



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

DOCKET
10-CRD-1

Applications for Certification for the)	Docket Nos.
)	
Calico Solar (SES Solar One) Project,)	08-AFC-13,
Genesis Solar Energy Project,)	09-AFC-8,
Imperial Valley (SES Solar Two) Project)	08-AFC-5,
Solar Millennium Blythe Project,)	09-AFC-6,
Solar Millennium Palen Project, and)	09-AFC-7,
Solar Millennium Ridgecrest Project.)	09-AFC-9, and
)	
Consolidated Hearing on Issues)	10-CRD-1
Concerning U.S. Bureau of Land)	
Management Cultural Resources Data)	Order No. 10-0714-11
)	

COMMISSION DECISION
RE: DATA CONCERNING CULTURAL RESOURCES ON BLM LAND

I. Introduction and Summary

Cultural resources, such as historical artifacts, ancient art, and ancestral burial grounds, are often found on the sites of power facilities proposed for licensing by the California Energy Commission (“CEC” or “Commission”). In order to protect those sensitive resources, federal and state laws require confidential treatment of data on their locations and other key characteristics. However, in the Commission’s licensing (formally, “certification”) proceedings, we must assess potential impacts to cultural resources, along with mitigation measures and alternatives that would avoid or minimize the impacts (we must also assess projects’ compliance with the cultural resources laws), and doing so requires reasonable access to such data. In turn, formal parties in our proceedings (usually referred to as “intervenors”) may also seek access to this data to facilitate their participation. Balancing the competing legal, factual, and policy considerations that may be present in any given proceeding is difficult.

In several of the Commission’s current proceedings on applications for certification (“AFC”) for solar power plants located on U.S. Bureau of Land Management (“BLM”) land, intervenor California Unions for Reliable Energy (“CURE”) has asked us for access to confidential information about cultural resources. (In the Imperial Valley AFC proceeding, CURE has received some data.) Applicants and BLM oppose those requests.

The Commission:

1. Agrees with BLM that the federal agency has ultimate control over the data; therefore, the Commission orders CURE to return the Imperial Valley data to BLM.
2. Concludes that CURE, like all other intervenors, has no legal right to the most detailed data on the location of cultural resources, even though the Commission may need such data for decision making purposes and even though BLM and AFC applicants may, as a result of that need, provide data to the Commission Staff.
3. Recognizes, nevertheless, that having access to such data could enhance participation in Commission power facility proceedings by appropriate intervenors, and therefore encourages BLM to provide access under conditions that BLM finds to be sufficient to protect the resource.
4. Provides direction on how requests for confidential data in our certification proceedings should be handled in the future.

II. Procedural History

On September 29, 2008, the Imperial Valley Solar applicant filed an application for confidentiality to protect draft reports prepared by its consultant, URS Corporation ("URS"). The reports contained confidential information concerning cultural resources located on the project's proposed site. The application was filed under the Commission's regulations that govern access to, and confidentiality of, all of the CEC's public records (i.e., not only the documents that are filed in licensing proceedings), and that implement the provisions of California's Public Records Act ("PRA"). (See Cal. Code Regs., tit. 20, § 2501 et seq.) Our Executive Director granted the Imperial Valley applicant's request for confidentiality approximately one month after receiving it, and she subsequently granted several additional, similar requests by the applicant. (See *Id.*, § 2505, subd. (a)(1) & (3).) The same basic process occurred in all of the solar AFCs.

On March 10, 2010, CURE petitioned the Commission for access to the confidential cultural resources data in the Imperial Valley proceeding. Although CURE filed its petition under the Commission's PRA regulations (as the regulations allow), CURE did so in its status as an intervenor in the proceeding. "CURE's petition stated that the requested information is necessary for CURE to fully participate in the proceeding with regard to cultural resource issues, that CURE is a formal consulting party in the federal National Historic Preservation Act Section 106 consultation process for the project, and that CURE would be participating in developing a programmatic agreement for protection of the cultural resources on the project site." (CEC Staff Brief, p. 4.) CURE's petition stated that both the organization itself and the cultural resources expert it retained would sign nondisclosure agreements protecting the sensitive data.

On April 15, 2010, the Commission's Chief Counsel, who acts as our delegatee in such matters, granted CURE's petition. (See Cal. Code Regs., tit. 20, § 2506.) "The [Chief Counsel's] determination concluded that CURE satisfied requirements of Section 2506 of the Commission's regulations, noted that Commission proceedings are open for public participation, and further noted that . . . any person granted intervention has the rights of a party." (CEC Staff Brief, p. 4.) The Chief Counsel's determination also concluded that there was no risk of damage to the cultural resources or the site upon which they were located. He reached this conclusion because CURE had hired a qualified archaeologist to review the requested documents, only he and other similar individuals would be able to review the documents, and the reviewer(s) would be given access only if they signed a stringent non-disclosure agreement.

Our regulations provide a fourteen-day period in which any party may request the full Commission to reconsider the determination of the Chief Counsel. (Cal. Code Regs., tit. 20, § 2506, subd. (b)(6).) BLM attempted to file a request for reconsideration, but it was untimely. Since then, BLM has filed additional documents strongly asserting that it has legal control over the data and objecting to the CEC's release of the data to CURE. BLM insists that CURE return the data to BLM, and demands that the Commission remove from its Docket and return all confidential information regarding cultural resources on BLM lands. (In this decision, we are treating BLM's request as if it were timely filed.) [See Cal. Code Regs., tit. 20, § 1203, subds. (c), (d), (f).]

