

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

lmiles@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 2, 2010

DOCKET	
08-AFC-13	
DATE	<u>JUN 02 2010</u>
RECD.	<u>JUN 02 2010</u>

California Energy Commission
Attn: Docket Office, 08-AFC-13
1516 Ninth Street
Sacramento, CA 95814

Re: Calico Solar; Docket No. 08-AFC-13

Dear Docket Clerk:

Please process the enclosed California Unions for Reliable Energy Petition for Inspection and Copying of Records for the Calico Solar Project, conform the copy and return the copy in the envelope provided.

Thank you.

Sincerely,

/s/

Loulena A. Miles

LAM:bh
Enclosures

2309-061a

STATE OF CALIFORNIA
California Energy Commission

In the Matter of:

The Application for Certification for the
CALICO SOLAR PROJECT
(Formerly SES Solar One)

Docket No. 08-AFC-13

**CALIFORNIA UNIONS FOR RELIABLE ENERGY
PETITION FOR INSPECTION AND COPYING OF RECORDS
FOR THE CALICO SOLAR PROJECT**

June 2, 2010

Loulena A. Miles
Tanya A. Gulesserian
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
(650) 589-1660 Voice
(650) 589-5062 Facsimile
lmiles@adamsbroadwell.com

Attorneys for the CALIFORNIA UNIONS
FOR RELIABLE ENERGY

I. INTRODUCTION

Pursuant to section 2506 of Title 20 of the California Code of Regulations, California Unions for Reliable Energy (“CURE”) petitions to inspect and copy the following documents regarding the *Calico Solar Project*:

1. Cultural Resources Technical Report, Dated 12/1/2008, from B. Magdych, URS to M. Jones, CEC. Docket: 49277.
2. Paleontological Resources Technical Report, Dated 12/1/2008, from B. Magdych, URS to M. Jones, CEC. Docket: 49317.
3. Cultural Resources Technical Report, Dated 4/6/2009, from R. Nixon, URS to M. Jones, CEC. Docket: 50885.
4. Applicants’ Responses to CEC & BLM Data Request Set 1, Part 2 Cultural Resources Data Responses & 25% Submittal, Dated 11/19/2009, from F. Bellows, Tessera to C. Meyer, CEC. Docket: 54229.
5. Confidential Figures accompanying the Applicant’s Responses to the CEC Memo Regarding Transmission Line Upgrades – Cultural Resources, Dated January 29, 2010, from F. Bellows to C. Meyer. Docket: 55176.
6. Confidential Figures Requested during the April 21 workshop, Dated 4/21/2010, from F. Bellows, Tessera to C. Meyer, CEC. (Note: Apparently this was *not* docketed.)

CURE seeks to review the above six confidential cultural resources filings because they will enable CURE to evaluate the impacts to cultural resources related to the application for certification (“AFC”) for the Calico Solar Project (“Project”) and to develop comments and prepare expert testimony regarding the identification, avoidance and mitigation of cultural resources impacts associated with Project siting and development. CURE

has retained cultural resources preservation expert Claudia Nissley to assist in the review of these materials.¹

CURE is an active intervenor in this siting proceeding and has requested to be a formal consulting party in the National Historic Preservation Act Section 106 consultation process. If this request is granted, CURE will be working with the Bureau of Land Management, the Energy Commission, the State Historic Preservation Office, the tribes and other consulting parties in developing a programmatic agreement for protection of the cultural resources on the Project site, pursuant to the National Historic Preservation Act, 16 U.S.C. § 470f. In order to ensure confidentiality, CURE proposes to enter into a nondisclosure agreement with Calico Solar, LLC. A proposed nondisclosure agreement is attached as Exhibit B.

II. DISCUSSION

On May 6, 2009, the Commission accepted the AFC as data adequate. Since that time, Calico Solar, LLC, formerly SES Solar One, (“Applicant”) has filed a number of documents under confidential cover relating to the cultural resources on the Project site. The Project contains important cultural resources associated with human occupation and use prior to European contact including rock art and trails; however, detailed information about these historic resources has been deemed confidential.

