



August 11, 2010

Mr. Christopher Meyer
CEC Project Manager
Attn: Docket No. 08-AFC-13
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

DOCKET	
08-AFC-13	
DATE	<u>AUG 11 2010</u>
RECD.	<u>AUG 11 2010</u>

RE: Calico Solar (formerly Solar One) Project (08-AFC-13)
Applicant's Brief Regarding Access to Patrick Jackson's Property

Dear Mr. Meyer:

Tessera Solar hereby submits the Applicant's Brief Regarding Access to Patrick Jackson's Property. I certify under penalty of perjury that the foregoing is true, correct, and complete to the best of my knowledge.

Sincerely,

Felicia L. Bellows
Vice President of Development

STATE OF CALIFORNIA
Energy Resources Conservation
and Development Commission

Calico Solar (formerly known as)
SES Solar One) Project)
Calico Solar, LLC)
_____)

Docket No. 08-AFC-13

APPLICANT CALICO SOLAR'S
BRIEF RE ACCESS TO PATRICK JACKSON'S
PROPERTY

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STATE OF CALIFORNIA
Energy Resources Conservation
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Calico Solar (formerly known as)	Docket No. 08-AFC-13
SES Solar One) Project)	
Calico Solar, LLC)	Applicant Calico Solar's
)	Brief re Access to Patrick Jackson's
)	Property

Patrick Jackson owns property located at the South-West corner of Section 36, which constitutes the northern half of Not A Part 1. See Ex. 82, Attachments B and D, Applicant's Submittal of Rebuttal Testimony (showing the location of Not A Part 1). Mr. Jackson purports to speak for all of the property owners in Not A Part 1 in objecting to being landlocked. However, the properties in Not A Part 1 will not be landlocked. As is shown in Attachment B to Exhibit 82, there are Proposed Public Access Routes And Post-Construction Route Designations that will continue to provide access to the properties in Not A Part 1. Mr. Jackson still has access to his property via roads to the east and to the west of the BNSF crossing at the Hector Road exit from I-40.

Mr. Jackson also seeks to move beyond issues of access, and use these proceedings to establish the type of access he has to his property. He argues that the current railroad crossing, which BLM has concluded is not a legal crossing, must be maintained without restriction. As Mr. Jackson acknowledges, BLM has rejected all of Mr. Jackson's contentions. Noting that Mr. Jackson will have continued access to his property, BLM has found that "[t]he crossing was established as a BNSF ROW for access to, and maintenance of, the rail line and, and therefore, the crossing is not a public road. Therefore, the installation of the gate at this crossing does not result in a conflict with any applicable laws or regulations." FEIS, Appendix G, G-129. Staff has also properly noted BLM's position. See SSA C.8-13 ("BLM representatives stated that the crossing was established as a BNSF ROW for access to, and maintenance of, the rail line and, and therefore, the crossing is not a legal road with authorized access for the public.").

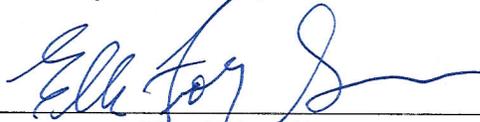
The Warren-Alquist Act requires the Commission to make findings whether a project complies with applicable federal standards or laws. Pub. Res. Code § 25523(d)(1). However, the BLM is entitled to deference. 20 C.C.R. § 1744(e). Deference is particularly appropriate where the issues presented are squarely within BLM's expertise: Mr. Jackson seeks to use these proceedings to challenge a federal land management agency's determinations regarding issues of federal land law. BLM deals with these issues on a daily basis. Moreover, the Act does not and cannot make it the role of the

Commission to conduct appellate review of the decisions of a federal agency regarding federal law.

Finally, Mr. Jackson complains that BLM has not complied with FOIA. Mr. Jackson's FOIA contentions are beyond the Commission's jurisdiction, and in any case are entirely irrelevant to any issue before the Commission. Accordingly, Mr. Jackson's argument that the project does not comply with LORS due to the closing of the non-public railroad crossing should be rejected as meritless.

Date: August 11, 2010

Respectfully submitted,



Ella Foley Gannon
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Applicant for the Calico Solar
(formerly known as SES Solar One) Project

A/73459425.2



**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 CALICO SOLAR (Formerly SES Solar One)

Docket No. 08-AFC-13

**PROOF OF SERVICE
(Revised 8/9/10)**

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DECLARATION OF SERVICE

I, Jennifer Draper, declare that on August 11, 2010, I served and filed copies of the attached Applicant's Brief Regarding Access to Patrick Jackson's Property. 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: [\[www.energy.ca.gov/sitingcases/solarone\]](http://www.energy.ca.gov/sitingcases/solarone).

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. 08-AFC-13
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
Jennifer Draper