

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037

TEL: (650) 589-1660
FAX: (650) 589-5062

rkoss@adamsbroadwell.com

SACRAMENTO OFFICE

520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721

TEL: (916) 444-6201
FAX: (916) 444-6209

DANIEL L. CARDOZO
THOMAS A. ENSLOW
TANYA A. GULESSERIAN
JASON W. HOLDER
MARC D. JOSEPH
ELIZABETH KLEBANER
RACHAEL E. KOSS
LOULENA A. MILES
ROBYN C. PURCHIA

FELLOW
AARON G. EZROJ

OF COUNSEL
THOMAS R. ADAMS
ANN BROADWELL
GLORIA D. SMITH

June 1, 2010

DOCKET
09-AFC-8

DATE JUN 01 2010

RECD. JUN 01 2010

California Energy Commission
Attn Docket No. 09-AFC-8
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

Re: Genesis Solar Energy Project; 09-AFC-8

Dear Docket Clerk:

Enclosed are an original and one copy of **CALIFORNIA UNIONS FOR RELIABLE ENERGY BRIEF ON ISSUES CONCERNING US BUREAU OF LAND MANAGEMENT CULTURAL RESOURCES DATA**. Please docket the original, conform the copy and return the copy in the envelope provided.

Thank you for your assistance.

Sincerely,

/s/

Rachael E. Koss

REK:bh
Enclosures

2364-065a

STATE OF CALIFORNIA

**Energy Resources Conservation
and Development Commission**

Applications for Certification for the

Calico Solar (SES Solar One) Project,
Genesis Solar Energy Project,
Imperial Valley (SES Solar Two) Project,
Solar Millennium Blythe Project,
Solar Millennium Palen Project, and
Solar Millennium Ridgecrest Project.

Consolidated Hearing on Issues
Concerning US Bureau of Land
Management Cultural Resources Data

Docket Nos.

08-AFC-13,
09-AFC-8,
08-AFC-5,
09-AFC-6,
09-AFC-7,
09-AFC-9, and

10-CRD-1

**CALIFORNIA UNIONS FOR RELIABLE ENERGY
BRIEF ON ISSUES CONCERNING US BUREAU OF LAND
MANAGEMENT CULTURAL RESOURCES DATA**

June 1, 2010

Tanya A. Gulesserian
Rachael E. Koss
Marc D. Joseph
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
(650) 589-1660 Voice
(650) 589-5062 Facsimile
tgulesserian@adamsbroadwell.com
rkoss@adamsbroadwell.com

Attorneys for the CALIFORNIA
UNIONS FOR RELIABLE ENERGY

Table of Contents

I. INTRODUCTION 2

II. DISCUSSION 5

3-4. Who submitted the data to the Commission? What is the data?... 5

5. Is there restricted access to the land on which the cultural resources are found?..... 6

6. Should local tribal entities with an interest in the project site have access to the data and the land..... 6

9. What are the cultural resource issues in the proceedings? 9

10. What does the Commission need, under the Warren-Alquist Act, the CEC regulations, CEQA, NEPA, the cultural resources laws, and the APA, to resolve those issues? 11

a. CEQA Requires the Commission to Review the Data 12

b. The Energy Commission Regulations Require the Commission to Review the Data..... 16

c. The Warren-Alquist Act Requires the Commission to Review the Data 17

11. For projects proposed on BLM land, can the CEC defer, partially or entirely, to BLM’s decisions on cultural resource issues, under the Warren-Alquist Act, the CEC regulations, CEQA, NEPA, the cultural resources laws, and the APA? 18

12. In a Commission proceeding for a project(s) proposed on private land, are there similar issues of who should be permitted access to confidential cultural resources data?..... 22

13. What data are parties entitled to, under the Warren-Alquist Act, the CEC regulations, CEQA, NEPA, the cultural resources laws, and the APA?..... 23

14. If the CEC Staff has access to certain data, must some or all other parties have access, under the Warren-Alquist Act, the CEC regulations, CEQA, NEPA, the cultural resources laws, and the APA?..... 24

15. If the data is revealed to any party, including but not limited to the CEC Staff, what appropriate nondisclosure agreements, if any, should be made?..... 24

16. May the Commission legally remove information from the docket of an adjudicative proceeding?..... 25

III. CONCLUSION 25

California Unions for Reliable Energy (“CURE”) files this brief in opposition to the Bureau of Land Management’s Request for Reconsideration, pursuant to the Committee’s May 21, 2010 Notice and Orders for Consolidated Hearing on Issues Concerning US Bureau of Land Management Cultural Resources Data (“Order”). The Commission should promptly deny BLM’s request for reconsideration so that it can proceed with its analysis of the impacts of projects on cultural resources.

The Committee directed the parties to file briefs responding to numerous questions related to data pertaining to cultural resources on BLM land, as listed in Appendix C to the Order. CURE answers those questions in Appendix C to which it can provide information useful to the Committee’s decision. Specifically, CURE addresses the questions in the context of the Genesis Solar Energy Project (“Genesis”) and Imperial Valley Solar Project (“Imperial Valley”). However, CURE’s analysis is generally applicable to all of the solar power plant siting cases listed in the Order.

Preliminarily, CURE thanks the Committee for recognizing that the availability of cultural resources data is a critical issue in solar power plant siting proceedings that requires quick resolution. As discussed below, BLM is prohibiting the Commission from fulfilling its statutory obligations and is preventing CURE, the affected Tribes and others from fully participating in the Energy Commission process.

I. INTRODUCTION

In both the Genesis and Imperial Valley proceedings, the project applicants, Genesis Solar, LLC and Imperial Valley, LLC, filed a number of documents with the Energy Commission under confidential cover relating to the cultural resources in the project areas. The confidential documents provide detailed inventories and locations of cultural resources in the defined project areas of analysis. Unlike most prior siting cases involving only a few dozen acres, according to the Staff Assessment for the Genesis proceeding, the area of analysis contains over 300 cultural resources, including historic and prehistoric archaeological sites, and isolates, potential ethnographic resources and linear built-environment resources.¹ In Imperial Valley, the Staff Assessment concluded that there are approximately 330 known prehistoric and historical surface archaeological resources and an unknown number of buried archaeological deposits.²

However, details regarding the cultural resources were deemed confidential by the Energy Commission, and therefore are not included in the Staff Assessments. Details regarding the cultural resources are essential to enable the Commission to determine whether the Genesis and Imperial Valley projects will result in significant impacts to cultural resources, what

¹ Staff Assessment and Draft Environmental Impact Statement, Genesis Solar Energy Project (09-AFC-8), p. C.3-66.

² Staff Assessment and Draft Environmental Impact Statement, SES Solar Two [Imperial Valley] Project (08-AFC-5) p. C.2-1.

the mitigation measures should be and whether those mitigation measures will reduce significant impacts to below a level of significance.