¹ Claudia Nissley’s resume is attached as Exhibit A.

The Applicant submitted an initial request for confidential designation of cultural resource information on December 1, 2008. Specifically, the Applicant requested confidential designation for the cultural resource reports on the grounds that the information is “essentially equivalent to the information maintained by the State Historical Resources Commission, which are exempted from disclosure by sections 6254.10 and 6254(r) of the Public Records Act, respectively, Cal. Govt. Code Sections 6254.10, 6254(r).”² The Applicant also stated that public access to the site locations of these resources poses “the unacceptable risk of looting.”³

CURE petitions to inspect and copy the confidential filings listed above to enable CURE to review the cultural resources technical reports and prepare expert testimony regarding strategies for identification, avoidance and mitigation of cultural resources impacts associated with Project development. On June 16, 2009, the Commission granted CURE’s Petition to Intervene in this proceeding.

CURE is a coalition of unions whose members construct and operate power plants in California. CURE intervened in this proceeding because the Project directly affects the union members’ economic and environmental interests.⁴ Specifically here, without proper avoidance and/or mitigation, destruction of cultural resources in one solar proceeding may jeopardize the

²Application for Confidential Designation (20 CCR 2505) SES Solar One, LLC, Cultural Resources Technical Report, Dated, December 2008.

³ *Id.*

⁴ Petition to Intervene by California Unions for Reliable Energy, In the Matter of the Application for Certification for the SES Solar One Project; Docket No. 08-AFC-13.

approval of future development in the region due to either significant individual and/or cumulative impacts on these irreplaceable resources. Additionally, union members live in and around this community and have a direct interest in protecting cultural and other historic resources. CURE's ability to exercise its rights as an intervenor in the CEC proceeding is dependent on thorough review of the cultural resources information in the confidential cultural resource filings listed above.

On April 15, 2010 and May 21, 2010, the Commission granted CURE's petitions to inspect confidential cultural reports in the Imperial Valley Solar Project (formerly SES Solar Two) (09-AFC-5) ("Imperial Valley") and Genesis Solar Energy Project (09-AFC-8) ("Genesis"), respectively.⁵ On February 18, 2010 and April 5, 2010, BLM granted CURE's request to be a consulting party in the National Historic Preservation Act Section 106 consultation processes for the Imperial Valley and Genesis projects, respectively. BLM agreed with CURE that it was entitled to consulting party status due to CURE's clear interest in the historic properties on the project sites and CURE's legal and technical expertise that may be beneficial to the consultation process.⁶

⁵ See Notice and Orders for Consolidated Hearing on Issues Concerning US Bureau of Land Management Cultural Resources Data, May 21, 2010, p. 3.

⁶ See, e.g., Letter from John R. Kalish, Field Manager, to Rachael E. Koss, Adams, Broadwell Joseph and Cardozo, April 5, 2010.

CURE has retained cultural resources preservation expert Claudia Nissley to assist in the review of these materials.⁷ CURE will sign a nondisclosure agreement with Calico Solar, LLC to protect sensitive information relating to the resources. The purpose of the nondisclosure agreement is to ensure that the requested materials will remain confidential and will not be used except as necessary to participate in the proceeding and, if applicable, the NHPA Section 106 consultation process. CURE's counsel and consultants have routinely been parties to nondisclosure agreements in CEC and CPUC proceedings and are experienced at protecting confidential, sensitive information from public disclosure.

III. CONCLUSION

Because CURE seeks to protect the cultural resources on the Project site as an Intervenor in the CEC proceeding, CURE has retained a cultural resources preservation expert, and is willing to enter into a non-disclosure agreement with the Applicant, CURE requests that the Commission grant CURE's petition to inspect and copy the cultural resources filings listed above. The requested information is necessary for CURE to fully exercise its rights as a party in this proceeding.

