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DOCKET

09-AFC-10

DATE JUN 15 2010

RECD. JUN 15 2010

June 15, 2010

California Energy Commission
Dockets Unit
1516 Ninth Street
Sacramento, CA 95814-5512

**Subject: RICE SOLAR ENERGY PROJECT LETTER RE: FEDERAL AVIATION
ADMINISTRATION PROCESS
DOCKET NO. (09-AFC-10)**

Enclosed for filing with the California Energy Commission is the original of the
**RICE SOLAR ENERGY PROJECT LETTER RE: FEDERAL AVIATION
ADMINISTRATION PROCESS**, for the Rice Solar Energy Project (09-AFC-10).

Sincerely,

A handwritten signature in blue ink, appearing to read "Marie Mills", is written in a cursive style.

Marie Mills



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV**

**APPLICATION FOR CERTIFICATION
FOR THE *RICE SOLAR ENERGY POWER
PLANT PROJECT***

Docket No. 09-AFC-10

***PROOF OF SERVICE*
(Revised 3/4/2010)**

APPLICANT

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ENERGY COMMISSION

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DECLARATION OF SERVICE

I, Marie Mills, declare that on June 15, 2010, I served and filed copies of the attached, **RICE SOLAR ENERGY PROJECT LETTER RE: FEDERAL AVIATION ADMINISTRATION PROCESS**, dated June 10, 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:

[<http://www.energy.ca.gov/sitingcases/ricesolar>].

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:

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

☐ by personal delivery;

☒ by delivering on this date, for mailing with the United States Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "email preferred."

AND

FOR FILING WITH THE ENERGY COMMISSION:

☒ 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. **09-AFC-10**

1516 Ninth Street, MS-4

Sacramento, CA 95814-5512

docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.



Marie Mills



Aviation Technology Solutions

Established 1994 - Aviation's independent and most trusted partner for safety and performance

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June 10, 2010

Scott A. Galati, Esq.
Galati Blek
455 Capitol Mall
Suite 350
Sacramento, CA 95814

RE: SolarReserve

Dear Mr. Galati:

JDA Aviation Technology Solutions is a leading aviation consulting firm that specializes in resolving airspace conflicts resulting from proposed tall structures throughout the United States. Our firm works directly with the Federal Aviation Administration (FAA) and the Department of Defense (DOD) on behalf of development firms to resolve cases that have been deemed to have a potential adverse effect on the National Airspace System. We are considered subject matter experts in all aspects of the aeronautical study process governed under 14 CFR Part 77.

JDA Aviation has been working with SolarReserve for the past year on their proposed solar power project in Rice, California. It has come to our attention that concerns have been raised by the United States Navy concerning possible adverse impact of this project in connection with aspects of military operations in the vicinity of the planned solar energy tower. In response to these concerns, it is important to consider the full authority of a final determination by the FAA in relation to such matters.

The FAA is responsible for conducting aeronautical studies of existing and planned structures and in determining whether proposed structures will have an adverse impact on the safety and efficiency of navigable airspace. In accordance with 49 USC 44718 and 14 CFR Part 77, the FAA established the obstacle evaluation (OE) service to conduct aeronautical studies of obstacles. The FAA's OE process depends upon the involvement and input from multiple organizations inside the FAA as well as other agencies including the Army, Navy (including the Marine Corps) and Air Force. It is through this cross-agency review process that the FAA is able to call upon technical and operational experts throughout the federal government to provide the analytical and operational assessments necessary to issue a final agency determination in these cases. It is through this process that the FAA is able to fulfill its mandate to act as the federal government's sole and final decision maker regarding the impact of proposed obstacles on the efficiency and safety of the national airspace system.

SolarReserve submitted an application to the FAA for their Rice solar project on May 1, 2009 (FAA aeronautical study number 2009-AWP-2050-OE). The FAA conducted a comprehensive aeronautical study and issued a favorable Determination of No Hazard on December 28, 2009. This study



“considered and analyzed the impact on existing and proposed arrival, departure, and en route procedures for aircraft operation under both visual flight rules and instrument flight rules: the impact on all existing and planned public-use airports, military airports and aeronautical facilities”.

During the course of this study, the FAA published the *aeronautical study* for public comment on June 19, 2009. The purpose for this was to provide any person an opportunity to submit comments in favor or against the proposed obstruction. As required by 49 U.S.C. §44718 (b)(2), “On completing the study, the Secretary shall issue a report disclosing completely the extent of the adverse impact on the safe and efficient use of the navigable airspace that the Secretary finds will result from constructing or altering the structure.” To my knowledge, no such comments were received by the FAA.

As a result of their extensive study and the subsequent public comment period, the FAA “determined that the proposed construction would not have a substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on any air navigation facility and would not be a hazard to air navigation.”

This determination considered the concerns expressed by the US Navy regarding the potential impact on military training routes in the area. As such, the FAA stipulated that “the structure shall be appropriately obstruction lighted with a 24-hour medium intensity white strobe lighting installation”. The purpose for this stipulation was due to the “abundance of military VR and IR routes in the area, and the expectation of civilian Visual Flight Rules (VFR) operations navigating in this corridor” between the military Turtle MOA and the Quail MOA.

Based upon the findings of this study and the FAA’s mandate to act as the sole federal agency with responsibility for ensuring aviation safety, the proposed tower has been found to meet all applicable standards for safety and efficiency in the National Airspace System. If you have any questions or concerns regarding this matter, please do not hesitate to contact me.

Best Regards,

Benjamin M. Doyle
JDA Aviation Technology Solutions