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State Of California - The Resources Agency
 California Energy Commission

Memorandum

Date: January 23, 2009
 Telephone: (916) 651-0965

To: Commissioner Jeffrey Byron, Presiding Member
 Commissioner James D. Boyd, Associate Member

From: California Energy Commission – Che McFarlin/John Kessler, Project Managers
 1516 Ninth Street
 Sacramento, CA 95814-5512

Subject: **STATUS REPORT #6**
IVANPAH SOLAR ELECTRIC GENERATING SYSTEM (07-AFC-5)

While the Ivanpah Solar Electric Generating System (ISEGS) Project continues to progress through its review by Bureau of Land Management (BLM), Energy Commission staff, and responsible agencies, the ability for it to remain on schedule has been hampered by additional time needed by the applicant to prepare the plans necessary to support preparation of the Final Staff Assessment/Draft Environmental Impact Statement (FSA/DEIS). The Preliminary Staff Assessment (PSA) published on December 9, 2008 served to identify the additional information/agency coordination needs, which were further clarified during the PSA Workshop conducted on January 9, 2009. As a follow-up to the workshop, BLM and Energy Commission staff provided the applicant with a list and draft schedule for the deliverables on January 15, 2009.

BLM and Energy Commission staff continue to coordinate closely and support the plan developments in progress by the applicant, as well as to carefully coordinate activities and information needs of other responsible agencies in an effort to expedite the right-of-way and licensing process. Because at this time the various plans under development by the applicant require significant additional coordination with the agencies, the applicant is not currently in a position to provide firm delivery dates for its products. The following discusses the status of these ongoing activities and our best estimate of the overall project schedule. Please refer to the Executive Summary of the PSA and the appropriate technical sections for a more detailed discussion of the issues which need to be resolved, and the information required to complete the FSA/DEIS.

PROOF OF SERVICE (REVISED 12/22/08) FILED WITH
 ORIGINAL MAILED FROM SACRAMENTO ON 1/23/09
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Milestones Since Status Report #5, filed December 9, 2008

January 9, 2008 – A public workshop was held by staff in Primm, NV to discuss the Energy Commission's Preliminary Staff Assessment (PSA) which was filed on December 9, 2008.

Status of Outstanding Information by Technical Area

AIR QUALITY

One aspect of the construction phase of the project that has not been quantified is the criteria emissions from the delivery of the considerable amount of materials, particularly the heliostat framework materials and mirrors to the site. This information is needed to complete of the FSA / DEIS.

Status / Response

Staff is working cooperatively with the applicant to quantify the criteria emissions in more detail for the FSA/DEIS.

BIOLOGY

- 1) A detailed and comprehensive mitigation proposal needs to be developed to address the loss of habitat for desert tortoise, for loss of rare plants and other sensitive species, and for impacts to state waters and potentially Waters of the US. This information is needed to complete the FSA/DEIS.

Status / Response

The applicant is continuing to develop a mitigation proposal in consultation with the California Department of Fish and Game, with support from Energy Commission staff.

- 2) Revegetation and Reclamation Plan and establishment of a funding mechanism for the Facilities Closure Plan. This information is needed to complete the FSA/DEIS.

Status / Response

At the January 9, 2008 workshop the applicant informed staff that this document is nearly complete and will be submitted to the Energy Commission and BLM in the near future with the exception of the funding mechanism for the closure plan, which is pending further consideration by the applicant.

- 3) The Desert Tortoise Translocation Plan provides essential information for the Biological Assessment, the Incidental Take Permit, and the FSA/DEIS. Desert tortoise survey plans for the translocation receiving area and Interstate 15 fence line alignment should be included.

Status / Response

The applicant is working to complete the translocation plan in accordance with recently-developed guidelines by USFWS, and in coordination with USFWS, CDFG, BLM, and staff.

- 4) The Biological Assessment needs to be revised to address BLM's comments and to include the Translocation Plan. This information is needed to complete the FSA/DEIS.

Status / Response

The applicant is working to complete the Biological Assessment with guidance from the USFWS, CDFG, BLM, and staff. The Biological Assessment will be submitted by BLM to USFWS close to the time the FSA/DEIS is circulated for public review and comment.

- 5) The Incidental Take Permit application needs to be completed and submitted to CDFG. This information is needed to complete the FSA/DEIS.

Status / Response

The applicant has compiled much of the information needed for submittal of this permit application to the Energy Commission and CDFG, and will also incorporate the Desert Tortoise Translocation Plan into this permit application.

- 6) The Streambed Alteration Agreement Application needs to be submitted to CDFG and the Energy Commission.

