



QUECHAN INDIAN TRIBE
Ft. Yuma Indian Reservation

P.O. Box 1899
Yuma, Arizona 85366-1899
Phone (760) 572-0213
Fax (760) 572-2102

DOCKET
09-AFC-8

DATE 02/16/10

RECD. 03/11/10

February 16, 2010

Mr. John Kalish, Field Manager
Bureau of Land Management, Palm Springs Field Office
1201 Bird Center Drive
Palm Springs, CA 92262

Re: Section 106 Consultation Process: (a) First Solar Desert Sunlight; (b) Palen Solar; (c) Ford Dry Lake Solar; and (d) Blythe Solar Projects

Dear Mr. Kalish:

This letter addresses concerns that the Quechan Indian Tribe of the Fort Yuma Indian Reservation has with the ongoing evaluation of cultural resource impacts associated with the First Solar Desert Sunlight, Palen Solar, Ford Dry Lake Solar and Blythe Solar power projects. Specifically, the Tribe is concerned that the current regulatory approval schedule, which calls for a Record of Decision to be issued by September 2010, does not provide adequate time to conduct a thorough and complete Section 106 consultation under the National Historic Preservation Act (NHPA). BLM must ensure that it completes the Section 106 process, including identification of affected sites, consultation with affected entities and tribes, and development of an appropriate treatment plan, before it makes a final decision whether to grant approvals for each Project. It would be inappropriate to defer consultation or decisions regarding cultural resource protection and mitigation until after the final decision is made.

The Quechan people and their ancestors have inhabited the area surrounding the confluence of the Colorado and Gila Rivers for centuries. The Quechan Tribe's traditional lands extend well beyond the boundaries of the present day Fort Yuma Indian Reservation. Prior to creation of the Fort Yuma Indian Reservation, the Tribe and its members traditionally used lands far to the north and west of the Reservation. The cultural landscape of the Quechan consists of a myriad of natural and cultural features. Cultural features include mythology locales, sacred places, petroglyphs, settlement and battle site locations, trails, and other resource use areas, along with prehistoric and historic archaeological sites. Proposed developments such as these threaten the integrity of the cultural landscape. Careful consideration is required to identify and evaluate measures to avoid impacts to cultural resources.

PROOF OF SERVICE (REVISED 2/22/10) FILED WITH
ORIGINAL MAILED FROM SACRAMENTO ON 3/11/10

MS

It is our understanding that each of the aforementioned projects is seeking “fast track” approval in order to meet certain Project funding deadlines. However, BLM must not rush the Section 106 process simply to meet the applicants’ timetable. Federal law requires BLM to conduct a thorough and deliberative review of the affected cultural resources, consult with interested parties and tribes, and prepare a meaningful plan to address potential impacts prior to making a final decision. The Tribe expects BLM to comply with that process in these proceedings even if it requires pushing the final record-of-decision beyond September 2010.

It is the Tribe’s understanding that other BLM offices are developing Programmatic Agreements (PA) to address effects on cultural and historic resources for the fast track projects within their field offices. The Tribe does not believe that any of these projects meet the regulatory criteria contained in 36 C.F.R. § 800.14(b) for use of a PA. Other than the artificial fast-track timeline proposed by BLM and the Project applicants, there is no apparent reason why effects on cultural resources cannot be fully determined prior to BLM’s decision whether to approve these projects.

The Tribe believes that the appropriate course of action is to thoroughly consult and evaluate how the undertaking, if approved, would impact cultural sites and then, based on that thorough review, make an informed decision on whether to approve the projects. The standard Section 106 process of consultation and determination/resolution of effects, prior to project approval, is required here. Even if the PA process is used, government-to-government consultation with the Tribe is still required.

The Quechan Tribe is not necessarily opposed to the projects, but the Tribe has significant concerns regarding impacts to cultural resources that must be addressed prior to any BLM decision whether to move forward with these Projects. BLM must meaningfully comply with the Section 106 and government-to-government consultation processes so that it has sufficient information to determine whether it is appropriate to permit construction of these projects in a culturally sensitive area. If BLM ultimately determines that the projects can go forward, despite the presence of significant cultural resources, BLM must work with the Tribe to develop a meaningful plan to avoid impacts to the cultural sites. It may not be possible to accomplish these tasks under the “fast track” schedule currently envisioned.