Commission Staff reviewed detailed cultural resources data for the Genesis and Imperial Valley projects, and determined that both projects would result in significant impacts to cultural resources.³ Staff is currently developing mitigation measures for significant impacts to cultural resources for Genesis. A programmatic agreement is being developed to mitigate cultural resource impacts posed by the Imperial Valley project.

CURE petitioned to inspect the detailed cultural resources data for the Genesis and Imperial Valley projects to enable CURE to evaluate the impacts to cultural resources related to the projects and to prepare expert testimony regarding the identification, avoidance, alternatives and mitigation of cultural resources impacts associated with the projects. In order to ensure confidentiality, CURE proactively proposed to enter into nondisclosure agreements, and included proposed non-disclosure agreements with its petitions.

Despite CURE's reasonable approach to obtaining the reports, BLM objects to disclosing the data. In the Genesis proceeding, BLM is preventing CURE from obtaining the data necessary to analyze the project's potentially significant impacts on cultural resources under CEQA and the project's compliance with all applicable laws, ordinances, regulations, and standards

³ *Id.* at C.3-1.; C.2-1.

“LORS”). In Imperial Valley, BLM delayed the release of the data until only a few days before CURE’s testimony was due. Consequently, CURE could not assess the project’s potentially significant impacts on cultural resources or the project’s compliance with LORS for testimony. Now, BLM requests that the Commission actually return all cultural resource documents⁴ and *prohibits* applicants from submitting additional cultural resource reports to the Energy Commission.⁵ BLM is trying to prevent the Commission, CURE and anyone else from retaining the information.

Herein lays the Commission’s dilemma. The Commission cannot satisfy its obligations under CEQA, the Warren-Alquist Act, and Commission regulations without reviewing the detailed cultural resources data and including that data in its evidentiary record. Without the data, there will simply be no evidence on which to base the Commission’s decision. Yet, BLM seeks to prevent the Commission from obtaining and retaining the data.

In addition, CURE, as a party to the Genesis and Imperial Valley proceedings, has an equal right to that data. Yet BLM has prohibited CURE from reviewing the data in the Genesis proceeding and has substantially delayed releasing the data in the Imperial Valley proceeding. CURE’s testimony for the Genesis proceeding is due on June 18, 2010, yet we still do not have the information on which to base our testimony. CURE could not

⁴ Letter from J. Abbott to M. Jones, May 18, 2010, p. 3.

⁵ Letter from J. Farrell to G. Kline re: Final Draft Class II and Class III Cultural Resources Inventories for the Genesis Solar Energy Project, Riverside County, California—Supplemental Corrected CD, May 25, 2010 (Docketed with Energy Commission on May 28, 2010).

file testimony on cultural resources for Imperial Valley because it did not receive the data in time. BLM is preventing CURE from fully participating as a party in the Genesis and Imperial Valley proceedings.

If BLM continues to prohibit the release of cultural resources data (even though release would be pursuant to nondisclosure agreements), the Commission will not be able to perform its statutory duties, and CURE, the Tribes and other parties will not be able to fully participate in numerous Energy Commission proceedings.

II. DISCUSSION

CURE's answers to questions posed in Appendix C to the Order are as follows:

3-4. Who submitted the data to the Commission? What is the data?

On numerous occasions, the applicants for the Genesis and Imperial Valley projects filed several documents related to cultural resources data under confidential cover. The confidential documents provide detailed inventories and locations of cultural resources in the defined project areas of analysis. According to the submittal cover letters, the documents, “specifically identif[y] site locations and areas of potential cultural significance.”⁶

⁶ Letter from to J. Farrell to M. Jones re: Confidential Cover Submittal of the Genesis Solar Energy Project Draft Class II and Class III Cultural Resources Inventories for the Genesis Solar Energy Project, Riverside County, California, August 31, 2009; Letter from to J. Farrell to M. Jones re: Confidential Cover Submittal of the Genesis Solar Energy Project Application for Certification (09 AFC 08) Data Adequacy Supplement Confidential Cultural Resource

5. Is there restricted access to the land on which the cultural resources are found?

The Genesis project site is located on public land that is administered by BLM.⁷ Under BLM’s California Desert Conservation Area Plan (“CDCA”) and Northern and Eastern Colorado Desert Coordinated Management Plan, the Genesis project site is categorized as “Class M (Moderate Use).” Class M allows for a variety of uses, such as backpacking, camping, hiking, and vehicle touring on approved routes.⁸ Similarly, the majority of the Imperial Valley site is located on public land administered by the BLM. The Imperial Valley site is located within the “Limited Use” category of BLM’s CDCA Plan.⁹ This allows for camping and recreation but vehicles are restricted to approved routes of travel.

6. Should local tribal entities with an interest in the project site have access to the data and the land?

Certainly, there is no one better to determine the significance of impacts to culturally valuable resources than members of the communities

Data Response, October 12, 2009; Letter from to J. Farrell to M. Jones re: Confidential Cover Submittal of the Genesis Solar Energy Project Application for Certification (09 AFC 08) Data Adequacy Supplement 1B: Confidential Cultural Resource Response *Revised Draft Class II and Class III Cultural Resources Inventories for the Proposed Genesis Solar Energy Project, Riverside County, California—Requested Additional Copy Submittal*, October 12, 2009. Cultural Resources Technical Report, dated 1/8/2010 from A. Leiba to C. Meyer; Class III Cultural Resources Technical Report, dated 12/24/2009, from A. Leiba to C. Meyer; Cultural Resources Report, Appendix D, dated 6/12/2009, from A. Leiba to C. Meyer; Cultural Resources Site Location and Cultural Content Groundtruth task: Levels 1 and 2 Evaluations and Recommendations, dated 6/4/2009, from M. Zentner to Meyer.

⁷ Staff Assessment and Draft Environmental Impact Statement, Genesis Solar Energy Project (09-AFC-8), p. C.6-4.

⁸ Staff Assessment and Draft Environmental Impact Statement, Genesis Solar Energy Project (09-AFC-8), p. C.6-6.

⁹ Staff Assessment and Draft Environmental Impact Statement, SES Solar Two [Imperial Valley] Project (08-AFC-5) p. C.8-9.

who hold those resources valuable. Moreover, the National Historic Preservation Act (“NHPA”) recognizes this right. Section 101(d)(6)(B) of the NHPA requires the agency official [BLM] to consult with any Indian tribe that attaches religious and cultural significance to historic properties that may be affected by an undertaking. The regulations implementing the NHPA require that consultation in the section 106 process provides the Indian Tribe a reasonable opportunity to identify its concerns about historic properties, advise on the identification and evaluation of historic properties, including those of traditional religious and cultural importance, articulate its views on the undertaking’s effects on such properties, and participate in the resolution of adverse effects.¹⁰

In the Genesis proceeding, Staff recognized that potentially significant impacts to McCoy Spring would be determined from the perspective of Native Americans and mitigation measures would be developed based on recommendations by Native Americans.¹¹ Thus, it is appropriate, if not necessary, for tribal entities with an interest in resources located in the project area to have access to the data and the land.

