

Memorandum

Date: July 30, 2009
 Telephone: (916) 654-4679

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

From: **California Energy Commission** – John Kessler, Project Manager
 1516 Ninth Street
 Sacramento, CA 95814-5512

DOCKET 07-AFC-5

DATE	<u>07/30/09</u>
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RECD.	<u>07/30/09</u>
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**Subject: STATUS REPORT #11 -
 IVANPAH SOLAR ELECTRIC GENERATING SYSTEM (07-AFC-5)**

SUMMARY

U.S. Bureau of Land Management (BLM) and Energy Commission staff (staff) are preparing the Administrative Draft of the Final Staff Assessment/Draft Environmental Impact Statement (FSA/DEIS). The Administrative Draft FSA/DEIS would then support the circulation of a draft Notice of Availability (NOA) for review by BLM, that once approved, would allow the NOA and FSA/DEIS to be published initiating the required 90-day comment period. The applicant continues to support BLM and staff's analysis, and to provide information and clarification as needed on the proposed project to staff and to cooperating agencies.

Currently, permit requirements from two agencies remain outstanding, and these are necessary in order for BLM and staff to complete the FSA/DEIS. The development of these permit requirements are subject to the applicant continuing to provide supporting information to the agencies and are summarized as follows:

1. California Department of Fish and Game (CDFG) Incidental Take Permit Requirements – CDFG has not yet been able to provide BLM and staff with its recommendations for conditions that would meet the full mitigation standard under the California Endangered Species Act (CESA). CDFG has also communicated that recent submittals from the applicant (Supplemental Data Response, Set 2D), including the Incidental Take Permit (ITP) application and revised Desert Tortoise Relocation/Translocation Plan, are inadequate to meet compliance requirements related to CESA, and fail to provide full disclosure pursuant to CEQA for an activity which could result in "take" of an endangered species. The most significant missing information is a habitat assessment of the proposed desert tortoise relocation/translocation sites. This information was requested in a joint agency (CEC, CDFG, BLM and USFWS) letter dated April 28, 2009 providing comments to the applicant's initial draft Desert Tortoise Translocation/Relocation Plan. This information is necessary to establish there

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 ORIGINAL MAILED FROM SACRAMENTO ON 7/30/09

will be adequate vegetation of a type that can support foraging for the desert tortoise and of a volume that can support an increase in the tortoise population. CDFG is depending on the applicant to provide this information in order to complete its assessment and development of ITP requirements. BLM and staff are dependent on receiving the ITP requirements from CDFG in order to complete the FSA/DEIS. In order to avoid delays in the FSA/DEIS preparation schedule, the joint agencies have determined that the applicant needs to provide the habitat assessment to CDFG no later than August 11, 2009, day 30 of the 45-day document preparation period. Staff is continuing with its own independent analysis of the current proposed project and is developing recommended mitigation measures to satisfy CEQA requirements. Staff understands that the applicant has been performing the habitat assessment and is on-track to provide the information by the date requested.

2. Lahontan Regional Water Quality Control Board (RWQCB) Permit Requirements – The RWQCB has not yet provided BLM and staff with requirements of its various permits, but is progressing in their efforts. Until recently, the RWQCB has been dependent on the applicant finalizing its site layout and stormwater drainage plans. The applicant acknowledged the RWQCB's dependency on these plans as communicated in an email to Energy Commission staff from the applicant's project managers/environmental consultant on April 24, 2009. In this email, staff encouraged the applicant to inform the RWQCB of its latest plans to support their development of permit requirements. The applicant responded on the same date indicating its willingness and intent to do so (both emails are attached). Therefore, the applicant acknowledged that the ability of Energy Commission staff to coordinate and obtain permit requirements from the RWQCB is dependent on the applicant's efforts to inform and coordinate its plans directly with the RWQCB as well.

The timing for the RWQCB's project review and permit requirements has also been complicated by a recent organizational change that transferred responsibility for developing ISEGS permit requirements from the Lahontan Region's staff in Victorville to staff in its Lake Tahoe office. BLM and staff continue to work closely with the applicant and RWQCB to support the RWQCB's information requirements and to help narrow the scope of their analysis by providing clarification of potential issues and collaborating in our respective analyses. The RWQCB has recently clarified that the permit requirements for ISEGS will include issuing Waste Discharge Requirements to address the proposed dredge and fill within waters of the state and for stormwater management and discharge. The applicant has also been advised that they should revise their proposed project plans to dispose of sanitary wastewater using a septic system rather than treating and reusing this very small volume of wastewater. This is because the RWQCB considers that the septic system will promote recovery of the wastewater in the groundwater and the permit and monitoring requirements associated with the small-volume wastewater treatment system are cumbersome.