Although the Commission had released information concerning only the Imperial Valley project, we had received an additional request from CURE for access to confidential cultural resources data in connection with the Genesis Solar Energy Project (which we are here treating as if it were granted and then appealed by BLM), and it appeared likely that similar issues would arise in other current proceedings. Taking those considerations into account, the Commission's Siting Committee (Chairman Karen Douglas, Presiding Member, and Commissioner Robert B. Weisenmiller, Associate Member, collectively "the Committee") consolidated all of the solar AFC proceedings "for the limited purpose of considering and resolving issues related to BLM-related cultural resources data." (Notice and Orders (May 21, 2010), p. 3; see Cal. Code Regs., tit. 20, §§ 1203, subds. (c), (d), 1208, 1719, subd. (a).) Since then we have received from CURE requests for confidential data in all of the consolidated proceedings except Ridgecrest (and a request still could be submitted there).

The Committee "[invited] [a]ll parties who have an interest in cultural resources in any of the cases . . . [to] submit briefs and testimony" and held an evidentiary hearing on June 9, 2010. Applicants in the cases, CURE, the CEC Staff, other parties, and BLM participated. The Committee issued a Proposed Decision on July 7, and the full Commission held a hearing on July 14 to consider whether to adopt the Proposed Decision.

III. Analysis

A. Confidentiality of the Data and the Documents.

CURE requested access to the data at issue, subject to a non-disclosure agreement, pursuant to Section 2506 of Title 20 of the California Code of Regulations. As noted above, this regulation is designed to implement the Energy Commission's obligations under the PRA. Consequently CURE's request would seem to have been made pursuant to the PRA, although CURE's request did not explicitly cite the PRA or any other underlying statute.

No one disputes that the data at issue, and the documents in which the data is embodied, are properly confidential under both federal and state laws pertaining to cultural resources and to government documents: the federal Archaeological Resources Protection Act ("ARPA"), the federal National Historic Preservation Act ("NHPA"), the federal Freedom of Information Act ("FOIA") and the California PRA. (5 U.S.C. § 552(b)(3); 16 U.S.C. §§ 470hh, 470w-3; Gov. Code, §§ 6253.9, subd. (g), 6254, subd. (k).); see also *Hornbostel v. U.S. Dept. of Interior* (D.D.C. 2003) 305 F. Supp. 2d 21, 30.) Furthermore, the PRA does not anticipate selective disclosure of confidential information to one member of the public, such as an intervenor in a siting case, while keeping the records otherwise confidential. (See, e.g., *Coastal Delivery Corp. v. U.S. Customs Service* (C.D.Cal. 2003) 272 F.Supp.2d 958, 964 [interpreting the FOIA] ["There is no room for confidentiality agreements, non-disclosure agreements, or other selective revelation in FOIA jurisprudence."]; see also Gov. Code, § 6257.5 [prohibiting denial of a PRA request because of its purpose].)

We must deny CURE's request for selective access to confidential information to the extent it was made pursuant to the PRA. However, CURE sought the data in question in its capacity as a party to a siting case. We believe CURE should have sought access to the data in question pursuant to the provisions of Section 1716 of title 20 of the California Code of Regulations, which governs data requests in siting cases. (See *Palo Verde Solar I, LLC & Palen Solar I, LLC Reply Brief* p. 2.) For the sake of expediency, the remainder of this Order treats CURE's request as if it had filed a petition to compel production of documents pursuant to Section 1716(g). As is more fully explained below, we find such a petition could not be granted over BLM's objection.

B. BLM's Control of the Data and the Documents.

Federal laws assigning BLM responsibility for cultural resources on the lands within its jurisdiction lead us to accept BLM's argument that it "owns" or otherwise controls the disputed data.¹ Therefore BLM has the authority to determine the conditions (if any) under which any particular person or entity may have access to the data in question.

¹ When interpreting and applying statutes and regulations, we must give appropriate deference to the agencies responsible for implementing those laws. (See, e.g., *Udall v. Tallman* (1965) 380 U.S. 1, 16 [explaining that the U.S. Supreme Court "shows great deference to the interpretation given [a] statute by the officers or agency charged with its administration"].).

1. BLM's responsibility for cultural resources under Federal law.

As we explain more fully in the next paragraph, BLM has the legal duty to maintain the integrity of cultural resources on the land for which it is responsible. (See 16 U.S.C. §§ 433, 470aa *et seq.*; 43 U.S.C. § 1701; 36 Fed. Register 8921; see generally BLM Manuals 8100, 8140.) As a result, BLM has the legal authority to control access to those resources (and to the locations where other resources potentially may be found). (See 16 U.S.C. §§ 432, 470cc-dd, 470ee; see generally BLM Manual 8150.) We believe that in order to implement its authority and to carry out its responsibilities, BLM must be able to control the dissemination of properly-confidential data concerning cultural resources which are created in the course of reviewing the environmental impacts of a prospective project located on BLM land.

Two federal statutes govern, respectively, archaeological and historical cultural resources that are or may be found on the sites of the solar AFCs: the Archaeological Resources Protection Act ("ARPA") and the National Historic Preservation Act ("NHPA"). Under ARPA, "information concerning the nature and location of any archaeological resource . . . may not be made available to the public" unless the Federal land manager determines that such disclosure would further the purposes of ARPA and would not create a risk of harm to the resources or to the site on which they are located. (16 U.S.C. § 470hh(a)(1)-(2).) As BLM correctly notes in its brief, "the Federal land manager in this instance is the California Office of the BLM"; as such, only that Office can make the determination as to whether the cultural resources data should be disclosed to the public under ARPA. (April 29, 2010, letter of BLM Acting State Director James Abbott, p. 2; see also 16 U.S.C. § 470bb(2) [defining "Federal land manager" as "the Secretary of the department, or the head of any other agency or instrumentality of the United States, having primary management authority over [public] lands"].) "ARPA provide[s] the 'federal land manager' with substantial discretion to disclose or withhold 'information concerning the nature and location' of cultural resources, based on an assessment of the risks and benefits of disclosure." (*Southern Utah Wilderness Alliance v. U.S. Bureau of Land Management* (D.D.C. 2005) 402 F. Supp. 2d 82, 90; see also *U.S. v. Quarrell* (10th Cir. 2002) 310 F.3d 664, 671 [noting that archaeological sites are kept confidential to protect resources from vandalism and looting].) The provisions of NHPA are similar. (See 16 U.S.C. § 470w-3.)