Several Native American Tribes expressed concerns about the potential for the Genesis project to destroy cultural resources and traditional cultural properties.¹² The Quechan Tribe requested copies of the cultural

¹⁰ 36 C.F.R. § 800.2

¹¹ Staff Assessment and Draft Environmental Impact Statement, Genesis Solar Energy Project (09-AFC-8), p. C.3-121.

¹² *Id.*, p. C.3-59.

resources data related to the Genesis project from BLM on numerous occasions.¹³ Despite the numerous requests, BLM has not released the data to the Quechan Tribe.

By refusing to release cultural resource data to the Tribes, BLM has stultified the consultation process with the Tribes under section 106 of the NHPA. In the Imperial Valley proceeding, Bridget Nash-Chrabascz submitted expert testimony that the BLM has even not initiated consultation with the Tribes pursuant to section 106 because BLM has not divulged the cultural resources reports.¹⁴ Thus, the Commission cannot find that the Imperial Valley project complies with LORS. The outcome would be the same in Genesis.

Furthermore, the Tribes have not been given a meaningful opportunity to participate in identifying potentially significant impacts to cultural resources on and around the project sites, or developing alternatives and mitigation measures under CEQA. Without the Tribes' input, Staff cannot complete its statutorily required assessments of the Genesis and Imperial Valley projects under CEQA, the Warren-Alquist Act, and the Energy Commission regulations (see sections 10 and 11 below for a full discussion of the Commission's obligations pursuant to CEQA, the Warren-Alquist Act, and the Energy Commission regulations).

¹³ *Id.*, pp. C.3-58-61.

¹⁴ Testimony of Bridget Nash Chrabascz, Quechan Tribe to CEC, 5/17/2010

9. What are the cultural resource issues in the proceedings?

In the Genesis proceeding, Staff concluded that the project would have a significant direct impact on 14 historically significant archaeological resources and a potential significant indirect impact on one ethnographic resource.¹⁵ Specifically, the resources include eight Native American archaeological sites, including potential contributing elements to a prehistoric trails network (a cultural landscape), six potential contributing elements to the World War II Desert Training Center, and McCoy Spring, which, according to Staff, is potentially traditional cultural property.¹⁶

Tribes have expressed concerns regarding the potential for the Genesis project to destroy cultural resources and traditional cultural properties.¹⁷ Specifically, the Quechan Tribe considers the Genesis project site to be a part of its traditional land and requests that “traditional areas rich in cultural resources be avoided.”¹⁸ In addition, the Chemehuevi Tribe is concerned about the Genesis project’s adverse impacts to sacred petroglyph sites in the Palen Mountains and at McCoy Spring, and to the ancient trails that run between them.¹⁹ According to Mr. Figueroa of the Chemehuevi Tribe, the proposed projects along the I-10 corridor, including Genesis, Blythe, and

¹⁵ Staff Assessment and Draft Environmental Impact Statement, Genesis Solar Energy Project (09-AFC-8), p. C.3-1.

¹⁶ *Id.*

¹⁷ *Id.*, p. C.3-59.

¹⁸ *Id.*

¹⁹ *Id.*, pp. C.3-59-60.

Palen, are located in “the most Sacred area of the North American Continent.”²⁰

For Imperial Valley, Staff identified extensive evidence of prehistoric use and settlement.²¹ The locations that are still visible range from the sites of the short-term manufacture of stone tools to larger sites for the harvesting of seasonal natural resources. Cremated human remains were recorded in a number of locations indicating longer-term settlement in the project. Overall, the BLM and Staff focused on collecting archaeological data. However, there are traditional cultural properties adjacent to the project site in the Coyote Mountains, Mt. Signal, the project site itself, and the Yuha Area of Critical Environmental Concern that is located adjacent to the project site. This information has been shared with the BLM and Energy Commission Staff at various meetings, but it was not analyzed in the Staff Assessment. Moreover, the Tribes have explained that, despite numerous requests, they have not been given an opportunity to review the technical report or adequately consult on the Imperia Valley project’s effects to traditional cultural properties.²²

²⁰ Testimony of Alfredo Acosta Figueroa on Issues Concerning US Bureau of Land Management Cultural Resources Data, May 26, 2010, p. 2.

²¹ Staff Assessment and Draft Environmental Impact Statement, Imperial Valley Solar Project (08-AFC-5), p. C.2-34.

²² Testimony of Bridget Nash Chrabascz, Quechan Tribe to CEC, 5/17/2010. Comments of Jill McCormick, Cocopah Tribe to BLM, 5/13/2010.

10. What does the Commission need, under the Warren-Alquist Act, the CEC regulations, CEQA, NEPA, the cultural resources laws, and the APA, to resolve those issues?

In order to fulfill its duties under CEQA, the Warren-Alquist Act, and Energy Commission regulations, the Commission must review the detailed cultural resources data contained in the inventories submitted to the Commission by the project applicants and include that data in the evidentiary record to support its decision.

First, the data establishes the environmental setting on which the Commission must base its analyses of the Genesis and Imperial Valley projects' potentially significant environmental impacts to cultural resources and its identification of mitigation measures and alternatives pursuant to CEQA. Second, the data is necessary to the Commission's obligations under Energy Commission regulations to evaluate the projects' significant environmental consequences. Finally, the data is the foundation upon which the Commission must evaluate the projects' compliance with LORS.

Although Staff reviewed cultural resources data for the Genesis and Imperial Valley projects, BLM now requests that the Commission return all cultural resource documents²³ and prohibits applicants from submitting additional cultural resource reports to the Energy Commission.²⁴ Without the data to review and include in the evidentiary record, the Commission's

²³ Letter from J. Abbott to M. Jones, May 18, 2010, p. 3.

²⁴ Letter from J. Farrell to G. Kline re: Final Draft Class II and Class III Cultural Resources Inventories for the Genesis Solar Energy Project, Riverside County, California—Supplemental Corrected CD, May 25, 2010 (Docketed with Energy Commission on May 28, 2010).

analyses would be inadequate and its decision would not be supported by substantial evidence in the record.

a. CEQA Requires the Commission to Review the Data

The existing environmental setting is a starting point to measure whether a proposed project may cause a significant environmental impact.²⁵ CEQA defines environmental setting, or “baseline,” as the physical environment as it exists at the time CEQA review is commenced.²⁶ Describing the environmental setting is critical to an accurate, meaningful evaluation of environmental impacts. The importance of having a stable, finite, fixed environmental setting for purposes of CEQA’s environmental analysis was recognized decades ago.²⁷ Today, the courts are clear that, “[b]efore the impacts of a project can be assessed and mitigation measures considered, an [environmental review document] must describe the existing environment. It is only against this baseline that any significant environmental effects can be determined.”²⁸ It is

a central concept of CEQA, widely accepted by the courts, that the significance of a project’s impacts cannot be measured unless the EIR first establishes the actual physical conditions on the property. In other words, baseline determination is the first rather than the last step in the environmental review process.²⁹

²⁵ See, e.g., *Communities for a Better Environment v. South Coast Air Quality Management District* (March 15, 2010) 48 Cal.4th 310, 316; *Fat v. County of Sacramento* (2002) 97 Cal.App.4th 1270, 1278 (“*Fat*”), citing Remy, et al., Guide to the Calif. Environmental Quality Act (1999) p. 165.