CURRENT SCHEDULE FOR PREPARING THE FSA/DEIS AND RELATED MILESTONES

1. July 31, 2009 – Conduct a workshop in Sacramento to discuss outstanding stormwater and biological resource issues and mitigation approaches, and alternatives in stride with preparing the FSA/DEIS
2. August 26, 2009 – Complete Administrative Draft of FSA/DEIS and circulate draft NOA within BLM for approval
3. Possibly late August – Receive BLM’s approval of NOA and publish FSA/DEIS

If we assume the BLM NOA approval can be accomplished by end of August, then in applying the Revised Committee Schedule, subsequent milestones could be accomplished as follows:

4. Late October – Evidentiary Hearings
5. End of November – Close of 90-Day FSA/DEIS comment period
6. January 2010 – Publish FEIS and Conduct Energy Commission Adoption Hearing

CONCLUSION

BLM and staff are working with CDFG and RWQCB to assure permit requirements will be provided in a timely manner that will not delay the publication of the FSA/DEIS. Staff is proceeding diligently with FSA/DEIS document preparation anticipating the timely receipt of these permit requirements for incorporation into the document. Assuming the permit requirements are received, staff believes it is in a position to complete the remaining steps for preparing an Administrative Draft of the FSA/DEIS by August 26, 2009. This would allow circulation of the NOA for review within BLM. Approval of the Administrative Draft FSA/DEIS and the NOA will allow publishing the FSA/DEIS and initiating the 90-day comment period. Staff also wishes to apologize for the late filing of this status report which was affected by a combination of days needed by the project manager over the past two weeks for vacation, furlough and medical leave.

Docket (07-AFC-5)
Webworks
POS

From: <John.Carrier@CH2M.com>
To: <Jkessler@energy.state.ca.us>, <sdeyoung@brightsourceenergy.com>, <tstew...>
CC: <george_meckfessel@blm.gov>, <tom_hurshman@blm.gov>, <CDennis@energy.sta...>
Date: 4/24/2009 12:27 PM
Subject: RE: Ivanpah - Coord. with RWQCB

John,

Thanks for your efforts seeing that the other resource agencies are being included in this process. Russ Huddleston, who is our lead on preparing the 401 permit, has been working with Jay and has provided him with relevant background information. However, much of what he still needs is stormwater plan implementing the low impact development approach. We will forward that information to Jay as it becomes available. We will be filing the 401 permit application with Jay (and copying the POS list) as we get the information on the stormwater plan that is needed to complete the application.

Thanks again for being on top of these issues.

John L. Carrier, J.D.

Program Manager

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-----Original Message-----

From: John Kessler [mailto:Jkessler@energy.state.ca.us]

Sent: Friday, April 24, 2009 10:40 AM

To: Steve DeYoung; Todd Stewart; Carrier, John/SAC

Cc: george_meckfessel@blm.gov; tom_hurshman@blm.gov; Christopher Dennis; Dick Rattliff

Subject: Ivanpah - Coord. with RWQCB

Hi Steve, Todd and John:

Our Soil & Water Specialist, Christopher Dennis, has been coordinating with Jay Cass of the RWQCB regarding the particular permit requirements for Ivanpah. However, with recent significant changes in the project plans, particularly with respect to soil and water, the RWQCB has not had the information it needs to do its part. In order for the RWQCB to identify these permit requirements, they need to be cut-in with your current project plans for grading and drainage, and all soil & water related activities. We have been encouraging the RWQCB to participate in the recent development of the low-impact approach (the 3/25/09 meeting in Primm, NV), but they were not available. I know that Tom, George and I have also encouraged you to consult directly with the RWQCB, but I believe you wanted to wait until your plans were further developed. I would encourage you again to consult with the RWQCB directly ASAP to help them understand your proposed plans so they can identify their information needs and the associated permit requirements for which Brightsource needs to apply.

The approach the CEC is taking on preparing its Conditions of Certification is to build-in the requirements of the various state and local permits into our FSA, which requires that you make application to the agency, and then the agency can define for us their conditions/requirements for obtaining the permits. Later on, for any permit requirements that require development of plans and submittals in the Compliance phase, we ask the state or local agency to review and provide comments on those plans, with the role of the CEC to feed the agency's comments and the CEC's back to the applicant for any revisions necessary, and with the CEC ultimately approving those plans.

In the immediate time frame, in order to build-in the RWQCB's permit requirements into our conditions for the FSA/DEIS, we are dependent on Brightsource consulting with and making application for those permits that would normally be required by the RWQCB. The contact info. for Mr. Cass at the RWQCB is as follows:

Jehiel (Jay) Cass

Water Resources Control Engineer

CA Regional Water Quality Control Board

Lahontan Region (6B)

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Please keep us informed of your progress.



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APPLICATION FOR CERTIFICATION
FOR THE *IVANPAH SOLAR ELECTRIC
GENERATING SYSTEM*

DOCKET No. 07-AFC-5
PROOF OF SERVICE
(Revised 7/20/09)

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DECLARATION OF SERVICE

I, Maria Santourdian, declare that on July 30, 2009, I served and filed copies of the attached Ivanpah Solar Electric Generating System (07-AFC-5) Status Report #11, dated July 30, 2009. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [www.energy.ca.gov/sitingcases/ivanpah].

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, California 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. 07-AFC-5
1516 Ninth Street, MS-4
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docket@energy.state.ca.us

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

Original Signature in Dockets
Maria Santourdjian