⁷ Resume of Claudia Nissley is attached as Exhibit A.

Dated: June 2, 2010

Respectfully submitted,

/s/

Loulena A. Miles
Tanya A. Gulesserian
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
(650) 589-1660 Voice
(650) 589-5062 Facsimile
lmiles@adamsbroadwell.com

Attorneys for the CALIFORNIA UNIONS
FOR RELIABLE ENERGY

EXHIBIT A

Claudia Nissley
11623 Wasatch Road, Longmont, CO 80504
Email: cnissleyenviro@gmail.com phone: 303 776 7603
Website: c nec-inc.com

Present Positions

President - Nissley Environmental Consultants, Inc. 1999 to Present

Consultant in environmental review and cultural resource management. Provide practical strategies and solutions for federal, state and delegated local governments, tribes, Non Government Organizations and industry to navigate federal environmental requirements. Analyze and develop documents with recommendations for mitigation. Bring community consensus and mediate cross-cultural discussions for integration of environmental and cultural heritage laws. Identify potential issues under the National Environmental Policy Act (NEPA), Section 106 of National Historic Preservation Act (NHPA), Native American Graves Protection and Repatriation Act (NAGPRA), Archaeological Resources Protection Act (ARPA) and Comprehensive Environmental Response, Compensation and Liability Act (Superfund). Oversight to bring legal processes to final decision and closure.

Contract projects for state and federal governments, institutions and private companies. Professional analysis of data, preparation of reports (EIS, EA, NOI, RODs, CIA, SIA) and final manuscripts for publication. Special custom training for clients in NEPA process, regulations and compliance requirements.

Clients include U.S. Army Corps of Engineers, Environmental Protection Agency, U.S. Fish and Wildlife, U.S.D.A. Forest Service, Bureau of Land Management, General Services Administration, U.S. Department of Justice, University of Colorado, State of Wisconsin and South Dakota, private companies and not-for-profit organizations.

Instructor – National Preservation Institute, 1999 to Present

Design and teach classes for national audiences on federal environmental and heritage laws and their implementing regulations. Classes targeted for professional practitioners, Continuing Legal Education (CLE), American Indian Tribes, federal and state employees and advocacy groups. Customized classes developed for Army National Guard, federally recognized Tribes, California and Texas State Departments of Transportation, U.S. Housing and Urban Development.

Classes include Introduction to Section 106, Integrating Cultural Resources in NEPA Compliance, Consultation with Indian Tribes on Cultural Resource Issues, Section 106 – How to Negotiate and Write Agreements, CERCLA and NHPA Coordination for Superfund Sites, Identification and Management of Traditional Cultural Properties, NAGPRA and ARPA: Applications and Requirements (www.npi.org)

Courses taught throughout U.S., including Alaska and Hawaii. Over 2200 participants in previous six years of classes.

Professional Employment History

State Historic Preservation Officer, Wyoming

Oversight for State Historic Preservation Office. Manage and allocate \$1 million program with 60 employees. Ensure compliance with federal laws and federal Historic Preservation Fund Grant. Program include statewide data base in the Cultural Records Office, State Archaeologist, State Curation facility, Review and Compliance Division for federal statutes and regulations under NHPA, NEPA and in conjunction with NAGPRA, National Register Program, Tax Act Incentives, Certified Local Government grants, and statewide contexts and planning projects. Majority of projects related to Congressional and Presidential Energy Development including oil and gas, coal, coal bed methane, wind and the associated infrastructure.