²⁶ CEQA Guidelines, §15125(a) (emphasis added); *Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428, 1453 (“*Riverwatch*”).

²⁷ *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193.

²⁸ *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 952.

²⁹ *Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, t 125.

In the Genesis proceeding, Staff recognizes its duty to establish the environmental setting before embarking on an impact analysis. Staff notes,

[a] cultural resources inventory specific to each proposed or alternative action under consideration is a ***necessary step*** in any staff effort to determine whether each such action may cause, under CEQA, a substantial adverse change in the significance of any cultural resources that are on or would qualify for the California Register of Historical Resources (CRHR), may, under NEPA, significantly affect important historic and cultural aspects of our national heritage, or may, under Section 106, adversely affect any cultural resources that are on or would qualify for the National Register of Historic Places (NRHP).³⁰

Without the detailed cultural resources data, Staff cannot complete its CEQA analysis. CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project.³¹ CEQA requires that an agency's environmental review document be prepared "with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences."³² Without reviewing detailed cultural resources data that identifies the locations of resources and areas of potential cultural significance, the Commission cannot determine whether a project will result in significant direct, indirect, or cumulative impacts to those resources.

³⁰ Staff Assessment and Draft Environmental Impact Statement, Genesis Solar Energy Project (09-AFC-8), pp. C.3-7-8 (emphasis added).

³¹ 14 Cal. Code Regs. ("CEQA Guidelines"), § 15002(a)(1).)

³² CEQA Guidelines, § 15151.

Furthermore, the Commission must avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures.³³ CEQA requires an environmental review document to describe mitigation measures sufficient to minimize the significant adverse environmental impacts.³⁴ The Commission may not rely on mitigation measures of uncertain efficacy or feasibility.³⁵

Without the detailed cultural resources data, it would be impossible for the Commission to know enough about the resources to determine whether mitigation is adequate to reduce impacts to below a level of significance. CEQA favors the preservation of cultural resources and the avoidance of impacts to such resources. The CEQA Guidelines provide that “[p]ublic agencies should, whenever feasible, seek to avoid damaging effects on any historical resource of an archaeological nature.”³⁶ Further, “[p]reservation in place is the preferred manner of mitigating impacts to archaeological sites” because “[p]reservation in place maintains the relationship between artifacts and the archaeological context” and “[p]reservation may also avoid conflict with religious or cultural values of groups associated with the site.”³⁷ To

³³ *Id.*, § 15002(a)(2) and (3). See also *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564; *Laurel Heights Improvement Ass’n v. Regents of the University of California* (1988) 47 Cal.3d 376, 400.

³⁴ Pub. Resources Code, §§ 21002.1(a), 21100(b)(3).

³⁵ *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727 (finding groundwater purchase agreement inadequate mitigation measure because no record evidence existed that replacement water was available).

³⁶ CEQA Guidelines, § 15126.4(b)(3).

³⁷ *Id.*, § 15126.4(b)(3)(A).

avoid and preserve the cultural resources that will be impacted by the proposed projects, one must know the specific locations of the resources.

The Commission also must study “...a range of reasonable alternatives to the project, or to the location of a project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.”³⁸ Without a clear understanding of the location and significance of the direct, indirect and cumulative impacts to cultural resources, the Commission cannot complete the required analysis of alternatives.

Before the Commission approves the Genesis project, or any other project, the Commission is required to make findings under CEQA. Specifically, the Commission must find that either: (1) changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen each identified significant impact; (2) such changes or alterations are within the jurisdiction of another public agency and such changes have been adopted by such other agency or can and should be adopted by such other agency; or (3) specific economic, legal, social, technological, or other considerations make infeasible identified mitigation measures or project alternatives. These findings must be based on substantial evidence in the record.³⁹

³⁸ *Id.*, § 15126.6(a).

³⁹ Pub. Resources Code, § 21081; CEQA Guidelines, § 15091(a).

Unless the Commission obtains, retains and reviews the detailed data identifying the location of the cultural resources, the Commission cannot evaluate a project's impacts or identify adequate mitigation. Consequently, the Commission will lack substantial evidence to make a finding that the mitigation measures will reduce the particular impacts to a less than significant level. The Commission will also not know if it must consider making findings of overriding considerations.⁴⁰ Thus, it is imperative that the cultural resources data be available to the Commission.

b. The Energy Commission Regulations Require the Commission to Review the Data

Energy Commission's regulations for power plant site certification require the Commission to "present the results of its environmental assessments in a report" which "shall be written to inform interested persons and the commission of the environmental consequences of the proposal."⁴¹ The regulations require "a complete consideration of significant environmental issues in the proceeding."⁴²

Without reviewing data that identifies the locations of resources and areas of potential cultural significance, the Commission cannot completely consider the significant environmental issues of the Genesis and Imperial Valley projects. As a result, the Commission's environmental documents would fail to inform decision makers, parties, or the public about the

⁴⁰ CEQA Guidelines, § 15093.

⁴¹ *Id.*, § 1742.5(b) and (c).

⁴² *Id.*, § 1742.5(d).

significant environmental consequences of the projects, as required by the Commission's regulations. Thus, unless the Commission reviews the cultural resources data, the Commission cannot satisfy its regulatory obligations, and the cultural resources issues would go unresolved.

The Energy Commission's regulations also require the Commission to base its decisions only on evidence in its record.⁴³ As a result, the Commission cannot merely rely on a determination by BLM or any other agency about the significance of impacts or the efficacy of mitigation. It must make its own determination based on evidence in its own record.

c. The Warren-Alquist Act Requires the Commission to Review the Data

The Warren-Alquist Act requires the Commission to determine whether a project complies with LORS.⁴⁴ Thus, the Commission must ensure that the Genesis and Imperial Valley projects comply with the NHPA, among other LORS.

The NHPA requires that BLM, prior to the approval of the Genesis and Imperial Valley projects, identify the historic properties within the respective areas of potential effects and evaluate the potential effects that the projects may have on historic properties.⁴⁵ BLM must then resolve the adverse effects through development of mitigation measures.⁴⁶

⁴³ 20 Cal. Code Regs., § 1751(a).

⁴⁴ Pub. Resources Code §§ 25523(d)(1); 25525.

⁴⁵ 36 C.F.R. §§ 800.4-800.5.

⁴⁶ 36 C.F.R. § 800.6.