2. BLM's ownership of the documents within which the data is contained.

The U.S. Federal Records Act "ma[kes] it clear that Congress regard[s] the ownership of agency records to be in the United States." (*Nixon v. United States* (D.C. Cir. 1992) 978 F.2d 1269, 1283.) It is equally clear that BLM documents containing cultural resources data are "agency records" and that therefore BLM owns those documents.

The FRA defines “agency records” as:

All books, papers, maps, photographs . . . or other documentary materials [that are] made or received by any agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency . . . as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the information value of data in them.

(FRA, Pub. L. No. 81-754, 64 Stat. 583 [codified as amended in scattered sections of 44 U.S.C.]) BLM’s cultural resources records were “made or received” by BLM “under Federal law”: applicants’ contractors generated the records and provided them to BLM in accordance with BLM national standards. (See BLM Manual 8150, Permitting Uses of Cultural Resources; April 29, 2010, letter of BLM Acting State Director James Abbott, p. 2). The cultural resources records were also “made . . . in connection with the transaction of public business”: the data was gathered for the purpose of conducting cultural resources investigations of proposed solar facility sites on government-owned land. (See *Id.*, p. 2.) Furthermore, the records are “evidence of [BLM’s] functions . . . procedures, [and] operations”: because the data was gathered subject to a BLM State Permit for Archaeological Investigations, it provides an inside look into BLM’s Field Authorization and permit processes. (*Ibid.*) In addition, it is obvious that the records are “preserved [and] appropriate for preservation . . . because of the information value of [the cultural resources] data in them” as specified in the FRA. And finally, BLM requires qualified archaeologists to “safeguard and preserve [cultural resources] materials as property of the United States.” (43 C.F.R. § 7.6(b)(5).) For all of these reasons, the documents containing the disputed cultural resources data are agency records owned by BLM as the applicable representative of the United States government.

In sum, BLM has the authority to determine the conditions (if any) under which any particular person may have access to the data in dispute here. BLM has exercised its authority by saying that CURE cannot have access (at least at this time). We now examine what impact CURE’s inability to access the information it seeks might have on the Energy Commission’s siting process.

C. Intervenors’ Rights to Data.

There is nothing in constitutional, statutory, or regulatory law giving CURE (or any other party) a right to the data that is in dispute here.

1. The California Administrative Procedure Act.

The adjudicative portion of the California Administrative Procedure Act (APA) embodies and implements all of the due process protections that must constitutionally be provided to any participant in an agency adjudicative proceeding. (See Cal. Law Revision Com. com., foll. Gov. Code, § 11425.10 [“minimum due process and public interest

requirements”].) There is nothing in the APA that provides a right to intervene, let alone any specific type of intervention or participation such as discovery. (See generally Gov. Code, § 11340 *et seq.*) Therefore, nothing in the APA compels release of the disputed cultural resources data to CURE.

This conclusion is reinforced by the intervention provision that is found in the APA. Government Code section 11440.50 provides an optional intervention process that agencies may adopt. Subdivision (c)(2) of that section expressly gives the agency the substantial discretion to “impose conditions on the intervenor’s participation in the proceeding, either at the time that intervention is granted or at a subsequent time . . . so as to promote the orderly and prompt conduct of the proceeding.” (Gov. Code, § 11440.50, subd. (c)(2).) Thus the agency may impose any condition – such as no discovery, or limited discovery – that it believes is appropriate “to promote the orderly and prompt conduct of the proceeding.” (See *Id.*)

Indeed, there is no due process right to discovery even for defendants in agency disciplinary proceedings such as license revocation hearings. Yet such persons are entitled to more due process protections than are those who do not have but only seek a license (e.g., applicants in our AFC proceedings), who in turn are generally entitled to more protection than persons intervening in license application proceedings. As the leading practice guide on administrative hearings explains, “[d]ue process of law does not guarantee a prehearing right to discovery.” (Cal. Administrative Hearing Practice (Cont. Ed. Bar 2d ed. 2008) Overview, § 1.70, p. 50 [quoting *Mohilef v. Janovici* (1996) 51 Cal. App. 4th 267].) Instead, “[t]he scope of discovery in administrative hearings is governed by statute and the agency’s discretion.” (*Id.* [quoting *Cimarusti v. Superior Court* (2000) 79 Cal. App. 4th 799].)

The federal APA is to the same effect. (See 5 U.S.C. § 555(b); cf. F.R. Civ. P. § 24(a) [intervention as of right in civil judicial litigation].) “[T]he agency ‘may’ permit intervention if it chooses” (7 West’s Fed. Admin. Prac. § 7721 (3d ed. 2009)), and “inherent in the provision for intervention is the power to limit the form and extent of participation by the intervenor” (2 Admin. L. & Prac. § 5:20 (2d ed. 2010)).

2. Warren-Alquist Act.

The Warren-Alquist Act is the Energy Commission’s enabling legislation, which is part of the California Public Resources Code (PRC). PRC section 25114 defines “Interested party” as “any person whom the commission finds and acknowledges as having a real and direct interest in any proceeding or action carried on, under, or as a result of the operation of, this division.” Regarding access to data for intervenors in AFC proceedings, PRC section 25519(b) provides: “The commission, upon its own motion or in response to the request of any party, may require the applicant to submit any information, document, or data, in addition to the [application for certification], that it determines is reasonably necessary to make any decision on the application.” Notably, Section 25519(b) speaks only to access to information by the Energy Commission and

its staff for the purpose of completing its environmental analysis, but not to access to information by intervenors (or “interested parties”) such as CURE.

a. Section 1716 of Title 20 of the California Code of Regulations.

