

**DOCKET**

**08-AFC-13**

DATE MAR 03 2010

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STATE OF CALIFORNIA

Energy Resources Conservation  
and Development Commission

In the matter of:

The Application for Certification for the  
Calico Solar Project

Docket No. 08-AFC-13

Intervenor Defenders of Wildlife

Proposal for Site Reconfiguration Alternative

March 3, 2010

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Pursuant to the relevant sections of the California Code of Regulations, Intervenor Defenders of Wildlife (“Defenders”) hereby respectfully proposes the following Site Reconfiguration Alternative (“Reconfiguration”) described below and the accompanying map appended hereto. Defenders requests that the California Energy Commission (“CEC”) fully analyze and consider the Reconfiguration in its Staff Assessment.

## **I. The CEC is Required to Consider Site Alternatives Submitted by Parties**

The CEC's requirement to consider site alternatives is reposed within Title 20, section 1723.5(d) of the California Code of Regulations. This section provides that the staff shall “assess the feasibility of reasonable alternative sites and facilities other than those proposed by the applicant, which the staff believes may substantially lessen or avoid the principal adverse effects of the applicant's proposal.” 20 CCR 1723.5(d). In addition, “any person may suggest one or more of such alternatives to the staff and committee for consideration in the staff report.” *Id.* Any party may propose that the commission approve any alternative site and related facility in lieu of or in addition to the applicant's proposals. 20 CCR 1723.5(e).

## **II. Description of the Proposed Reconfiguration**

As the attached map illustrates, the Reconfiguration changes the project footprint in three important ways:

1. The Reconfiguration pulls the northeast boundary of the project down to avoid live desert tortoises, desert tortoise burrows, and a large area of high quality desert tortoise habitat.
2. The Reconfiguration includes two private land acquisitions south of Interstate 40 that will compensate for the removal of the northeast section of the proposed site.
3. The Reconfiguration adds a section of BLM land to the north of Interstate 40. This section is lower quality habitat for desert tortoise and bighorn sheep and is available for

solar development should the Applicant choose to include it in the project through a right-of-way application to the BLM.

### **III. The Reconfiguration Will Lessen or Avoid the Principal Adverse Effects of the Project**

The proposed reconfiguration will alleviate the significant environmental impacts that the proposed project would have on several species, particularly desert tortoise and bighorn sheep. The majority of live desert tortoises and active desert tortoise burrows observed during the Applicant's surveys were in the northeast section of the proposed project, which was removed as part of the Reconfiguration. This section of the proposed site also provides connectivity and movement corridors for desert tortoises in the adjacent Pisgah Area of Critical Environmental Concern ("ACEC"). Additionally, although the Applicant has not conducted comprehensive surveys for bighorn sheep, the northeast section of the proposed project very likely provides foraging habitat and movement corridors for this species. Finally, the northeast section provides nesting and foraging habitat for raptors, such as golden eagle, and habitat for other special status bird species, such as burrowing owl.

#### **Desert Tortoise**

The project area is described as suitable habitat for the desert tortoise. During surveys for this species performed by the Applicant's consultants, 57 live tortoises and 30 actively used burrows were observed and documented. Because the 57 animals and 30 burrows observed were from a sampling effort, the total number of tortoises expected to occur in the affected area ranges from 70 to 127. As stated above, the majority of live desert tortoises and active burrows were in the northeast section. This section also may be important for desert tortoise movement. The proposed project is in an area that functions as a biological corridor for the desert tortoise, effectively facilitating biological linkage with other populations within and outside of the Western Mojave Recovery Unit. The Reconfiguration will reduce the impacts to most of the identified individual tortoises on the site and avoid the blockage of this important movement corridor for the species.