The Commission must review the detailed data identifying the location of the cultural resources to determine whether historic properties within the area of potential effects have been identified, and whether the effects have been adequately evaluated and mitigated pursuant to the NHPA. Thus, unless the Commission reviews the data, it cannot conclude that the Genesis and Imperial Valley projects comply with LORS.

Again, as described above, the Commission's determination as to whether a project complies with LORS must be based on evidence in the Commission's own record.

In sum, the Commission must review the detailed cultural resources data in its evidentiary record to fulfill its obligations under CEQA, the Warren-Alquist Act, and Energy Commission regulations. If BLM continues to prohibit the Commission from reviewing cultural resource reports, the Commission's analyses will be inadequate and its decision will not be supported by substantial evidence in the record.

11. For projects proposed on BLM land, can the CEC defer, partially or entirely, to BLM's decisions on cultural resource issues, under the Warren-Alquist Act, the CEC regulations, CEQA, NEPA, the cultural resources laws, and the APA?

The Commission cannot defer to BLM's decisions on cultural resource issues. The Commission is obligated under CEQA, the Warren-Alquist Act, and Energy Commission regulations to independently assess a project's potentially significant environmental impacts and compliance with all

applicable LORS, and to identify mitigation measures. In addition, the requirements of CEQA and NEPA/NHPA differ with regards to identifying and evaluating significant adverse impacts/effects, including the means used to determine the significance of cultural resources.

First, as lead agency under CEQA, *the Commission must determine* whether a project would result in significant direct, indirect or cumulative impacts to cultural resources.⁴⁷ If the Commission identifies a significant impact, *the Commission must require* mitigation measures sufficient to minimize, reduce, or avoid the impact or to rectify or compensate for that impact.⁴⁸

Second, the Warren-Alquist Act requires that *the Commission determine* a project's conformity with LORS.⁴⁹

Third, the Energy Commission's regulations for power plant site certification require Staff to "present the results of *its environmental assessments* in a report" which "shall be written to inform interested persons and the commission of the environmental consequences of the proposal."⁵⁰ *Staff shall "ensure* a complete consideration of significant environmental issues in the proceeding."⁵¹

Pursuant to CEQA, the Warren-Alquist Act, and Energy Commission regulations, the Commission is statutorily obligated to independently assess

⁴⁷ Pub. Resources Code § 21100(b)(1), § 21083.

⁴⁸ CEQA Guidelines, § 21002; § 21081; Cal. Code Reg. §15370.

⁴⁹ Pub. Resources Code §§ 25523(d)(1); 25525.

⁵⁰ *Id.*, § 1742.5(b) and (c) (emphasis added).

⁵¹ *Id.*, § 1742.5(d) (emphasis added).

a project's potentially significant environmental impacts and compliance with all applicable LORS, and to identify mitigation measures. By demanding the recall and return of all cultural resource reports, and by prohibiting project applicants from submitting additional cultural resource reports to the Commission, BLM is preventing the Commission from satisfying its independent legal obligations.

Even were it not for these independent obligations of the Commission, the Commission could not defer to BLM because the Commission's impact analysis required under CEQA is different from the analyses BLM is required to conduct under NEPA and NHPA.⁵² There are two important distinctions between impact analyses under CEQA and NEPA/NHPA.

First, CEQA requires that each significant adverse impact be identified and that mitigation measures for all significant impacts be proposed in an environmental review document.⁵³ CEQA prohibits deferring determination of mitigation measures until after the project is approved.⁵⁴ Thus, 100% of a project site must be surveyed to inventory cultural resource sites. Subsequently, test excavations are conducted to determine the significance for each identified site.

⁵² Testimony of David S. Whitley, p. 3.

⁵³ Pub. Resources Code, §§ 21100(b)(1), 21002, 21002.1(a).

⁵⁴ *Id.*, § 15126.4(a)(1)(B); *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308-309.

In contrast, the BLM NEPA Handbook allows for sample inventories of project areas.⁵⁵ Data gaps are permitted pursuant to the BLM NEPA Handbook but they must be identified, and an estimate of their implications must be outlined and justified.⁵⁶ Treatment of the cultural resources, including their NRHP evaluation, is instead outlined in a preservation management plan, which specifies the procedures to identify and evaluate all cultural resources *after* project approval. Critically, under NEPA, full site identification and significance evaluation may occur *after* the record of decision is issued. This is in direct contrast to CEQA's requirement for completing these steps *prior to* approving an environmental review document.

Second, site significance (and hence the potential for significant adverse impacts) is defined differently under CEQA and the NHPA/NEPA. Sites are significant under the NHPA if they are determined to be eligible for listing on the NRHP.⁵⁷ NRHP eligible sites are also significant under CEQA. However, under CEQA, sites are also significant if they are listed in *any* historical registry.⁵⁸ Thus, the potential for significant adverse impacts is greater under CEQA.

In sum, the Commission cannot to defer to BLM's analysis of significant impacts under NEPA and the NHPA because the identification

⁵⁵ BLM National Environmental Policy Act Handbook, H-1790-1, January 2008, pp. 53-54.

⁵⁶ *Id.*

⁵⁷ 36 C.F.R. § 800.5.

⁵⁸ CEQA Guidelines, § 15064.5(a).

and analysis of significant impacts is more stringent under CEQA. Consequently, the potential for significant adverse impacts, the need to design mitigation measures and the obligation to determine the effectiveness of mitigation is greater under CEQA. Thus, unless the Commission conducts an independent analysis of significant impacts pursuant to CEQA, the Commission's analysis will be inadequate and its decision will not be supported by substantial evidence in the record.

The Commission is obligated under CEQA, the Warren-Alquist Act, and Energy Commission regulations to independently assess a project's potentially significant environmental impacts and compliance with all applicable LORS, and to identify mitigation measures. Furthermore, the requirements of CEQA and NEPA/NHPA differ with regards to identifying and evaluating significant adverse impacts/effects, including the means used to determine the significance of cultural resources. As a result, the Commission cannot defer to BLM's decisions regarding cultural resource issues.

12. In a Commission proceeding for a project(s) proposed on private land, are there similar issues of who should be permitted access to confidential cultural resources data?

The Commission is obligated to perform its duties under CEQA, the Warren-Alquist Act, and Energy Commission regulations regardless of whether the project is proposed on public or private land. Thus, the Commission must review the detailed cultural resources data under both

scenarios. Furthermore, if Staff reviews the data, all parties to a proceeding have the right to review it.⁵⁹ However, in a project on private land, it is unlikely that the Commission would be faced with the obstacles presented by BLM for projects on public land.

13. What data are parties entitled to, under the Warren-Alquist Act, the CEC regulations, CEQA, NEPA, the cultural resources laws, and the APA?

CEQA requires that the Commission’s decision regarding approval of a project be based on substantial evidence in the record.⁶⁰ Pursuant to Energy Commission regulations, the Commission’s decision regarding approval of a project must be “based exclusively upon the hearing record, including the evidentiary record, of the proceedings on the application.”⁶¹ Thus, parties must submit evidence into the record upon which the Commission can base its findings. If the parties do not have access to the detailed cultural resources data, the hearing record will not include substantial evidence. Consequently, the Commission’s decision will not be supported by substantial evidence, as required by CEQA and Energy Commission regulations.