To implement the Warren-Alquist Act, the Energy Commission has adopted regulations governing both intervention and discovery. Section 1716 governs the processes by which both Energy Commission staff and intervenors in AFC proceedings may obtain information. (Cal. Code Regs., tit. 20, § 1716.) Section 1716(a) grants Energy Commission staff “authority to request or otherwise obtain from the applicant such information as is necessary for a complete staff analysis of the notice or application.” In contrast, section 1716(b) provides that intervenors “may request from the applicant any [relevant] information *reasonably available* to the applicant”; 1716(d) further limits intervenor’s access to information from other parties to relevant information which is “reasonably available to the responding party *and cannot otherwise be readily obtained*.” (Cal. Code Regs., tit. 20, § 1716 (b) & (d) (emphasis added).) Section 1716 draws a marked distinction between staff and intervenors. While staff may request “any information necessary for a complete analysis,” intervenors are limited to data which is “reasonably available” to the requesting party. (See Cal. Code Regs., tit. 20, § 1716(a) (b) & (d).) This is an acknowledgement of different roles; unlike intervenors, staff is responsible for undertaking the environmental analysis.

When discovery disputes arise, Section 1716(g) provides that any party may bring what amounts to a petition to the relevant siting committee to compel production of data. This subsection gives the committee broad discretion adjudicating such petitions, providing that the committee “may grant or deny the petition, in whole or in part,” or may “direct the commission staff to supply such of the information request as is available to staff. (Cal. Code Regs., tit. 20, § 1716(g).)

Here, CURE has submitted what amounts to a request pursuant to Section 1716(g) for cultural resources data.² As discussed extensively above, BLM has asserted ownership and control of the data requested by CURE in this proceeding, and has demanded the return of all such data by both CURE and Staff. Whether the data is in Staff’s possession or not, it cannot be transferred to CURE without BLM’s approval. Consequently, the data is not “reasonably available,” as required to Section 1716 (b) & (d). For this simple reason, we find CURE’s request must be denied.

b. Section 1207 of Title 20 of the California Code of Regulations.

Section 1207 of Title 20 sets forth the general process for intervening in Energy Commission proceedings, including AFC proceedings. (Cal. Code Regs., tit. 20, §§ 1207.) Section 1207(c) provides that any party granted intervenor status has “all the

² See *supra* Section III. A.

rights and duties” afforded to other parties. CURE contends that because the CEC Staff, which is a party, has access to the BLM cultural resources data that has been docketed here, it too must have the same access. Relatedly, Californian’s for Renewable Energy asserted that Section 1207 prevents the Energy Commission from pursuing an AFC proceeding until CURE has been afforded access to all information available to the Staff. We disagree with both contentions.

Section 1207 must be read in conjunction with, and harmonized with, the other applicable provisions of our regulations, including but not limited to Section 1716. True, the Staff is a party in AFC proceedings. (See Cal. Code Regs., tit. 20, § 1201, subd. (e); see also Gov. Code § 11405.60). However, as noted above, the Staff has access to, and uses, cultural resources data not primarily in an advocacy role as a party, but in carrying out its unique responsibility to ensure that the Commission’s record contains a legally-adequate assessment of all environmental matters under the California Environmental Quality Act (CEQA) and of compliance with all applicable laws. (See Pub. Resources Code, § 21082.1, subd. (c); Cal. Code Regs., tit. 20, § 1742, subd. (c); see also Cal. Code Regs., tit. 20, § 1716 (discussed *supra*.) To the extent that the Commission needs access to any particular information to carry out its duties under CEQA and the Warren-Alquist Act, we must rely on the Staff to analyze that information on our behalf. Section 1207 does not change that fact, nor the fact that neither CURE nor any other intervenor has a similar duty. (The applicant also has a unique responsibility under the law to present adequate evidence to meet its burden of proof, but that is not at issue here.)

In sum, we find that nothing in the Warren-Alquist Act or the Commission’s regulations, or any other law, requires that CURE must be permitted access over BLM’s objection to sensitive cultural resources data controlled by BLM pursuant to federal law. Furthermore, there is nothing which suggests that our process cannot proceed if is denied access to the information it seeks. Rather, our regulations suggest that CURE’s request should be denied because the information it seeks is not reasonably available for release to CURE.

D. CURE Access to Data Pursuant to BLM Processes.

While intervenors do not have an absolute right to discovery, to facilitate vigorous public participation and transparency the Commission has consistently exercised its discretion to grant intervenors access to data to the extent feasible. In this instance, we lack the authority to give CURE access to the information it seeks.

In our view it would be consistent with the purposes of ARPA and NHPA for BLM to grant access to cultural resources data to intervenors with appropriate qualifications and pursuant to the requisite confidentiality requirements. Expert witnesses are frequently given access to confidential data that is unavailable to the general public; they have access to confidential information such as autopsy reports, ballistic reports, psychiatric records, and medical records. (See, e.g., *Stewart v. U.S.* (1961) 366 U.S. 1, 12; *Abdul-Kabir v. Quarterman* (2007) 550 U.S. 233.) They are provided access to this

information so that they can draw on their expertise and guide the parties through complex and technical scientific issues. (See Federal Rules of Evidence Rule 702.)

The record indicates that CURE has already initiated discussions with BLM to obtain from it the data it seeks from us, and that BLM is considering these requests. Under different circumstances, we might consider delaying a siting case to afford an intervenor access to relevant information. We do not have that luxury in this instance. Each of the above-captioned projects must meet extraordinarily tight time-lines with respect to state and federal agency permitting decisions to qualify for funding from the U.S. Department of Energy under the American Recovery and Reinvestment Act. (Public Law 111-5 (2009).) Even a slight delay could cause projects to miss critical deadlines in the permitting process, and therefore lose access to recovery act funding. These projects also provide options for California's electric utilities' in meeting their statutory obligation per the Renewable Portfolio Standard, and they have the potential to help reduce greenhouse gas emissions. We therefore encourage BLM to accommodate CURE to the extent it can without violating its obligation to protect the cultural resources in question, as expeditiously as possible. We further direct Staff to do what it can to facilitate such resolution.

