

DOCKET

08-AFC-13

DATE AUG 16 2010

RECD. AUG 16 2010

STATE OF CALIFORNIA

**Energy Resources Conservation
and Development Commission**

In the Matter of:

The Application for Certification for the
Calico Solar Project

Docket No. 08-AFC-13

**OBJECTION TO AUGUST 18TH EVIDENTIARY HEARINGS
BASED ON COMMISSION'S FAILURE TO PROVIDE PRIOR HEARING
TRANSCRIPTS AS PROMISED**

OBJECTION

The Committee has repeatedly acknowledged the extraordinarily tight and burdensome schedule it has imposed on the parties to hear the application for certification of the Calico solar project. Sierra Club, Defenders of Wildlife and CURE (“intervenor”) have each uniformly endeavored to adhere to the Committee’s schedule, provided that each party’s ability to present their case to the Commission is not prejudicially compromised. Intervenor have worked in good faith and, to date, have complied with all filing and hearing schedules.

The Committee held evidentiary hearings on August 4, 5 and 6, 2010, with all of August 5th dedicated to biological resources. Parties were assured the Commission would expedite the hearing transcripts to make them available as quickly as possible for briefing and additional hearings. Now,

despite promises otherwise, the Commission has failed to provide the transcript of the August 5th hearing on biological resources in time for parties to fully prepare for the upcoming August 18th evidentiary hearing on the desert tortoise translocation plan and other biological resource issues. Given this lapse, intervenors are precluded from reviewing and then fully presenting testimony for the August 18th hearing. Therefore, intervenors can no longer adhere to the Committee's scheduling order as it pertains to filing testimony for the August 18, 2010 hearing on biological resources.

It is inexplicable that the Commission was able to provide transcripts for August 4th and 6th, hearing days equally as long and complicated as August 5th, but the August 5th transcript remains unavailable. If anything, the Committee should have expedited and prioritized the August 5th transcript over the other two days given its relevance to the remaining hearing and its importance to these intervenors. Accordingly, intervenors are having trouble drafting testimony in a timely manner and must file some testimony late. Further, intervenors reserve the right to supplement their testimony on all matters covered at the August 18th evidentiary hearing pertaining to biological resources generally and the desert tortoise translocation plan specifically.

As the Committee is well aware, on the morning of August 5, the applicant circulated for the first time its translocation plan for the listed desert tortoise. There is no dispute that intervenors were not afforded any

opportunity to review the plan prior to the applicant presenting substantive oral testimony on the plan's merits. Thus, intervenors were unable to participate in that aspect of the August 5 hearing. Instead, we were told we would have a fair and full opportunity to respond to and pose questions on these matters on August 18th. Yet, intervenors still have not had a chance to review that testimony in the context of the translocation plan, prejudicially depriving intervenors the opportunity to provide complete testimony.

Similarly, the applicant did not provide all of the documents Sierra Club requested on August 10, 2010 concerning desert tortoise surveys. On Friday August 13, the applicant provided documents in a series of emails, and then late Friday afternoon, Sierra Club received a disk and hard copies of documents, making that a total of three different formats to review. Having attempted to review all documents provided, it appears the applicant did not provide the data sheets/encounter forms for all desert tortoise observed. Specifically, the applicant provided data sheets for DWMA Nos. 1 and 2 but omitted data sheets for ACEC and/or control areas elsewhere, rendering a full analysis of occupancy and translocation suitability impossible.

For the foregoing reasons, the undersigned intervenors formally object to the Committee hearing matters pertaining to biological resources on August 18; and further reserves the right to file testimony after August 16,

2010. Intervenors will, however, file written testimony prior to the August 18 hearing as expeditiously as possible.

Dated: August 16, 2010

Respectfully submitted,

Original signed by:

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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, Jeff Speir, declare that on August 16, 2010, I served and filed copies of the attached Schedule, dated August 16, 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/solarone].

Motion for Relief
from Hearing

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
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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.