Status / Response

The applicant has developed much of the information needed for submittal of this application. However the application has not yet been filed.

CULTURAL RESOURCES

The PSA conclusions were tentative due to outstanding reports on the inventory and the historical significance evaluation of ethnographic resources that are in the project area of analysis. This information was necessary to advance the Native American consultation for the proposed project and to complete the FSA/DEIS.

Status / Response

The outstanding reports on the inventory and the historical significance evaluation of ethnographic resources were provided by the applicant in its December 8, 2008 "Data Response, Set 1J" and "Cultural Resources, Attachment DR41-1" filing. Staff is very pleased with the quality of these reports and Native American consultation on the results of those reports is in progress.

LAND USE

For the PSA, staff was not able to conclude whether or not the proposed project is in conformance with key federal land use plans affecting this project. This information is needed to complete of the FSA/DEIS.

Status / Response

Staff has since received confirmation from BLM that they will be able to amend the California Desert Conservation Area Plan to recognize the proposed project, which will be done concurrent with the preparation of the FSA/DEIS and Final EIS.

SOILS AND WATER RESOURCES

Several Soil and Water Resource issues were identified in the PSA which need to be addressed in order to complete the FSA/DEIS.

- 1) Altering, filling, or rerouting the existing ephemeral streams could change the flow and quality characteristics of the runoff water reaching the Ivanpah playa. However, staff has not received revised grading plans, a revised Drainage, Erosion, and Sediment Control Plan, or revised construction and operational Storm Water Pollution Prevention Plans, and therefore, cannot evaluate the potential project-related impacts to the Ivanpah playa. Staff requires submittal of these plans in order to complete the analysis of the potential erosion, storm water, pollution, and flood related impacts.

Status / Response

The applicant is currently developing the remaining information needed for submittal of these plans

- 2) Civil design information is needed including the 90 percent grading plans, a hydrology analysis to determine runoff patterns, and a hydraulic analysis to manage the collection and dispersion of stormwater runoff followed by the revised Drainage, Erosion and Sediment Control Plan, and Storm Water Pollution Prevention Plan in order to ensure that the full scope of the project and any potential onsite and offsite impacts are analyzed. This information is needed to complete the FSA/DEIS.

Status / Response

The applicant is actively working with BLM and staff to develop these plans to the appropriate level of detail.

- 3) A determination is needed from the United States Army Corps of Engineers (USACOE) as to whether there are Waters of the US that would be affected by the proposed project. This information is needed to complete the FSA/DEIS. Staff and the applicant are currently operating

under the assumption that there are Waters of the US within the project area.

Status / Response

The applicant needs to provide the USACOE an application including a project description, adequate civil design drawings, watershed management related documents, estimates of the quantity of material that will be dredged and filled within drainages, and information that will be developed in the revised Drainage, Erosion and Sediment Control Plan for describing proposed erosion control measures.

- 4) Evaluation of potential direct and cumulative water drainage and sedimentation impacts to the Ivanpah Dry Lake (playa) in coordination with results of the Sedimentation Report.

Status / Response

The applicant is currently developing the remaining information needed for submittal of this report.

- 5) Identification of the source and quantity of potable water that would be supplied by the construction contractors during construction of the project.

Status / Response

At the January 9, 2009 PSA workshop the applicant clarified its plans that potable water would be delivered by a commercial bottled water supplier.

- 6) Staff is concerned that although the magnitude of drawdown at the existing wells is minimal, there is a potential for migration of brackish groundwater westward towards the existing and proposed wells due to existing and proposed pumping by ISEGS. Staff believes additional analysis is necessary to evaluate potential water quality impacts.

Status / Response

Staff and BLM are working with the applicant and the applicant has proposed an analysis that is expected to demonstrate resolution of this concern.

- 7) Evaluation of the increased water use related to the increase in the mirror surface area and need for additional mirror washing.

Status / Response

At the January 9, 2009 PSA workshop the applicant stated that the water use calculations in the Application for Certification and

subsequent data responses are conservative estimates and that quantity would not need to be adjusted to accommodate the increased number and surface area of mirrors.

- 8) Permit application(s) need to be submitted to Lahontan Regional Water Quality Control Board for a package sanitary wastewater treatment system and for the surface discharge of Title 22 Wastewater related to the use of secondary treated wastewater for landscape irrigation.

Status / Response

The applicant has developed much of the information needed for submittal of this application, and its completion is in progress.