Director, Western Office, Advisory Council on Historic Preservation

Responsible for federal agencies' Section 106 compliance with the National Historic Preservation Act in the western half of the U.S. and the Pacific. Manage the Western Office, supervise staff of 10. Respond to Congressional inquiries, comment on proposed draft legislation and regulations. Develop preservation policy for land management issues and encourage its implementation. Focus on retention of historic

components in new development. Ensure integration of cultural diversity, with particular emphasis on Native Americans, including Native Hawaiians. Work with citizen coalitions and special interest groups to achieve more desirable outcomes for preservation concerns. Mediate with all involved parties and negotiate resolutions to development/preservation conflicts. Sole media contact. Taught course, "Federal Preservation Law" for groups up to 45 participants, four times per year.

Colorado State Museum and Museum of Northern Arizona

Inventory federal and tribal lands in New Mexico, Arizona and Utah for cultural resources to enhance research efforts. Supervised field and lab teams to ensure accuracy and consistency in acquisition and analysis of cultural material. Write reports and recommendations for future treatment and preservation. Collaborate and assist Department of Collections for annual Pueblo festivals, education and markets.

Integrate historic preservation concerns into comprehensive statewide planning, survey and National Register of Historic Places programs; develop and teach statewide training courses in cultural resource management, Colorado history and prehistory, archaeological field techniques and compliance with preservation legislation. Initiate statewide program of Avocational Archaeological Certification based on Arkansas model; conducted instruction in major modules throughout state. Develop international network for avocational organizations at Society for American Archaeology meeting, Vancouver, B.C. Assist Office of State Archaeologist in technical assistance to other state units, agencies and the public.

Forest Archaeologist, Willamette National Forest, U.S. Department of Agriculture, Eugene, OR

Primary responsibility for development, administration, and professional recommendations for a new forest-wide program for recognition and assessment of significant cultural resources on National Forest Land. Technically trained and supervised 10 archaeologists and 35 technicians. Solicited and reviewed requests for proposals, evaluated contracts and contract bids and served as Contracting Officer's Representative for contract projects. Scheduled annual work plans. Coordinated with Timber Sale Program for five-year sale plans.

Education

MS, JD	Environmental Law - In Progress	Vermont Law School
ABD	Anthropology/Statistics	University of Oregon, Eugene
MA	Anthropology/Geology/Paleontology	University of Colorado, Boulder
BA	Anthropology/Philosophy	California State University, Long Beach

Recent Presentations

- 2008 Multi-Jurisdictional Energy Projects: Federal & Tribal Consultation Requirements, Continuing Legal Education, Denver, CO (2 day workshop)
- 2005 Petroleum Association of Wyoming, American Institute of Petroleum, Jackson, WY
- 2004 Environmental & Natural Resources Law on the Reservation, Phoenix, AZ
"Ethnographic Landscapes, Traditional Cultural Properties, and the National Historic Preservation Act – What You Need to Know." Continuing Legal Education
- 2004 Public Interest Environmental Law Conference, University of Oregon Law School
"The National Historic Preservation Act – The Art of Consultation "
- 2004 Wyoming Bureau of Land Management Protocol Meeting
"Cultural Landscapes and Historic Trails Context and Evaluation "
- 2003 Society for American Archaeology Meeting, Milwaukee, Wisconsin
"Traditional Cultural Properties and Case Law "
- 1997 Native American Consultation: Protocol and Process. SAA Annual Meeting.

New Publication

- 2010 Consultation and Negotiation. *In A Companion for Cultural Resource Management*, ed. Thomas F. King, Wiley-Blackwell, Malden, MA

Expertise Specific to Traditional Cultural Properties, Ethnographic and Ethnohistoric Landscapes

For the last 20 years, my work has focused on the dynamic and growing areas of concern related to those places and landscapes that are valued by communities and American Indian tribes called traditional cultural properties or culturally significant landscapes. Below are enumerated some of the more significant cases I have worked on, either on behalf of the tribe, a state, a corporation or an agency in the federal government. Some specific information is intentionally left out due to a client's position that the information is privileged and confidential.

