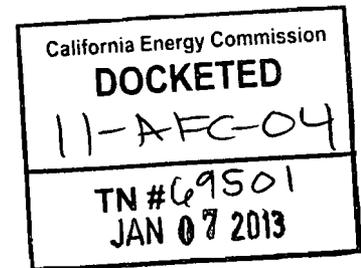


STATE OF CALIFORNIA  
Energy Resources Conservation  
and Development Commission



In the Matter of:

APPLICATION FOR CERTIFICATION  
FOR THE RIO MESA SOLAR  
ELECTRIC GENERATING FACILITY

DOCKET NO. 11-AFC-04

**PETITION TO INTERVENE BY LABORERS' INTERNATIONAL  
UNION OF NORTH AMERICA, LOCAL UNION NO. 1184**

January 7, 2013

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## I. INTRODUCTION

Pursuant to Public Resources Code (öPRCö) section 25214 and sections 1207 and 1712 of Title 20 of the California Code of Regulations (öCCRö), Petitioner LaborersøInternational Union of North America (öLiUNAö) Local Union No. 1184 (öPetitionerö or öLiUNA Local 1184ö) hereby petitions to intervene in the above-captioned proceeding.

On October 14, 2011, Rio Mesa Solar I, LLC and Rio Mesa Solar II, LLC, subsidiaries of BrightSource Energy, Inc. (collectively, öBrightSourceö) filed an Application for Certification (öAFCö) for the Rio Mesa Solar Electric Generating Facility (öRio Mesa SEGFö or öProjectö). As currently proposed in the September 2012 California Energy Commission (öCommissionö) Preliminary Staff Assessment (öPSAö), the Rio Mesa SEGF is a massive project to construct two solar concentrating thermal power plants, each with generation capacity of 250 megawatts (öMWö), and a shared common area and facilities, encompassing 3,805 acres of land leased from the Metropolitan Water District of Southern California (öMWDö). Off-site project components, including a temporary construction area, transmission line corridors, and access roads encompass an additional 2,188 acres, for a total of 5,993 acres planned for the Project. The two plants will be connected via a common overhead 220 kilovolt (kV) generator tie-line (ögen-tie lineö) to the Southern California Edison (öSCEö) Colorado River Substation approximately 9.7 miles to the north.

The Project site is situated on the Palo Verde Mesa in eastern Riverside County, California, 13 miles southwest of the City of Blythe. The project site is bounded by desert lands on all sides, with undeveloped desert lands and active agriculture to the east, undeveloped desert lands located in Imperial County on the south, undeveloped desert lands and the Mule Mountains

on the west, and undeveloped public desert lands administered by the U.S. Bureau of Land Management (BLM) on the north.

The PSA and expert evidence submitted to the Commission during the PSA comment period demonstrates that the Rio Mesa SEGF will have numerous adverse environmental impacts which, without adequate mitigation, would be considered "significant" under the California Environmental Quality Act, PRC §§ 21000 et seq. (CEQA) and any certified regulatory program.<sup>1</sup>

LiUNA Local 1184 participated in the public comment period on the PSA for the Project by submitting written comments, including testimony and other evidence from two expert consultants on the issues of impacts to biological resources, air quality, soil water quality, disclosure and mitigation of hazardous materials impacts, and waste management issues. Petitioner seeks to protect its interests by intervening as a party in this proceeding in order to ensure that both the approval and the implementation of the project comply with applicable law. Petitioner seeks to participate fully in the approval process for this Project as a party in this proceeding.

## **II. REPRESENTATION**

LiUNA Local 1184 will be represented in this proceeding by the counsel identified below. All filings should be served on Petitioner's counsel:

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<sup>1</sup> The Commission's site certification program is the procedural equivalent to CEQA and required to satisfy CEQA's requirements as a certified regulatory program. PRC § 21080.5(d); §§25500-25543; 14 CCR § 15251(j).

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LiUNA Local 1184 wishes to participate fully as a party in all phases of this proceeding, and is not a member of a group or organization already a party to this proceeding.

### **III. PROCEDURAL POSTURE**

This petition to intervene is timely as it is filed before both the Prehearing Conference and more than 30 days prior to the first evidentiary hearing in this matter, which dates have not yet been set by the Commission. 20 CCR § 1207(b); *see also* Committee Schedule for the Rio Mesa Solar Electric Generating Facility, available at [http://www.energy.ca.gov/sitingcases/riomesa/committee\\_schedule.pdf](http://www.energy.ca.gov/sitingcases/riomesa/committee_schedule.pdf).

LiUNA Local 1184 is complying with the procedural requirements for presenting this Petition by serving the petition upon the Applicant, as well as all other parties. A Proof of Service and Declaration of Service are attached. 20 CCR § 1207(b). LiUNA Local 1184 further agrees that if a document is served upon it via electronic mail (ēmailö) in this proceeding, that an additional paper copy by mail is not necessary. Email service is preferred.

### **IV. BASIS FOR INTERVENTION**

#### **A. Petitioner.**

LiUNA Local 1184 is a non-profit laborersøand public service employeesøunion with approximately 3,000 members residing and working in Riverside County, and over 500,000 members in LiUNA nationally. LiUNA Local 1184 members purchase utility services in California, and many of these members are residential utility customers who will be impacted by the proposed generation and transmission of power by the Rio Mesa SEGF.

LiUNA Local 1184 represents construction workers and public service employees in many settings, including collective bargaining, seeking employment, training programs, legal rights, job safety, and workplace fairness. LiUNA Local 1184 advocates for programs and policies that promote good jobs and a healthy natural and working environment for workers and their families. While LiUNA supports the development of clean, renewable energy technology, including the use of solar energy where feasible, an important part of Local 1184's ongoing advocacy involves participating in and, where appropriate, challenging Projects that would result in harmful environmental effects, or the violation of environmental laws, to the detriment of the interests of LiUNA's members.