TRAFFIC AND TRANSPORTATION

The applicant has indicated that a potential source of glare for traffic on I-15 is the solar receivers installed on the top of the power towers. The project could also adversely affect aviation operations at the proposed Ivanpah Valley Airport due to glare from the solar thermal arrays. This analysis is needed to complete the FSA/DEIS.

Status / Response

Staff continues to investigate the glare issue and will include the analyses in the FSA.

TRANSMISSION SYSTEM ENGINEERING

The System Impact Study (SIS) for the entirety of the proposed project is needed in order to provide conclusions and recommendations in the FSA/DEIS.

Status / Response

The third and final phase of the SIS was filed by the applicant on December 10, 2008 which provided the information needed to complete the Transmission System Engineering analysis.

VISUAL RESOURCES

A final determination of potential glare-related aesthetics was not provided in the PSA pending peer review of technical glare studies prepared by the applicant in order to complete the FSA/DEIS.

Status / Response

Staff continues to investigate the glare issue and will include the analyses in the FSA/DEIS.

HEALTH AND SAFETY

BLM has stated that a draft Health and Safety plan is needed for both the construction and operational phases of the project in order to complete the analysis necessary for the DEIS. This information must be available to BLM before they can complete the DEIS.

Status / Response

The applicant has received guidance from BLM and is working to complete the draft plan.

Next Steps

In staff's Notice of Availability of the PSA, it was requested that comments be submitted by January 23, 2009. The applicant has indicated that it will be filing its comments by this date. Staff is working jointly with BLM, which is the federal lead agency for compliance with the National Environmental Protection Act (NEPA) to produce a joint state and federal analysis, which will initially take the form of a FSA/DEIS. That document will then be circulated for a 90-day public comment period, following which the Final Environmental Impact Statement (FEIS) and an Addendum to the FSA will be prepared.

Schedule

Staff and BLM are unable to complete the necessary analyses until the outstanding information is received. In the interest of providing clarity and closely coordinating the progress of the applicant's various deliverables, BLM and Energy Commission staff compiled a list and tentative schedule for delivery of the reports and permit applications, and provided this to the applicant on January 15, 2009. BLM and Energy Commission staff are conducting weekly coordination teleconferences as well as focused meetings in various technical areas to support the progression of the plans and permit applications. Once the required information is obtained it will take a minimum of 48 calendar days to publish the joint FSA/DEIS as indicated in the Committee's current schedule for this case. However, prior to publication of a DEIS, BLM is required to obtain the review and approval of a Notice of Availability at their Headquarters level before it can be published in the Federal Register. Oftentimes, approvals for NOA's can take one or two months depending on issues associated with the analysis. The DEIS must be substantially complete before the NOA review can be initiated. The NOA must be completed before the DEIS can be noticed in the Federal Register and released for public review and comment.

BLM and Energy Commission staff also wish to point out one other concern in the Revised Committee Schedule dated October 29, 2008. The current schedule anticipates issuing the Energy Commission's Presiding Member's

Proposed Decision (PMPD) at about the same time as the FSA/DEIS comment period ends. Staff believes the Committee may wish to consider issuing the PMPD later in the schedule for the following reasons:

1. A significant amount of plans defining the proposed project and the necessary subsequent analysis by BLM and Energy Commission is forthcoming, and staff was unable to include this information and analysis in the PSA;
2. The extent of comments from agencies, parties and the public reviews of the FSA/DEIS is expected to be significant based on the magnitude of new project information that will be presented and analyzed in the FSA/DEIS;
3. Staff is anticipating significant revisions to the FSA/DEIS as will be reflected in the Final EIS and staff's Recommended Changes to the PMPD; and
4. Although the Final EIS would be substantially complete approximately 1 month prior to the Commission decision, there may be some revisions between the substantially complete FEIS and the FEIS and NOA that would be published after the Commission decision.

In the spirit of expediting the project licensing review without compromising the thoroughness of staff's environmental analysis, staff will continue to seek opportunities to proceed expeditiously and seek guidance from the Committee on this issue.

The following updated schedule reflects the scheduling issues pertaining to providing additional time required by the applicant to prepare plans that are prerequisite to preparing the FSA/DEIS. An additional factor affecting the schedule is the time required for BLM's headquarters to review and approve the NOA once the FSA/DEIS is substantially complete. However, staff has not adjusted the schedule for Committee consideration that would propose a later issuance of the PMPD.

Staff also recommends that the Committee not consider the estimated timing of the applicant's filing of plans prerequisite to our preparation of the FSA/DEIS to be firm at this time. Rather, staff believes by the timing of the next Status Report that the expected date of the applicant's deliverables (currently estimated as March 15, 2009) will be more certain and will support preparing a more likely schedule for subsequent activities. Given the numerous factors which could delay the FSA/DEIS, staff respectfully suggests that a Committee Status and Scheduling Conference may be helpful during the spring.