U.S. Army Corps of Engineers and Environmental Protection Agency, New England Districts; VT Abenaki tribe (not federally recognized); private land – federal oversight; identified and consulted with tribe to determine traditional areas of significance; coordinated consultation and on-site meetings for with all mentioned parties to determine if any mitigation would work for protection of special areas.

Private utility company, Bureau of Land Management, U.S. Fish and Wildlife Service, Bureau of Reclamation, CA State Department of Toxic Substances, and 12 federally recognized tribes of the Lower Colorado River; CA; private and federal land; proposed and facilitated consultation between and among above-listed parties to identify and recognize a sacred landscape, a portion of which is already listed on the National Register of Historic Places as an archaeological district. This project is still on-going and consultation is continuing on what effects of the proposed project might be on the traditional cultural landscape. One tribe pursued litigation prior to my being hired. An agreement settlement was reached between the utility company and the tribe, however, it remains a contentious issue today.

U.S. Forest Service, Medicine Wheel Alliance, Medicine Wheel Coalition, federal land; a medicine wheel over 60 feet in diameter at 10,000 feet elevation in WY; traditional practitioners ascribing cultural and religious values; developed an agreement among all parties to prevent additional environmental and cultural degradation; monitoring system and interpretative text according to tribal members for the general public; by 2009, over 81 federally recognized tribes ascribe value to the area. A new twist to the issues was added in 2005 during a meeting of traditional ranchers and fifth generation families of the area also ascribing cultural value for traditional hunting, family camping and gathering areas.

U.S. Forest Service, federally recognized tribe, rock climbers; USFS developed a land management plan for Cave Rock, a cave ascribed traditional and religious significance by the tribe and a noted popular place for rock climbing adjacent to Lake Tahoe, CA. The plan eliminated climbing completely from the outcrop and cave as it was unacceptable to the tribe. Access Fund, a national climbing organization pursued litigation but did not gain access again. Cave Rock has a four-lane highway through the middle of the rock outcrop and one has to cross the highway to gain access to the cave. I provided expertise in reviewing the traditional cultural properties, the tribe's position and an analysis of the land management plan and accompanying environmental assessment.

Bureau of Land Management, federally recognized tribe, 65 miles of California coastline with ancestral lands and human remains with ascribed traditional significance and important for the tribe's cultural continuity. Over a number of years, the BLM was not responsive to the tribe's request under several federal laws. My role was to write an overview of the situation based on existing documents, make recommendations and facilitate in meetings with BLM State Director, Department of Interior solicitors, and the tribe's governor, attorney and tribal historic preservation officer. We were successful in reaching agreement and ultimately the tribe was able to fulfill their requests for specific actions to occur on federal lands.

Other issues of traditional culture and places of ascribed significance that I have participated in facilitation of various resolutions include the Pueblo of Sandia and the Rio Grande, NM; a traditional AK native village also an archaeological site; the State of SD and state and federal lands ascribed significance by multiple tribes; USFS Mt. Graham in AZ and multiple tribes; and other considerably less contentious issues on private and federal lands.

EXHIBIT B

STATE OF CALIFORNIA
California Energy Commission

In the Matter of:

The Application for Certification for the
CALICO SOLAR PROJECT

Docket No. 08-AFC-13

**NON-DISCLOSURE AGREEMENT REGARDING
CONFIDENTIALITY OF CALICO SOLAR
PROJECT CULTURAL RESOURCE DOCUMENTS**

1. This Non-Disclosure Agreement (NDA) is entered into between Calico Solar, LLC (Calico) and California Unions for Reliable Energy (CURE, as defined herein). This NDA shall govern access to and the use of all Confidential Records of Calico in California Energy Commission (Commission or CEC) Docket No. 08-AFC-13, as hereinafter defined. Notwithstanding any order terminating this docket, this NDA shall remain in effect unless lifted by Calico pursuant to paragraph 10 below.
2. **Definitions –**
 - a. The term “Project” shall mean the Calico Solar Project as described in Docket 08-AFC-13.
 - b. The term “Confidential Records” means the six confidential records listed below:
 1. Cultural Resources Technical Report, Dated 12/1/2008, from B. Magdych, URS to M. Jones, CEC. Docket: 49277.
 2. Paleontological Resources Technical Report, Dated 12/1/2008, from B. Magdych, URS to M. Jones, CEC. Docket: 49317.
 3. Cultural Resources Technical Report, Dated 4/6/2009, from R. Nixon, URS to M. Jones, CEC. Docket: 50885.
 4. Applicants’ Responses to CEC & BLM Data Request Set 1, Part 2 Cultural Resources Data Responses & 25% Submittal, Dated