IV. Findings, Conclusions, Orders and Other Concluding Matters

1. BLM controls the dissemination of confidential data on cultural resources that are or may be located on land within its jurisdiction. We will not disclose records that (a) are in our possession or control, (b) concern cultural resources on BLM land, and (c) are confidential under ARPA or NHPA, without permission from BLM.
2. The confidential data sought by CURE is not reasonably available to staff for disclosure to CURE.
3. CURE shall return all disputed confidential data received to date to BLM.
4. Energy Commission staff shall comply with BLM's direction with respect to the confidential data on cultural resources in question, while working with BLM staff to ensure that it has access to the information it needs for its environmental analysis under CEQA.
5. In proposed generation facility proceedings, the Staff has unique duties that are not within the scope of section 1207, subdivision (c) of the Commission's regulations.
6. The constitutional and statutory provisions that we implement do not create or provide an absolute right to intervention, or to any particular form or activity of intervention.

7. The Commission's regulations provide two potential courses of action for persons who are seeking information from the Commission in AFC proceedings: discovery under our siting case regulations and Public Records Act requests under our PRA regulations. To implement both sets of regulations in an efficient manner, parties in power facility proceedings should use the discovery process wherever possible (including but not limited to submitting data requests to the CEC Staff for documents that are within the Commission's possession or control). Of course, members of the public may seek access under the PRA to non-confidential documents related to siting cases.
8. This is a precedent decision under section 11425.60 of the Government Code.

Dated: July 14, 2010 in Sacramento, California

Original signed by:
KAREN DOUGLAS
Chair

Absent
JAMES D. BOYD
Vice Chair

Original signed by:
JEFFREY D. BYRON
Commissioner

Original signed by
ANTHONY EGGERT
Commissioner

Original signed by:
ROBERT B. WEISENMILLER
Commissioner



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APPLICATION FOR CERTIFICATION

For the CALICO SOLAR (Formerly SES Solar One)

Docket No. 08-AFC-13

**PROOF OF SERVICE
(Revised 7/12/10)**

APPLICANT

Felicia Bellows
Vice President of Development &
Project Manager
Tessera Solar
4800 North Scottsdale Road,
#5500
Scottsdale, AZ 85251
felicia.bellows@tesseractosolar.com

CONSULTANT

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

APPLICANT'S COUNSEL

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

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

INTERESTED AGENCIES

California ISO
e-recipient@caiso.com

Jim Stobaugh
BLM – Nevada State Office
P.O. Box 12000
Reno, NV 89520
jim_stobaugh@blm.gov

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

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

INTERVENORS

County of San Bernardino
Ruth E. Stringer, County Counsel
Bart W. Brizzee, Deputy County Counsel
385 N. Arrowhead Avenue, 4th Floor
San Bernardino, CA 92415-0140
bbrizzee@cc.sbcounty.gov

California Unions for Reliable Energy
(CURE)
c/o: Loulena A. Miles, Marc D. Joseph
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Ste. 1000
South San Francisco, CA 94080
lmiles@adamsbroadwell.com

Defenders of Wildlife
Joshua Basofin
1303 J Street, Suite 270
Sacramento, California 95814
e-mail service preferred
jbasofin@defenders.org

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

Basin and Range Watch
Laura Cunningham & Kevin Emmerich
P.O. Box 70
Beatty, NV 89003
atomictoadranch@netzero.net

Patrick C. Jackson
600 N. Darwood Avenue
San Dimas, CA 91773
e-mail service preferred
ochsjack@earthlink.net

Gloria D. Smith, Senior Attorney
Sierra Club
85 Second Street, Second floor
San Francisco, CA 94105
gloria.smith@sierraclub.org

*Newberry Community Service District
Wayne W. Weierbach
P.O. Box 206
Newberry Springs, CA 92365
newberryCSD@gmail.com

ENERGY COMMISSION

ANTHONY EGGERT
Commissioner and Presiding Member
aeggert@energy.state.ca.us

JEFFREY D. BYRON
Commissioner and Associate Member
jbyron@energy.state.ca.us

Paul Kramer
Hearing Officer
pkramer@energy.state.ca.us

Lorraine White, Adviser to
Commissioner Eggert
e-mail service preferred
lwhite@energy.state.ca.us

Kristy Chew, Adviser to
Commissioner Byron
e-mail service preferred
kchew@energy.state.ca.us

Caryn Holmes
Staff Counsel
cholmes@energy.state.ca.us

Steve Adams
Co-Staff Counsel
sadams@energy.state.ca.us

Christopher Meyer
Project Manager
cmeyer@energy.state.ca.us

Jennifer Jennings
Public Adviser
publicadviser@energy.state.ca.us



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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
GENESIS SOLAR ENERGY PROJECT**

Docket No. 09-AFC-8

**PROOF OF SERVICE
(Revised 6/7/10)**

APPLICANT

Ryan O'Keefe, Vice President
Genesis Solar LLC
700 Universe Boulevard
Juno Beach, Florida 33408
e-mail service preferred
Ryan.okeefe@nexteraenergy.com

Scott Busa/Project Director
Meg Russel/Project Manager
Duane McCloud/Lead Engineer
NextEra Energy
700 Universe Boulevard
Juno Beach, FL 33408
Scott.Busa@nexteraenergy.com
Meg.Russell@nexteraenergy.com
Duane.mccloud@nexteraenergy.com
e-mail service preferred
Matt Handel/Vice President
Matt.Handel@nexteraenergy.com
e-mail service preferred
Kenny Stein,
Environmental Services Manager
Kenneth.Stein@nexteraenergy.com

