 12, 2010). Our comments on this assessment will be transmitted to Commission on Friday March 12, 2010. The Applicant is confident that this information will add additional layers of clarity to an already substantial document.

Workshop Topics

The Applicant would like an opportunity to address the following topics during the workshops scheduled for 3.22/23. 2010:

- Land Use/Recreation
- Visual Resources
- Biological Resources
- Soil and Water

- Noise
- Alternatives
- Cumulative Impacts
- Land Use Plan Amendment
- Various Conditions for Certification

Again – Tessera Solar appreciates the continued herculean efforts the Commission and the BLM put towards this very exciting and important project. Should you have any questions associated with this status report, please call me at 602-535-3588.

Sincerely

A handwritten signature in blue ink, appearing to read 'Richard Knox', with a stylized flourish at the end.

Richard Knox
Permitting Director
Tessera Solar Americas

REVISED

3/8/2010

IMPERIAL VALLEY SCHEDULE REVIEW

ACTIVITY	Committee 3/1/10 Committee Order	Proposed Lapsed Time	Applicant Proposed Schedule
Public SA/DEIS	2/12/2010		2/12/2010
Publish NOA			2/26/2010
Initiate USFWS (BA)	2/15/2010		2/12/2010
Notice SA Workshops			2/12/2010
SA Workshops	3/1/2010	SA + 2-3 wks	2/26/2010
ACOE LEDPA			5/17/2010
Applicant Testimony	3/15/2010	SA + 4 weeks	3/15/2010
PHC Statements	3/15/2010	SA + 4 weeks	3/15/2010
Prehearing Conference	3/22/2010	SA + 5 weeks	3/21/2010
Other Testimony	4/1/2010	SA + 6 weeks	4/1/2010
Notice Hearings			4/5/2010
Rebuttal Testimony	4/8/2010	SA + 7 weeks	4/8/2010
Final Prehear. Conf.	4/8/2010	SA + 7 weeks	4/8/2010
Evidentiary Hearings	4/19/2010	SA + 8 weeks	4/19/2010
Post Hearing Briefs	5/3/2010	EH + 2 weeks	5/3/2010
DEIS Comment Ends	5/27/2010	DEIS + 90 days	5/27/2010
USFWS BO	5/17/2010	BA + 90 days	5/13/2010
Final Cultural PA	5/17/2010		5/17/2010
Draft SSA/FEIS to BLM			6/11/2010
Submit NOA to Fed. Reg.		NOA - 14 days	6/11/2010
Publish SSA/FEIS	6/15/2010	Continental RWKs	6/25/2010
Publish NOA		SSA	6/25/2010
Begin Governor Review		FEIS	6/25/2010
Hearing??			??
Publish PMPD	7/1/2010	SSA + 2 weeks	7/9/2010
Notice PMPD Hearing			7/16/2010
End of FEIS Comment	7/15/2010	FEIS + 4 weeks	7/25/2010
End of Protest Period		FEIS + 4 weeks	7/25/2010
PMPD Hearing	7/21/2010	PMPD + 3 weeks	7/30/2010
Internal Draft ROD			7/25/2010
PMPD Comment Ends	8/2/2010	PMPD + 30 days	8/8/2010
End Governor Review		FEIS + 60 days	8/24/2010
Revised PMPD	TBD	PMPD + 5 weeks	8/16/2010
Final Decision Hearing	8/25/2010	PMPD + 2 weeks	8/30/2010
ACQ/EROD			8/30/2010
DC/EROD			8/30/2010
BLM ROD (Maximum)	8/25/2010		8/30/2010
Start Construction		Final Decision + 1 da	8/31/2010



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

Docket No. 08-AFC-5

PROOF OF SERVICE

(Revised 1/27/10)

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DECLARATION OF SERVICE

I, Corinne Lytle, declare that on March 9, 2010, I served and filed copies of the attached Applicant's Status Report #8. 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)

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X sent electronically to all email addresses on the Proof of Service list;

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

Original signed by

Corinne Lytle