⁵⁹ 20 Cal. Code Regs., § 1207(c).

⁶⁰ Pub. Resources Code, § 21081.5.

⁶¹ 20 Cal. Code Regs., § 1751(a).

14. If the CEC Staff has access to certain data, must some or all other parties have access, under the Warren-Alquist Act, the CEC regulations, CEQA, NEPA, the cultural resources laws, and the APA?

Pursuant to Energy Commission regulations section 1207(c), intervenors “shall have all the rights and duties of a party...”⁶² Thus, CURE, and any other party to a proceeding, is entitled to any data to which any other party has access. Because Staff reviewed the detailed cultural resources data in the Genesis and Imperial Valley proceedings, and the applicants’ consultants have created that data, CURE also has the right to review the data.

15. If the data is revealed to any party, including but not limited to the CEC Staff, what appropriate nondisclosure agreements, if any, should be made?

BLM is creating a problem where none exists. CURE has no interest in disclosing the detailed cultural resources data to the public. To ensure confidentiality of the cultural resources data in the Genesis and Imperial Valley proceedings, CURE proactively proposed to enter into nondisclosure agreements. CURE included nondisclosure agreements with its petitions to inspect the cultural resources documents. CURE’s petitions provided that the purpose of the nondisclosure agreements is to ensure that the requested materials remain confidential and will not be used except as necessary to participate in the proceedings and the NHPA Section 106 consultation processes for the projects. CURE’s counsel and consultants have routinely

⁶² 20 Cal. Code Regs., § 1207(c).

been parties to nondisclosure agreements in California Public Utilities Commission proceedings and are experienced at protecting confidential, sensitive information from public disclosure.

16. May the Commission legally remove information from the docket of an adjudicative proceeding?

All parties to a proceeding are legally entitled to review any information that has been reviewed by Energy Commission Staff.⁶³ Thus, once Staff reviews information, it cannot be removed from the docket.

III. CONCLUSION

CURE appreciates the opportunity to brief these crucial issues related to the availability of cultural resources data. Until BLM's obstructionism is resolved, the Commission will be prohibited from carrying out its legal obligations, and CURE (and other parties) will be prevented from fully participating in Energy Commission proceedings.

⁶³ 20 Cal. Code Regs., §1207(c).

Dated: June 1, 2010

Respectfully submitted,

/s/

Rachael E. Koss

Tanya A. Gulesserian

Marc D. Joseph

Adams Broadwell Joseph & Cardozo

601 Gateway Boulevard, Suite 1000

South San Francisco, CA 94080

(650) 589-1660 Voice

(650) 589-5062 Facsimile

tgulesserian@adamsbroadwell.com

rkoss@adamsbroadwell.com

Attorneys for the CALIFORNIA

UNIONS FOR RELIABLE ENERGY

DECLARATION OF SERVICE

I, Bonnie Heeley, declare that on June 1, 2010, I served and filed copies of the attached CALIFORNIA UNIONS FOR RELIABLE ENERGY BRIEF ON ISSUES CONCERNING US BUREAU OF LAND MANAGEMENT CULTURAL RESOURCES DATA dated June 1, 2010. The original document, filed with the Docket Office, 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/solar_millennium_ridgecrest/Ridgecrest_POS.pdf.

http://www.energy.ca.gov/sitingcases/genesis_solar

<http://www.energy.ca.gov/sitingcases/solartwo>

http://www.energy.ca.gov/sitingcases/solar_millennium_blythe/index.html

http://www.energy.ca.gov/sitingcases/solar_millennium_palen/index.html

http://www.energy.ca.gov/sitingcases/solar_millennium_ridgecrest/Ridgecrest_POS.pdf.

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 Office via email and U.S. Mail as addressed below.

I declare under penalty of perjury that the foregoing is true and correct. Executed at South San Francisco, CA on June 1, 2010.

_____/s/_____
Bonnie Heeley

RIDGECREST SOLAR POWER PROJECT
Docket No. 09-AFC-9

CALIFORNIA ENERGY
COMMISSION
Attn: Docket No. 09-AFC-9
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us
Scott Galati
Galati/Blek, LLP
455 Capitol Mall, Suite 350
Sacramento, CA 95814
sgalati@gb-llp.com

Desert Tortoise Council
Sidney Silliman
1225 Adriana Way
Upland, CA 91784
gssilliman@csupomona.edu

James D. Boyd
Vice Chair/Presiding Member
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
jboyd@energy.state.ca.us

Eric Solorio, Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
esolorio@energy.state.ca.us

Billy Owens
Director, Project Development
Solar Millennium
1625 Shattuck Ave. #270
Berkeley, CA 94709-1161
owens@solarmillennium.com

Tim Olson
Advisor to Commissioner Boyd
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512
tolson@energy.state.ca.us

Center for Biodiversity
Lisa T. Belenky, Sr. Atty.
351 California St. #600
San Francisco, CA 94104

Alice Harron
Senior Project Manager
1625 Shattuck Avenue, Suite 270
Berkeley, CA 94709-1161
harron@solarmillennium.com

Peter Weiner
Matthew Sanders
Paul Hastings Janofsky & Walker LLP
55 2nd Street, Suite 2400-3441
San Francisco, CA 94105
peterweiner@paulhastings.com
matthewsanders@paulhastings.com

Janet Eubanks, Project Manager
US Dept. of the Interior, Bureau of
Land Mngmnt., California Desert
District
22835 Calle San Juan de los Lagos
Moreno Valley, CA 92553
Janet_Eubanks@ca.blm.gov

Anthony Eggert
Commissioner/Associate Member
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
aeggert@energy.state.ca.us

Jared Babula, Staff Counsel
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
jbabula@energy.state.ca.us

Basin and Range Watch
Laura Cunningham
Kevin Emmerich
PO Box 70
Beatty, NV 89003
bluerockiguana@hughes.net

Terri Middlemiss/D.Burnett
Kern Crest Audubon Society
PO Box 984
Ridgecrest, CA 93556
Catbird4@earthlink.net
imdanburett@verizon.net

Elizabeth Copley
AECOM Project Manager
2101 Webster Street, Suite 1900
Oakland, CA 94612
Elizabeth.copley@aecom.com

California Unions for Reliable Energy
T.Gulesserian/M.D.Joseph/E.Klebaner
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
tgulesserian@adamsbroadwell.com
eklebaner@adamsbroadwell.com
[VIA EMAIL ONLY]
e-recipient@caiso.com
[VIA EMAIL ONLY]

Kourtney Vaccaro, Hearing Officer
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
kvaccaro@energy.state.ca.us

Jennifer Jennings
Public Adviser
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
publicadviser@energy.state.ca.us