11/19/2009, from F. Bellows, Tessera to C. Meyer, CEC. Docket: 54229.

5. Confidential Figures accompanying the Applicant's Responses to the CEC Memo Regarding Transmission Line Upgrades – Cultural Resources, Dated January 29, 2010, from F. Bellows to C. Meyer. Docket: 55176.
 6. Confidential Figures Requested during the April 21 workshop, Dated 4/21/2010, from F. Bellows, Tessera to C. Meyer, CEC. (Note: Apparently this was *not* docketed.)
- c. Confidential Records shall not include: (A) any information or document contained in the public files of the CEC or any other state or federal agency, or in any state or federal court, unless such information or document has been determined to be protected by such agency or court; or (B) information that is public knowledge, or which becomes public knowledge, other than through disclosure in violation of this NDA.
 - d. The term “Non-Disclosure Agreement” shall mean the agreement annexed hereto as Appendix A by which persons shall be granted access to the six Confidential Records listed in this agreement. Such persons shall, as a condition of such access, certify their understanding that such access is provided pursuant to the terms and restrictions of this NDA, and that such persons have read such NDA and agree to be bound by it. All NDAs shall be sent to and retained by Calico.
 - e. The term CURE shall refer to California Unions for Reliable Energy. By executing this NDA, CURE represents (1) that it is not an entity that engages in the vandalism, harm or collection of cultural resources, or an association comprised of entities that engage in such activities, or any affiliate of such an entity or association; (2) that it is an entity seeking to preserve the cultural resources on the Project site; and (3) that it is not an entity engaged in consulting or advising other entities in where cultural resources are located on BLM land.
 - f. The term “CURE Reviewing Representative” shall mean a person who is
 1. An officer of CURE whose duties involve assisting CURE in preparing for or participating in Docket 08-AFC-13 and the related National Historic Preservation Act Section 106 consultation process; or an attorney, paralegal, consultant or employee of a consultant retained by CURE for the purpose of advising, preparing for or participating in Docket 08-AFC-13 and the related National Historic Preservation Act Section 106

consultation process; and

2. Approved by Calico pursuant to the following process:
 - a. CURE shall identify its proposed Reviewing Representatives to Calico.
 - b. Upon request by Calico, CURE shall provide a *curriculum vitae* of any particular candidate.
 - c. Calico shall advise CURE in writing if Calico objects to any proposed Reviewing Representative, setting forth in detail the reasons therefore.

Access of CURE Reviewing Representatives to Confidential Records shall be granted only pursuant to the terms of this NDA.

3. Confidential Records shall be treated as confidential by each CURE Reviewing Representative in accordance with the nondisclosure agreement. Confidential Records shall not be used except as necessary for the conduct of Docket No. 08-AFC-13 and the related National Historic Preservation Act Section 106 consultation process, and shall not be disclosed in any manner to any person except other CURE Reviewing Representatives who are engaged in this proceeding or the 106 process and need to know the information in order to carry out their responsibilities.
4. In the event CURE is requested or required by applicable laws or regulations, or in the course of administrative or judicial proceedings (in response to oral questions, interrogatories, request for information or documents, subpoena, civil investigative demand or similar process) to disclose any of the six Confidential Records listed in this agreement, CURE agrees to oppose disclosure on the grounds that the requested information has been designated as Confidential Records subject to this NDA and therefore may not be disclosed. CURE shall also inform Calico of the request, and Calico may, at its sole discretion and cost, direct any challenge or defense against the disclosure requirement, and CURE shall cooperate with Calico to the maximum extent practicable to either oppose the disclosure of the Confidential Records consistent with applicable law, or obtain confidential treatment of Confidential Records by the entity that wishes to receive the Confidential Records prior to any such disclosure.
5. No CURE Reviewing Representative shall be permitted to inspect, participate in discussions regarding, or otherwise be granted access to the six Confidential Records listed in this agreement unless such CURE Reviewing Representative has first executed a Non-Disclosure Agreement and it has been delivered to Calico. Upon request, Calico shall provide copies of