Thank you for your consideration. The Tribe looks forward to working with BLM as this process moves forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Jackson, Sr.", written in a cursive style.

Mike Jackson, Sr., President

cc: Ken Salazar, Secretary of the Interior
Nancy Brown, Advisory Council on Historic Preservation
Mike Monasmith, California Energy Commission Project Manager
Wayne Donaldson, California State Historic Preservation Officer
Dave Singleton, Native American Heritage Commission



**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
*GENESIS SOLAR ENERGY PROJECT***

Docket No. 09-AFC-8

**PROOF OF SERVICE
(Revised 2/22/10)**

APPLICANT

Ryan O’Keefe, Vice President
Genesis Solar LLC
700 Universe Boulevard
Juno Beach, Florida 33408
*E-mail service preferred
Ryan.okeefe@nexteraenergy.com

Scott Busa/Project Director
Meg Russel/Project Manager
Duane McCloud/Lead Engineer
NextEra Energy
700 Universe Boulevard
Juno Beach, FL 33408
Scott.Busa@nexteraenergy.com
Meg.Russell@nexteraenergy.com
Duane.mccloud@nexteraenergy.com

*E-mail service preferred
Matt Handel/Vice President
Matt.Handel@nexteraenergy.com
*Email service preferred
Kenny Stein,
Environmental Services Manager
Kenneth.Stein@nexteraenergy.com

Mike Pappalardo
Permitting Manager
3368 Videra Drive
Eugene, OR 97405
mike.pappalardo@nexteraenergy.com

*Kerry Hattevik/Director
West Region Regulatory Affairs
829 Arlington Boulevard
El Cerrito, CA 94530
Kerry.Hattevik@nexteraenergy.com

APPLICANT’S CONSULTANTS

Tricia Bernhardt/Project Manager
Tetra Tech, EC
143 Union Boulevard, Ste 1010
Lakewood, CO 80228
Tricia.bernhardt@ttech.com

*James Kimura, Project Engineer
Worley Parsons
2330 East Bidwell Street, Ste.150
Folsom, CA 95630
James.Kimura@WorleyParsons.com

COUNSEL FOR APPLICANT

Scott Galati
Galati & Blek, LLP
455 Capitol Mall, Ste. 350
Sacramento, CA 95814
sgalati@qb-llp.com

INTERESTED AGENCIES

California-ISO
e-recipient@caiso.com
Allison Shaffer, Project Manager
Bureau of Land Management
Palm Springs South Coast
Field Office
1201 Bird Center Drive
Palm Springs, CA 92262
Allison_Shaffer@blm.gov

INTERVENORS

California Unions for Reliable
Energy (CURE)
c/o: Tanya A. Gulesserian,
*Rachael E. Koss,
Marc D. Joseph
Adams Broadwell Joesph
& Cardoza
601 Gateway Boulevard,
Ste 1000
South San Francisco, CA 94080
tgulesserian@adamsbroadwell.com
rkoss@adamsbroadwell.com

Californians for Renewable
Energy, Inc. (CARE)
Michael E. Boyd, President
5439 Soquel Drive
Soquel, CA 95073-2659
michaelboyd@sbcglobal.net

OTHER

Alfredo Figueroa
424 North Carlton
Blythe, CA 92225
lacunadeaztlan@aol.com

ENERGY COMMISSION

JAMES D. BOYD
Commissioner and Presiding
Member
jboyd@energy.state.ca.us

ROBERT WEISENMILLER
Commissioner and Associate
Member
rweisenm@energy.state.ca.us

Kenneth Celli
Hearing Officer
kcelli@energy.state.ca.us

Mike Monasmith
Siting Project Manager
mmonasmi@energy.state.ca.us

Caryn Holmes
Staff Counsel
cholmes@energy.state.ca.us

Robin Mayer
Staff Counsel
rmayer@energy.state.ca.us

Jennifer Jennings
Public Adviser’s Office
publicadviser@energy.state.ca.us

*indicates change

DECLARATION OF SERVICE

I, Maria Santourdjian, declare that on March 11, 2010, I served and filed copies of the attached Section 106 Consultation Process Letter, dated February 16, 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: [http://www.energy.ca.gov/sitingcases/genesis_solar].

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:

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

 x 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:

 x 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. 09-AFC-8
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.

Originally Signed by _____
Maria Santourdjian