Western Watersheds Project
Michael J. Connor, Ph.D.
California Director
PO Box 2364
Reseda, CA 91337-2364
mjconnor@westernwatersheds.org

Center for Biodiversity
Ileene Anderson
Public Lands Desert Director
PMB 447, 8033 Sunset Blvd.
Los Angeles, Ca 90046
ianderson@biologicaldiversity.org

lbelenky@biologicaldiversity.org

GENESIS SOLAR ENERGY PROJECT
Docket No. 09-AFC-8

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 09-AFC-8
1516 Ninth Street MS 4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

Ryan O'Keefe, Vice President
Genesis Solar LLC
700 Universe Boulevard
Juno Beach, Florida 33408
Ryan.okeefe@nexteraenergy.com
EMAIL ONLY

Scott Busa/Project Director
Meg Russell/Project Mgr
Duane McCloud/Lead Engr
NextEra Energy
700 Universe Boulevard
Juno Beach, FL 33408
Scott.busa@nexteraenergy.com
Meg.Russell@nexteraenergy.com
Daune.mccloud@nexteraenergy.com

Matt Handel/Vice Pres.
Matt.Handel@nexteraenergy.com
VIA EMAIL ONLY

Kenny Stein, Environmental Svcs
Mgr
Kenneth.Stein@nexteraenergy.com
VIA EMAIL ONLY

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

James Kimura, Project Engineer
Worley Parsons
2330 East Bidwell St., #150
Folsom, CA 95630
James.Kimura@WorleyParsons.com

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

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

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

California ISO
e-recipient@caiso.com
VIA EMAIL ONLY

Allison Shaffer/Project Mgr.
Bureau of Land Management
Palm Springs
South Coast Field Office
1201 Bird Center Drive
Palm Springs, CA 92262
Allison_Shaffer@blm.gov

James D. Boyd
Commissioner/Presiding Member
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
jboyd@energy.state.ca.us

Robert Weisenmiller
Commissioner/Associate Member
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
rweisenm@energy.state.ca.us

Kenneth Celli, Hearing Officer
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
kcelli@energy.state.ca.us

Mike Monasmi
Siting Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
mmonasmi@energy.state.ca.us

Caryn Holmes, Staff Counsel
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
cholmes@energy.state.ca.us

Robin Mayer, Staff Counsel
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
rmayer@energy.state.ca.us

Jennifer Jennings
Public Adviser's Office
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
publicadviser@energy.state.ca.us

Tanya A. Gulesserian
Marc D. Joseph
Rachael E. Koss
Adams Broadwell Joseph &
Cardozo
601 Gateway Boulevard, Suite
1000
South San Francisco, CA 94080
tgulesserian@adamsbroadwell.com
rkoss@adamsbroadwell.com

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

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

Tom Budlong
3216 Mandeville Cyn Rd.
Los Angeles, CA 90049-1016
tombudlong@roadrunner.com

IMPERIAL VALLEY SOLAR PROJECT
DOCKET NO. 08-AFC-5

CALIFORNIA ENERGY
COMMISSION
Attn: Docket No. 08-AFC-5
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

California ISO
e-recipient@caiso.com
VIA EMAIL ONLY

JEFFREY D. BYRON
Commissioner and Presiding Member
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512
jbyron@energy.state.ca.us

RICHARD KNOX
Project Manager
SES Solar Two, LLC
4800 N Scottsdale Rd, Ste 5500
Scottsdale, AZ 85251
richard.knox@tesseractosolar.com

Daniel Steward, Project Lead
BLM-EI Centro Office
1661 S. 4th Street
El Centro, CA 92243
daniel_steward@ca.blm.gov

ANTHONY EGGERT
Commissioner and Associate Member
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512
aeggert@energy.state.ca.us

ANGELA LEIBA, Sr. Project Manager
URS Corporation
1615 Murray Canyon Road
Suite 1000
San Diego, CA 92108
Angela_Leiba@urscorp.com

JIM STOBAUGH
Proj Mgr and Nat'l Proj Mgr Bureau of Land
Management
BLM Nevada State Office
P.O. Box 12000
Reno, NV 89520-0006
Jim_stobaugh@blm.gov

RAOUL RENAUD
Hearing Officer
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512
rrenaud@energy.state.ca.us

ALLAN J. THOMPSON
Attorney at Law
21 C Orinda Way #314
Orinda, CA 94563
allanori@comcast.net

CURE
c/o Tanya A. Gulesserian
Loulena Miles, Marc D. Joseph
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd, Ste. 1000
South San Francisco, CA 94080
tgulesserian@adamsbroadwell.com
lmiles@adamsbroadwell.com
Via Email Only

KRISTY CHEW, Adviser to
Commissioner Byron
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512
kchew@energy.state.ca.us

ELLA FOLEY GANNON, PARTNER
Bingham McCutchen, LLP
Three Embarcadero Center
San Francisco, CA 94111
ella.gannon@bingham.com

CARYN HOLMES, Staff Counsel
Christine Hammond,
Co-Staff Counsel
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512
cholmes@energy.state.ca.us
chammond@energy.state.ca.us

CHRISTOPHER MEYER
Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512
cmeyer@energy.state.ca.us

Jennifer Jennings
Public Adviser
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512
publicadviser@energy.state.ca.us

Tom Budlong
3216 Mandeville Canyon Road
Los Angeles, CA 90049-1016
TomBudlong@RoadRunner.com

Hossein Alimamaghani
4716 White Oak Place
Encino, Ca 91316
almamaghani@aol.com

Tom Beltran
PO Box 501671
San Diego, CA 921050
cnpsd@nyms.net

California Native Plant Society
Greg Suba & Tara Hansen
2707 K Street, Suite 1
Sacramento, CA 5816-5113
gsuba@cnps.org

Blythe Solar Power Plant Project

Docket No. 09-AFC-6

CALIFORNIA ENERGY
COMMISSION
Attn: Docket No. 09AFC6
1516 Ninth Street, MS4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

Alice Harron
Senior Director-Project Dvlpmnt
1625 Shattuck Ave., #270
Berkeley, CA 94709-1161
harron@solarmillennium.com

Elizabeth Ingram, Associate Dvlpr
Solar Millennium, LLC
1625 Shattuck Avenue
Berkeley, CA 94709
ingram@solarmillennium.com

Carl Lindner
AECOM Project Manager
1220 Avenida Acaso
Camarillo, CA 93012
Carl.lindner@aecom.com

Scott Galati, Esq.
Galati/Blek, LLP
455 Capitol Mall, #350
Sacramento, CA 95814
sgalati@qb-llp.com

Peter Weiner/Matthew Sanders
Paul Hastings Janofsky & Walker LLP
55 2nd Street, #2400-3441
San Francisco, CA 94105
peterweiner@paulhastings.com
matthewsanders@paulhastings.com