Mike Pappalardo
Permitting Manager
3368 Videra Drive
Eugene, OR 97405
mike.pappalardo@nexteraenergy.com

Kerry Hattevik/Director
West Region Regulatory Affairs
829 Arlington Boulevard
El Cerrito, CA 94530
Kerry.Hattevik@nexteraenergy.com

APPLICANT'S CONSULTANTS

Tricia Bernhardt/Project Manager
Tetra Tech, EC
143 Union Boulevard, Ste 1010
Lakewood, CO 80228
Tricia.bernhardt@tteci.com

James Kimura, Project Engineer
Worley Parsons
2330 East Bidwell Street, Ste.150
Folsom, CA 95630
James.Kimura@WorleyParsons.com

COUNSEL FOR APPLICANT

Scott Galati
Galati & Blek, LLP
455 Capitol Mall, Ste. 350
Sacramento, CA 95814
sgalati@gb-llp.com

INTERESTED AGENCIES

California-ISO
e-recipient@caiso.com

Allison Shaffer, Project Manager
Bureau of Land Management
Palm Springs South Coast
Field Office
1201 Bird Center Drive
Palm Springs, CA 92262
Allison_Shaffer@blm.gov

INTERVENORS

California Unions for Reliable
Energy (CURE)
c/o: Tanya A. Gulesserian,
Rachael E. Koss,
Marc D. Joseph
Adams Broadwell Joesph
& Cardoza
601 Gateway Boulevard,
Ste 1000
South San Francisco, CA 94080
tgulesserian@adamsbroadwell.com
rkoss@adamsbroadwell.com

Tom Budlong
3216 Mandeville Cyn Rd.
Los Angeles, CA 90049-1016
tombudlong@roadrunner.com

*Mr. Larry Silver
California Environmental
Law Project
Counsel to Mr. Budlong
e-mail preferred
larrysilver@celproject.net

Californians for Renewable
Energy, Inc. (CARE)
Michael E. Boyd, President
5439 Soquel Drive
Soquel, CA 95073-2659
michaelboyd@sbcglobal.net

*Lisa T. Belenky, Senior Attorney
Center for Biological Diversity
351 California St., Suite 600
San Francisco, CA 94104
lbelenky@biologicaldiversity.org

*Ileene Anderson
Public Lands Desert Director
Center for Biological Diversity
PMB 447, 8033 Sunset Boulevard
Los Angeles, CA 90046
landerson@biologicaldiversity.org

OTHER

Alfredo Figueroa
424 North Carlton
Blythe, CA 92225
lacunadeaztlan@aol.com

JAMES D. BOYD
Commissioner and Presiding
Member
jboyd@energy.state.ca.us

ROBERT WEISENMILLER
Commissioner and Associate Member
rweisenm@energy.state.ca.us

Kenneth Celli
Hearing Officer
kcelli@energy.state.ca.us

ENERGY COMMISSION

Mike Monasmith
Siting Project Manager
mmonasmi@energy.state.ca.us

Caryn Holmes
Staff Counsel
cholmes@energy.state.ca.us

Robin Mayer
Staff Counsel
rmayer@energy.state.ca.us

Jennifer Jennings
Public Adviser's Office
publicadviser@energy.state.ca.us



**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
IMPERIAL VALLEY SOLAR PROJECT
(formerly known as SES Solar Two Project)
IMPERIAL VALLEY SOLAR, LLC***

**Docket No. 08-AFC-5
PROOF OF SERVICE
(Revised 6/8/10)**

APPLICANT

Richard Knox
Project Manager
SES Solar Two, LLC
4800 N Scottsdale Road.,
Suite 5500
Scottsdale, AZ 85251
richard.knox@tesseractosolar.com

CONSULTANT

Angela Leiba, Sr. Project
Manager URS Corporation
1615 Murray Canyon Rd.,
Suite 1000
San Diego, CA 92108
Angela_Leiba@urscorp.com

APPLICANT'S COUNSEL

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

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

INTERESTED AGENCIES

California ISO
e-recipient@caiso.com

Daniel Steward, Project Lead
BLM – El Centro Office
1661 S. 4th Street
El Centro, CA 92243
daniel_steward@ca.blm.gov

Jim Stobaugh,
Project Manager &
National Project Manager
Bureau of Land Management
BLM Nevada State Office
P.O. Box 12000
Reno, NV 89520-0006
jim_stobaugh@blm.gov

INTERVENORS

California Unions for Reliable
Energy (CURE)
c/o Tanya A. Gulesserian
Loulana Miles, Marc D. Joseph
Adams Broadwell Joseph &
Cardozo
601 Gateway Blvd., Ste. 1000
South San Francisco, CA 94080
tgulesserian@adamsbroadwell.com
lmiles@adamsbroadwell.com

Tom Budlong
3216 Mandeville Canyon Road
Los Angeles, CA 90049-1016
TomBudlong@RoadRunner.com

*Mr. Larry Silver
California Environmental
Law Project
Counsel to Mr. Budlong
e-mail preferred
larrysilver@celproject.net

Hossein Alimamaghani
4716 White Oak Place
Encino, CA 91316
alimamaghani@aol.com

California Native Plant Society
Tom Beltran
P.O. Box 501671
San Diego, CA 92150
cnpsd@nyms.net

California Native Plant Society
Greg Suba & Tara Hansen
2707 K Street, Suite 1
Sacramento, CA 95816-5113
gsuba@cnps.org

ENERGY COMMISSION

JEFFREY D. BYRON
Commissioner and Presiding
Member
jbyron@energy.state.ca.us

ANTHONY EGGERT
Commissioner and Associate
Member
aeggert@energy.state.ca.us

Raoul Renaud
Hearing Officer
rrenaud@energy.state.ca.us

Kristy Chew,
Adviser to Commissioner Byron
e-mail service preferred
kchew@energy.state.ca.us