Comparison of the Revised Committee Schedule and Staff's Proposed Updated Schedule

Event	Revised Committee Schedule (as of 10/29/09)	Staff's Proposed Schedule Update
Parties file Status Reports	December 5, 2008 & every 6 weeks thereafter	December 5, 2008
Staff publishes Preliminary Staff Assessment	December 5, 2009	December 9, 2009
Staff conducts PSA workshops	Early January 2009	January 9, 2009
Applicant completes Ivanpah 1 90% grading plans and other complete project plans prerequisite to preparing the FSA/DEIS	Not included	March 15, 2009 (tentative date)
Local, State and federal Agency final comments and determinations, including air district's final DOC filed	December 30, 2008	April 1, 2009
BLM and Staff substantially complete FSA/DEIS		May 1, 2009
BLM obtains Headquarters approval of Notice of Availability of DEIS (45 – 60 days following substantial completion of DEIS)		June 15, 2009
BLM files Notice of Availability (NOA) of DEIS	March 3, 2009	June 15, 2009
Staff and BLM file FSA/DEIS, and BLM issues Biological Assessment (starts 135-day clock for receiving Biological Opinion)	March 3, 2009	June 15, 2009
Prehearing Conference (15 days following filing of FSA/DEIS)	March 18, 2009	July 1, 2009
Evidentiary Hearings (15 -20 days following Prehearing Conference)	April 2, 2009	July 15, 2009
Applicant completes Ivanpah 2 and 3 90% grading plans		July 15, 2009
BLM's 90-Day DEIS comment period ends	June 1, 2009	September 15, 2009
Presiding Member's Proposed Decision (PMPD) issued for 30-day comment period (8 weeks after Evidentiary Hearings)	May 28, 2009	September 15, 2009
PMPD Comment Hearing (Approx. 25 days after PMPD issued)	June 29, 2009	October 10, 2009

BLM and Staff substantially complete FEIS and Recommended Changes to PMPD		October 15, 2009
Revised PMPD issued for 15-day review period (35 days after PMPD issued)	July 9, 2009	October 20, 2009
Federal Biological Opinion issued	June 17, 2009 or soon thereafter	November 1, 2009
Energy Commission Decision adoption hearing (as FEIS approaches publication)	August – September 2009	November 18, 2009
BLM obtains Headquarters approval of Notice of Availability of FEIS (45 – 60 days following substantial completion of DEIS)		December 15, 2009
BLM issues NOA of FEIS	October 2, 2009	December 15, 2009
Staff and BLM file FEIS and Recommended Changes to the PMPD	October 2, 2009	December 15, 2009
Judicial review period for Energy Commission Decision ends (30 days after Commission adoption hearing)	September – October 2009	December 18, 2009
FEIS protest period ends (30 days after NOA and FEIS is published)	November 3, 2009	January 15, 2010
BLM issues Record of Decision, Right of Way grant and Plan Amendment (assumes no protests to BLM LUP Amendment and Governor completes consistency review)	November 3, 2009	January 15, 2010
Governor's consistency review period ends (60 days after FEIS is published - assuming Governor completes his review in 30 days)	December 2, 2009	February 15, 2010
BLM's resolution of any protests of its LUP Amendment proposed Decision(+ 120 days following BLM's FEIS)		May 15, 2010

Project Manager Transition

Che McFarlin has accepted another position within the Energy Commission. John Kessler has been assigned as the new project manager for this project. Mr. Kessler may be reached at (916) 654-4679 or by email: jkessler@energy.state.ca.us.

cc: Docket (07-AFC-5)
Proof of Service List



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
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APPLICATION FOR CERTIFICATION
FOR THE *IVANPAH SOLAR ELECTRIC
GENERATING SYSTEM*

DOCKET No. 07-AFC-5

PROOF OF SERVICE
(Revised 12/22/08)

INSTRUCTIONS: All parties shall 1) send an original signed document plus 12 copies OR 2) mail one original signed copy AND e-mail the document to the web address below, AND 3) all parties shall also send a printed OR electronic copy of the documents that shall include a proof of service declaration to each of the individuals on the proof of service:

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 07-AFC-5
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DECLARATION OF SERVICE

I, Hilarie Anderson, declare that on January 23, 2009, I deposited copies of the attached Status Report # 6 in the United States mail at Sacramento, CA with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

OR

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

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

Original Signature in Dockets
Hilarie Anderson

Attachments