## **Desert Bighorn Sheep**

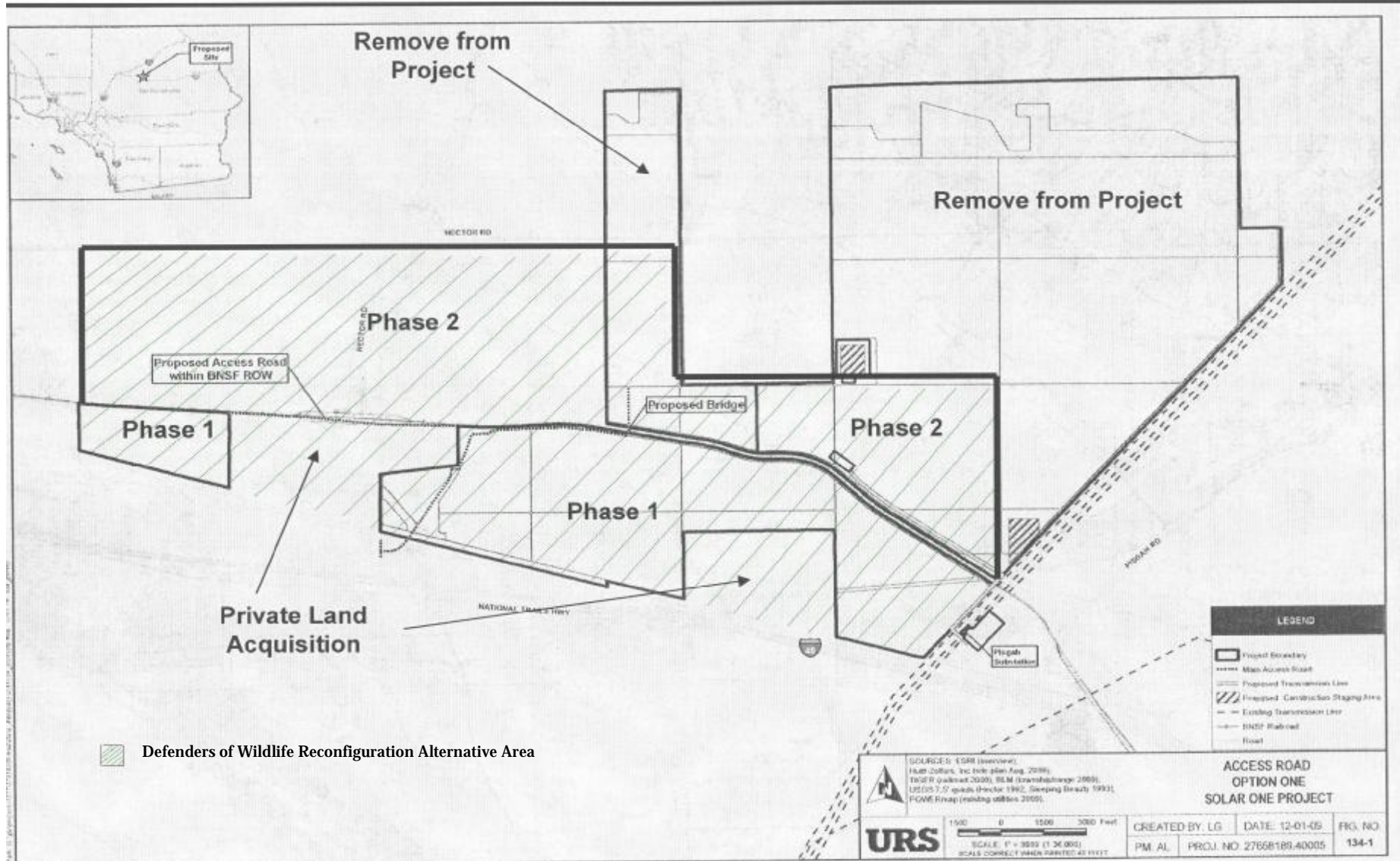
Desert bighorn sheep, a BLM sensitive and California Fully Protected species, occur on a permanent basis in the Cady Mountains immediately north of the project site. The population is estimated at approximately 300 individuals. Bighorn in the Cady Mountains are likely a subpopulation exhibiting biological connectivity with other subpopulations in the Rodman, Newberry, and Ord Mountains.

Defenders' July 7, 2009 scoping letter requested that the CEC and BLM determine whether the Cady Mountains bighorn herd utilizes the proposed project area for foraging during the late winter and early spring seasons. Since the date of that letter, bighorn biologist Dr. John Wehausen of the University of California's White Mountain Research Station has expressed concern that the washes and bajadas that extend from the mountains and into the proposed project area have not been adequately surveyed for use by bighorn. Dr. Wehausen observed that females will seek annual plant species and flowering shrubs in lower elevation, south facing slopes, which are believed to be very important in maintaining healthy females during pregnancy and in nursing newborns (Dr. John Wehausen, pers. comm.). The Applicant has not completed studies or surveys of bighorn sheep on the proposed site. Defenders therefore must assume, based on the statements of Dr. Wehausen, that bighorn do use the site as foraging habitat and for movement corridors. In particular, the northeast section of the project site provides excellent foraging habitat for bighorn, and was therefore removed as part of the Reconfiguration.

## **IV. Conclusion**

Defenders requests that the CEC take a hard look at the Reconfiguration. The CEC is required to analyze alternatives submitted by parties. 20 CCR 1723.5(e). The Reconfiguration reduces most of the significant environmental impacts to wildlife species associated with the proposed project.

# Calico Solar Project Defenders of Wildlife Reconfiguration Alternative



**DECLARATION OF SERVICE**

I, Joshua Basofin, declare that on March 3, 2010, I served and filed copies of the Attached Proposal for Site Reconfiguration Alternative. 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/calicosolar]**. 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 Unit, in the following manner:

**(Check all that Apply)**

**FOR SERVICE TO ALL OTHER PARTIES:**

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

X by personal delivery or by depositing in the United States mail at Sacramento, CA with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked "email preferred."

**AND**

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**


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

  
\_\_\_\_\_



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**APPLICATION FOR CERTIFICATION**  
**For the CALICO SOLAR (Formerly SES Solar One)**

**Docket No. 08-AFC-13**

**PROOF OF SERVICE**  
**(Revised 2/8/10)**

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