*Lorraine White
Adviser to Commissioner Eggert
lwhite@energy.state.ca.us

Caryn Holmes, Staff Counsel
Christine Hammond,
Co-Staff Counsel
cholmes@energy.state.ca.us
chammond@energy.state.ca.us

Christopher Meyer
Project Manager
cmeyer@energy.state.ca.us

Jennifer Jennings
Public Adviser
publicadviser@energy.state.ca.us

*indicates change



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 *BLYTHE SOLAR*
*POWER PLANT PROJECT***

Docket No. 09-AFC-6

PROOF OF SERVICE
(Revised 5/3/10)

APPLICANT

Alice Harron
Senior Director of Project
Development
1625 Shattuck Avenue, Suite 270
Berkeley, CA 94709-1161
harron@solarmillennium.com

Elizabeth Ingram, Associate
Developer, Solar Millennium, LLC
1625 Shattuck Avenue
Berkeley, CA 94709
ingram@solarmillennium.com

Carl Lindner
AECOM Project Manager
1220 Avenida Acaso
Camarillo, CA 93012
carl.lindner@aecom.com

Ram Ambatipudi
Chevron Energy Solutions
150 E. Colorado Blvd., Ste. 360
Pasadena, CA 91105
rambatipudi@chevron.com

Co-COUNSEL

Scott Galati, Esq.
Galati/Blek, LLP
455 Capitol Mall, Suite 350
Sacramento, CA 95814
sgalati@gb-llp.com

Co-COUNSEL

Peter Weiner
Matthew Sanders
Paul, Hastings, Janofsky &
Walker LLP
55 2nd Street, Suite 2400-3441
San Francisco, CA 94105
peterweiner@paulhastings.com
matthewsanders@paulhastings.com

INTERESTED AGENCIES

California ISO
e-recipient@caiso.com

Holly L. Roberts, Project Manager
Bureau of Land Management
Palm Springs-South Coast
Field Office
1201 Bird Center Drive
Palm Springs, CA 92262 Office
CAPSSolarBlythe@blm.gov

INTERVENORS

California Unions for Reliable Energy
(CURE)
c/o: Tany A. Gulesserian,
Elizabeth Klebaner
Marc D. Joseph
Adams Broadwell Joseph & Cardozo
601 Gate Way Boulevard,
Suite 1000
South San Francisco, CA 94080
tgulesserian@adamsbroadwell.com
eklebaner@adamsbroadwell.com

ENERGY COMMISSION

KAREN DOUGLAS
Chairman and Presiding Member
kdouglas@energy.state.ca.us

ROBERT WEISENMILLER
Commissioner and Associate
Member
rweisenm@energy.state.ca.us

Raoul Renaud
Hearing Officer
rrenaud@energy.state.ca.us

Alan Solomon
Siting Project Manager
asolomon@energy.state.ca.us

Lisa DeCarlo
Staff Counsel
ldecarlo@energy.state.ca.us

Jennifer Jennings
Public Adviser's Office
publicadviser@energy.state.ca.us



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 PALEN SOLAR POWER
PLANT PROJECT**

Docket No. 09-AFC-7

**PROOF OF SERVICE
(Revised 7/2/10)**

APPLICANT

Alice Harron
Senior Director of Project Development
1625 Shattuck Avenue, Suite 270
Berkeley, CA 94709-1161
harron@solarmillennium.com

Elizabeth Ingram, Associate
Developer, Solar Millennium, LLC
1625 Shattuck Avenue
Berkeley, CA 94709
ingram@solarmillennium.com

Arrie Bachrach
AECOM Project Manager
1220 Avenida Acaso
Camarillo, CA 93012
arrie.bachrach@aecom.com

Ram Ambatipudi
Chevron Energy Solutions
150 E. Colorado Blvd., Ste. 360
Pasadena, CA 91105
rambatipudi@chevron.com

Co-COUNSEL
Scott Galati, Esq.
Galati/Blek, LLP
455 Capitol Mall, Suite 350
Sacramento, CA 95814
sgalati@gb-llp.com

Co-COUNSEL
Peter Weiner, Matthew Sanders
Paul, Hastings, Janofsky &
Walker LLP
55 2nd Street, Suite 2400-3441
San Francisco, CA 94105
peterweiner@paulhastings.com
matthewsanders@paulhastings.com

INTERVENORS

California Unions for Reliable Energy
(CURE)
c/o Tanya A. Gulesserian,
Marc D. Joseph
*Jason W. Holder
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard,
Suite 1000
South San Francisco, CA 94080
tgulesserian@adamsbroadwell.com
jholder@adamsbroadwell.com

Michael E. Boyd, President
Californians for Renewable Energy,
Inc. (CARE)
5439 Soquel Drive
Soquel, CA 95073-2659
michaelboyd@sbcglobal.net

Alfredo Figueroa
Californians for Renewable Energy,
Inc. (CARE)
424 North Carlton
Blythe, CA 92225
lacunadeaztlan@aol.com

Basin and Range Watch
Kevin Emmerich
Laura Cunningham
P.O. Box 153
Baker, CA 92309
atomicloadranch@netzero.net

*Lisa T. Belenky, Senior Attorney
Center for Biological Diversity
351 California St., Suite 600
San Francisco, CA 94104
lbelenky@biologicaldiversity.org

*Ileene Anderson
Public Lands Desert Director
Center for Biological Diversity
PMB 447, 8033 Sunset Boulevard

Los Angeles, CA 90046
landerson@biologicaldiversity.org

INTERESTED AGENCIES

California ISO
e-recipient@caiso.com

Holly L. Roberts, Project Manager
Bureau of Land Management
Palm Springs-South Coast
Field Office
1201 Bird Center Drive
Palm Springs, CA 92262
CAPSSolarBlythe@blm.gov