Members of LiUNA Local 1184 live, work, and recreate in Riverside County in the immediate vicinity of the proposed Rio Mesa SEGF site. These members will suffer the impacts of a poorly executed or inadequately mitigated Project, just as would the members of any nearby homeowners association, community group, or environmental group. Members of LiUNA Local 1184 live and work in areas that will be affected by the construction and operation of the Project, and frequently visit the desert areas that host numerous sensitive plant and wildlife species that are likely to be adversely impacted by the Project, including the desert tortoise, Mojave fringe-toed lizard, Nelson's bighorn sheep, burrowing owl, elf owl, Gila woodpecker, and golden eagle, among other species. It is in Local 1184's immediate interest to ensure that these species are appropriately protected, and that the direct and cumulative impacts of the Project are mitigated to the fullest extent feasible.

Construction workers in particular, such as Local 1184 members, will suffer many of the most significant impacts from the Project as currently proposed, such as exposure to hazardous materials from unanalyzed soil and water contamination at the Project site that pose a risk to

human health through inhalation and direct physical contact on the ground. Therefore, LiUNA Local 1184 and its members have a direct interest in ensuring that the Project is adequately analyzed and that its environmental and public health impacts are mitigated to the fullest extent feasible.

### **B. The Rio SEGF Project.**

As proposed intervenors, Petitioner seeks to ensure that the Project will comply with all applicable laws including, without limitation, CEQA, the National Environmental Policy Act (NEPA), the State and Federal Endangered Species Act (ESA), and the Bald and Golden Eagle Protection Act (BGEPA), among other laws.

For example, the PSA admits that the effects of the Project on plants, animals, and the ecological integrity of the region would be severe, yet fails to adequately mitigate these impacts. The site for the proposed Project contains thousands of acres of land within a relatively undisturbed portion of the Colorado Desert. This land contains a large block of habitat that supports many unique plant and animal species, including the desert tortoise, Mojave fringe-toed lizard, Nelson's bighorn sheep, burrowing owl, elf owl, Gila woodpecker, and golden eagle, among others. It is known to contain hundreds of acres of jurisdictional waters and five sensitive natural communities. In contrast to many other regions of the Colorado Desert, the site exhibits little sign of human disturbance.

The PSA concludes the proposed mitigation would reduce many of the Project's impacts to a less than significant level. The expert testimony of wildlife biologist Scott Cashen, M.S., submitted by Petitioner during the PSA comment period, concluded that the ecological consequences of eliminating and fragmenting a broad expanse of relatively undisturbed Colorado

Desert habitat, as proposed by the Project, cannot be mitigated to a less than significant level, and are not effectively mitigated by the Project as proposed.

Additionally, the PSA failed to adequately evaluate impacts to soil and surface water from Project construction, and failed to adequately characterize soil and hazardous materials conditions that may pose risks to construction workers and to future site personnel. Expert evidence submitted by Petitioner during the PSA comment period from certified hydrogeologist Matthew Hagemann, PG, C.Hg., QSD, QSP, former Senior Science Policy Advisor, U.S. EPA Region 9 and Hydrogeologist, Superfund, RCRA and Clean Water programs, concluded that the potential for significant impacts to the workers, nearby residents and the environment was not adequately disclosed and mitigated by the proposed conditions of certification set forth in the PSA, in particular with regard to potential impacts from floods, potential exceedences of surface and groundwater quality standards set in the Colorado River Basin Plan, failure to adequately disclose potential recognized environmental conditions and dangers posed by unexploded military ordnants and military debris on the Project site, and risks of exposure to hazardous substances posed by past illegal dumping at the Project site.

Petitioner seeks to participate fully as a party in these proceedings to ensure that evidence of these impacts is fully presented to, and considered by, the Commission, during the Project certification process, so that the Project's impacts are adequately mitigated, and the interests of Petition and other members of the public are adequately protected.

## **V. CONCLUSION**

For the foregoing reasons, LiUNA Local 1184 respectfully requests that the Commission grant its petition to intervene in this proceeding, and allow LiUNA Local 1184 to participate as a party.

Dated: January 7, 2013

Respectfully Submitted,

LOZEAU|DRURY LLP



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Attorneys for Laborers International Union of North  
America Local Union 1184

**DECLARATION OF SERVICE**

I, Tony Stearns, declare that on January 7, 2013, I served and filed a copy of the attached document PETITION TO INTERVENE, dated January 7, 2013. This document is accompanied by the most recent Proof of Service list, located on the web page for this project at: <http://www.energy.ca.gov/sitingcases/riomesa/index.html>.

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

**(Check all that Apply)**

**For service to all other parties:**

- Served electronically to all e-mail addresses on the Proof of Service list;
- Served by delivering on this date, either personally, or for mailing with the U.S. 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 marked \*"**hard copy required**" or where no e-mail address is provided.

**AND**

**For filing with the Docket Unit at the Energy Commission:**

- by sending electronic copies to the e-mail address below (preferred method); **OR**
- by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

**CALIFORNIA ENERGY COMMISSION – DOCKET UNIT**  
Attn: Docket No. 11-AFC-04  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512  
[docket@energy.ca.gov](mailto:docket@energy.ca.gov)

***OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:***

- Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

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I declare under penalty of perjury under the laws of the State of California 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.

  
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**APPLICATION FOR CERTIFICATION FOR THE  
RIO MESA SOLAR ELECTRIC  
GENERATING FACILITY**

DOCKET NO. 11-AFC-04  
PROOF OF SERVICE  
(Revised 11/2/12)

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