executed Non-Disclosure Certificates to Commission Staff. Attorneys qualified as CURE Reviewing Representatives shall ensure that persons under their supervision or control comply with this NDA.

6. In the event that a CURE reviewing representative, to whom the six Confidential Records listed in this agreement are disclosed, ceases to be engaged in proceedings in this docket, then access to Confidential Records by that person shall be terminated. Even if no longer engaged in such proceedings, every such person shall continue to be bound by the provisions of this NDA.
7. Nothing in this NDA shall be construed as limiting the right of Calico or CURE from objecting to the use of the six Confidential Records listed in this agreement on any legal ground, such as relevance or privilege.
8. All Confidential Records filed with judicial or administrative bodies other than the Commission, whether in support of or as part of a motion, brief or other document or pleading, shall be filed and served in sealed envelopes or other appropriate containers bearing prominent markings indicating that the contents include Confidential Records that are subject to this NDA.
9. Neither Calico nor CURE waives its rights to pursue any other legal or equitable remedy that may be available in the event of actual or anticipated disclosure of the six Confidential Records listed in this agreement.
10. Calico may agree at any time to remove the "Confidential Records" designation from any of the six Confidential records listed in this agreement if, in Calico's opinion, its confidentiality is no longer required. In such a case, Calico will notify CURE of the change of designation.
11. Review of and use of the six Confidential Records listed in this agreement by CURE and any CURE Reviewing Representative is solely for the purpose of participating in the Application for Certification for the Calico Solar Project and the related National Historic Preservation Act Section 106 consultation process, and any other use or disclosure of the six Confidential Records listed in this agreement is a breach of this NDA.

Dated _____, 2010, at South San Francisco, California.

BY: _____
On Behalf of Calico Solar LLC

BY: _____
On Behalf of California
Unions for Reliable Energy

APPENDIX A
STATE OF CALIFORNIA
California Energy Commission

In the Matter of:

The Application for Certification for the CALICO SOLAR PROJECT

Docket No. 08-AFC-13

NON-DISCLOSURE CERTIFICATE

I, _____, have been asked by _____ (California Unions for Reliable Energy (CURE)) to inspect certain materials that have been designated as “Confidential Records” under Paragraph 2(b) of the Non-Disclosure Agreement (NDA) entered into between Calico Solar LLC (Calico) and CURE dated _____, 2010.

1. I hereby certify my understanding that access to Confidential Records is provided to me pursuant to the terms and restrictions of the NDA, that I have been given a copy of and have read the NDA, and that I agree to be bound by it. I understand that the contents of the Confidential Records, any notes or other memoranda, or any other form of information that copies or discloses Confidential Records shall not be disclosed to anyone other than in accordance with the NDA.

2. I understand that my review of Confidential Records is solely for the purpose of participating in the above-captioned matter and the related National Historic Preservation Act Section 106 consultation process and that any other use or disclosure of Confidential Records by me is a violation of the NDA.

3. I hereby agree to submit to the exclusive jurisdiction of the California Energy Commission for the enforcement of the undertakings I have made hereby and I waive any objection to venue laid with the Commission for enforcement of the Order.