ENERGY COMMISSION

ROBERT WEISENMILLER
Commissioner and Presiding Member
rweisenm@energy.state.ca.us

KAREN DOUGLAS
Chairman and Associate Member
kldougla@energy.state.ca.us

Raoul Renaud
Hearing Officer.
renaud@energy.state.ca.us

Alan Solomon
Siting Project Manager.
asolomon@energy.state.ca.us

Lisa DeCarlo
Staff Counsel
ldecarlo@energy.state.ca.us

Jennifer Jennings
Public Adviser's Office
publicadviser@energy.state.ca.us



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 *RIDGECREST SOLAR*
POWER PROJECT

Docket No. 09-AFC-9

PROOF OF SERVICE
(Revised 7/6/2010)

APPLICANT

Billy Owens
Director, Project Development
Solar Millenium
1625 Shattuck Avenue, Suite 270
Berkeley, CA 94709-1161
owens@solarmillennium.com

Alice Harron
Senior Director, Project Development
1625 Shattuck Avenue, Suite 270
Berkeley, CA 94709-1161
harron@solarmillennium.com

Elizabeth Copley
AECOM Project Manager
2101 Webster Street, Suite 1900
Oakland, CA 94612
elizabeth.copley@aecom.com

Scott Galati
Galati/Blek, LLP
455 Capitol Mall, Suite 350
Sacramento, CA 95814
sgalati@gb-llp.com

Peter Weiner
Matthew Sanders
Paul, Hastings, Janofsky & Walker
LLP
55 2nd Street, Suite 2400-3441
San Francisco, CA 94105
peterweiner@paulhastings.com
matthewsanders@paulhastings.com

INTERVENORS

Desert Tortoise Council
Sidney Silliman
1225 Adriana Way
Upland, CA 91784
gssilliman@csupomona.edu

California Unions for Reliable Energy
(CURE)
Tanya A. Gulesserian
Elizabeth Klebaner
Marc D. Joseph
Adams Broadwell Joseph &
Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
tgulesserian@adamsbroadwell.com
eklebaner@adamsbroadwell.com

Basin and Range Watch
Laura Cunningham & Kevin Emmerich
P.O. Box 70
Beatty, NV 89003
bluerockiguana@hughes.net

Western Watersheds Project
Michael J. Connor, Ph.D.
California Director
P.O. Box 2364
Reseda, CA 91337-2364
mjconnor@westernwatersheds.org

Kerncrest Audubon Society
Terri Middlemiss & Dan Burnett
P.O. Box 984
Ridgecrest, CA 93556
catbird4@earthlink.net
imdanburnett@verizon.net

Center for Biological Diversity
Ileene Anderson
Public Lands Desert Director
PMB 447, 8033 Sunset Boulevard
Los Angeles, CA 90046
landerson@biologicaldiversity.org

Center for Biological Diversity
Lisa T. Belenky, Senior Attorney
351 California Street, Suite 600
San Francisco, CA 94104
lbelenky@biologicaldiversity.org

INTERESTED AGENCIES

California ISO
E-mail Preferred
e-recipient@caiso.com

Janet Eubanks, Project Manager,
U.S. Department of the Interior
Bureau of Land Management
California Desert District
22835 Calle San Juan de los Lagos
Moreno Valley, California 92553
Janet_Eubanks@ca.blm.gov

* Scott O'Neil, Executive Director
Naval Air Warfare Center
Weapons Division
1 Administration Circle
China Lake, CA 93555-6100
scott.oneil@navy.mil

* Scott O'Neil, Executive Director
Naval Air Warfare Center
Weapons Division
575 "I" Avenue, Suite 1
Point Mugu, CA 93042-5049
scott.oneil@navy.mil

ENERGY COMMISSION

JAMES D. BOYD
Vice Chair and Presiding Member
jboyd@energy.state.ca.us

ANTHONY EGGERT
Commissioner and Associate Member
aeggert@energy.state.ca.us

Lorraine White
Advisor to Commissioner Eggert
lwhite@energy.state.ca.us

Kourtney Vaccaro
Hearing Officer
kvaccaro@energy.state.ca.us

Eric Solorio
Project Manager
esolorio@energy.state.ca.us

Tim Olson
Advisor to Commissioner Boyd
tolson@energy.state.ca.us

Jared Babula
Staff Counsel
jbabula@energy.state.ca.us

Jennifer Jennings
Public Adviser
publicadviser@energy.state.ca.us

DECLARATION OF SERVICE

I, Maggie Read, declare that on July 15, 2010, I sent hard copies of the attached Commission Decision Re: Data Concerning Cultural Resources on BLM Land, dated July 14, 2010. The original documents, filed with the Docket Unit, are accompanied by a copy of the most recent Proof of Service list, located on the web pages for the following projects at :

[www.energy.ca.gov/sitingcases/calicosolar]
[www.energy.ca.gov/sitingcases/genesis_solar]
[www.energy.ca.gov/sitingcases/solartwo/index.html]
[www.energy.ca.gov/sitingcases/solar_millennium_blythe]
[www.energy.ca.gov/sitingcases/solar_millennium_palen]
[www.energy.ca.gov/sitingcases/solar_millennium_ridgecrest].

The documents have been sent to both the other parties in this proceeding (as shown on the Proof of Service lists) 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 Proof of Service lists for the following projects;
09-AFC-6 *Blythe Solar Power Plant Project*, 08-AFC-13 *Calico Solar*, 09-AFC-8 *Genesis Solar Energy Project*, 08-AFC-5 *Imperial Valley Solar Project*, 09-AFC-7 *Palen Solar Power Plant Project* and 09-AFC-7 *Ridgecrest Solar Power Project*;
- by personal delivery;
- x 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:

- 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. 10-CRD-1

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.

Original signed by:

Maggie Read

Hearing Adviser's Office