California ISO
e-recipient@caiso.com
VIA EMAIL ONLY

Holly L. Roberts, Project Mngr
Bureau of Land Management
Palm Springs-So. Coast Field Off.
1201 Bird Center Drive
Palm Springs, CA 92262
CAPSSolarBlythe@blm.gov

California Unions for Reliable Energy
E. Klebaner / T.Gulesserian / MDJoseph
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd., #1000
South San Francisco, CA 94080
tgulesserian@adamsbroadwell.com
eklebaner@adamsbroadwell.com

Karen Douglas
Chairman/Presiding Member
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
kldougl@energy.state.ca.us

Robert Weisenmiller
Commissioner-Assoc. Member
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
rweisenm@energy.state.ca.us

Raoul Renaud
Hearing Officer
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
rrenaud@energy.state.ca.us

Alan Solomon
Siting Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
asolomon@energy.state.ca.us

Lisa DeCarlo, Staff Counsel
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
ldecarlo@energy.state.ca.us

Jennifer Jennings
Public Adviser's Office
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
publicadviser@energy.state.ca.us

Ram Ambatipudi
Chevron Energy Solutions
150 E. Colorado Blvd., Ste. 360
Pasadena, CA 91105
rambatipudi@chevron.com

PALEN SOLAR POWER PLANT PROJECT
DOCKET NO. 09-AFC-7

Alice Harron
Senior Director of Project Development
1625 Shattuck Avenue, Suite 270
Berkeley, CA 94709-1161
harron@solarmillennium.com

Elizabeth Ingram, Associate Developer
Solar Millennium, LLC
1625 Shattuck Avenue, Suite 270
Berkeley, CA 94709
ingram@solarmillennium.com

Arrie Bachrach
AECOM Project Manager
1220 Avenida Acaso
Camarillo, CA 93012
arrie.bachrach@aecom.com

Scott Galati, Esq.
Galati/Blek, LLP
455 Capitol Mall, Suite 350
Sacramento, CA 95814
sgalati@gb-lp.com

Peter Weiner/Matthew Sanders
Paul Hastings Janofsky & Walker LLP
55 2nd Street, Suite 2400-3441
San Francisco, CA 94105
peterweiner@paulhastings.com
matthewsanders@paulhastings.com

California Unions for Reliable Energy
T. Gulesserian/M.D. Joseph/J. Holder
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
tgulesserian@adamsbroadwell.com
jholder@adamsbroadwell.com
(Sent via email only)

Alfredo Figueroa
Californians for Renewable Energy, Inc.
424 North Carlton
Blythe, CA 92225
lacunadeaztlan@aol.com

Holly L. Roberts, Project Manager
Bureau of Land Management
Palm Springs – South Coast Field Office
1201 Bird Center Drive
Palm Springs, CA 92262
CAPSSolarBlythe@blm.gov

Robert Weisenmiller
Commissioner/Presiding Member
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
rweisenm@energy.state.ca.us

Karen Douglas
Chairman/Associate Member
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
kidougla@energy.state.ca.us

Raoul Renaud, Hearing Officer
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
rrenaud@energy.state.ca.us

Lisa DeCarlo
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
ldecarlo@energy.state.ca.us

Alan Solomon, Siting Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
asolomon@energy.state.ca.us

Jennifer Jennings
Public Adviser's Office
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
publicadviser@energy.state.ca.us

Ram Ambatipudi
Chevron Energy Solutions
150 E. Colorado Blvd., Ste. 360
Pasadena, CA 91105
rambatipudi@chevron.com

Basin and Range Watch
Kevin Emmerich
Laura Cunningham
P.O. Box 153
Baker, CA 92309
atomicoadranch@netzero.net

California Energy Commission
Attn: Docket No. 09-AFC-7
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

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

California ISO
e-recipient@caiso.com
(Via Email Only)

RIDGECREST SOLAR POEWR PROJECT
Docket No. 09-AFC-9

CALIFORNIA ENERGY
COMMISSION
Attn: Docket No. 09-AFC-9
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us
Scott Galati
Galati/Blek, LLP
455 Capitol Mall, Suite 350
Sacramento, CA 95814
sgalati@gb-llp.com

Desert Tortoise Council
Sidney Silliman
1225 Adriana Way
Upland, CA 91784
gssilliman@csupomona.edu

James D. Boyd
Vice Chair/Presiding Member
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
jboyd@energy.state.ca.us

Eric Solorio, Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
esolorio@energy.state.ca.us

Billy Owens
Director, Project Development
Solar Millennium
1625 Shattuck Ave. #270
Berkeley, CA 94709-1161
owens@solarmillennium.com

Tim Olson
Advisor to Commissioner Boyd
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512
tolson@energy.state.ca.us

Alice Harron
Senior Project Manager
1625 Shattuck Avenue, Suite 270
Berkeley, CA 94709-1161
harron@solarmillennium.com

Peter Weiner
Matthew Sanders
Paul Hastings Janofsky & Walker LLP
55 2nd Street, Suite 2400-3441
San Francisco, CA 94105
peterweiner@paulhastings.com
matthewsanders@paulhastings.com

Janet Eubanks, Project Manager
US Dept. of the Interior, Bureau of
Land Mngmnt., California Desert
District
22835 Calle San Juan de los Lagos
Moreno Valley, CA 92553
Janet_Eubanks@ca.blm.gov

Anthony Eggert
Commissioner/Associate Member
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
aeggert@energy.state.ca.us

Jared Babula, Staff Counsel
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
jbabula@energy.state.ca.us

Basin and Range Watch
Laura Cunningham
Kevin Emmerich
PO Box 70
Beatty, NV 89003
bluerockiguana@hughes.net

Terri Middlemiss/D.Burnett
Kern Crest Audubon Society
PO Box 984
Ridgecrest, CA 93556
Catbird4@earthlink.net
imdanburett@verizon.net

Elizabeth Copley
AECOM Project Manager
2101 Webster Street, Suite 1900
Oakland, CA 94612
Elizabeth.copley@aecom.com

California Unions for Reliable Energy
T.Gulesserian/M.D.Joseph/E.Klebaner
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
tgulesserian@adamsbroadwell.com
eklebaner@adamsbroadwell.com
[VIA EMAIL ONLY]

e-recipient@caiso.com
[VIA EMAIL ONLY]

Kourtney Vaccaro, Hearing Officer
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
kvaccaro@energy.state.ca.us

Jennifer Jennings
Public Adviser
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
publicadviser@energy.state.ca.us

Western Watersheds Project
Michael J. Connor, Ph.D.
California Director
PO Box 2364
Reseda, CA 91337-2364
mjconnor@westernwatersheds.org

Center for Biodiversity
Ileene Anderson
Public Lands Desert Director
PMB 447, 8033 Sunset Blvd.
Los Angeles, Ca 90046
ianderson@biologicaldiversity.org

Center for Biodiversity
Lisa T. Belenky, Sr. Atty.
351 California St. #600
San Francisco, CA 94104
lbelenky@biologicaldiversity.org