Dated:

BY: _____

TITLE: _____

REPRESENTING: _____

Calico Solar – 08-AFC-13
DECLARATION OF SERVICE

I, Bonnie Heeley, declare that on June 2, 2010, I served and filed copies of the attached California Unions for Reliable Energy Petition for Inspection and Copying of Records for the Calico Solar Project dated June 2, 2010. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at www.energy.ca.gov/sitingcases/calicosolar/CalicoSolar_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 Unit electronically to all email addresses on the Proof of Service list; and by depositing in the U.S. mail at South San Francisco, CA, with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list to those addresses NOT marked "email preferred."

AND

By sending an original paper copy and one electronic copy, mailed and emailed respectively to:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 08-AFC-13
1516 Ninth Street, MS 4
Sacramento, CA 95814-5512
docket@energy.state.us.ca.

I declare under penalty of perjury that the foregoing is true and correct. Executed at South San Francisco, CA, on June 2, 2010

_____/s/_____
Bonnie Heeley

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 08AFC13
1516 Ninth Street, MS-4
Sacramento, CA 95184
docket@energy.state.us

Felicia Bellows
Vice President, Development
Tessera Solar
4800 North Scottsdale Road
Suite 5500
Scottsdale, AZ 85251
Felicia.bellows@tesseractosolar.com

Camille Champion
Project Manager
Tessera Solar
4800 North Scottsdale Road
Suite 5500
Scottsdale, AZ 85251
Camille.champion@tesseractosolar.com

Angela Leiba
AFC Project Manager
URS Corporation
1615 Murray Canyon Rd., #1000
San Diego, CA 92108
Angela_Leiba@URSCorp.com

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

Jim Stobaugh
BLM-Nevada State Office
PO Box 12000
Reno, NV 89520
Jim_stobaugh@blm.gov

Rich Rotte, Project Mgr.
Bureau of Land Management
Barstow Field Office
2601 Barstow Road
Barstow, CA 92311
Richard_Rotte@blm.gov

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

Jeffrey D. Byron
Commissioner & Associate Member
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
jbyron@energy.state.ca.us

Paul Kramer
Hearing Officer
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
pkramer@energy.state.ca.us

Caryn Holmes
Staff Counsel
California Energy Commission
1516 Ninth Street MS-14
Sacramento, CA 95814
cholmes@energy.state.ca.us

Christopher Meyer
Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
cmeyer@energy.state.ca.us

Ella Foley Gannon, Partner
Bingham McCutchen, LLP
Three Embarcadero Center
San Francisco, CA 94111
Ella.gannon@bingham.com

Loulena Miles
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
lmiles@adamsbroadwell.com

Becky Jones
California Department of Fish &
Game
36431 41st Street East
Palmdale, CA 93552
dfgpalm@adelphia.net

Basin & Range Watch
Laura Cunningham
Kevin Emmerich
PO Box 70
Beatty, NV 89003
atmoictoadranch@netzero.net

Patrick C. Jackson
600 N. Darwood Avenue
San Dimas, CA 91773
E-MAIL PREFERRED
ochsjack@earthlink.net

California ISO
e-recipient@caiso.com

Defenders of Wildlife
Joshua Basofin
1303 J Street, Suite 270
Sacramento, CA 95814
E-MAIL PREFERRED
jbasonfin@defenders.org

Kristy Chew, Adviser to
Commissioner Byron
California Energy Commission
1516 Ninth Street
Sacramento, Ca 95814
kchew@energy.state.ca.us

Society for the Conservation of
Bighorn Sheep
Bob Burke & Gary Thomas
PO Box 1407
Yermo, CA 92398
Cameracoordinator@
sheepsociety.com

Steve Adams, Co-Staff Counsel
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814
sadams@energy.state.ca.us

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

County of San Bernardino
R. Stringer/B.Brizzee
385 N. Arrowhead Ave., 4th Flr.
San Bernardino, CA 92415-0140

