



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 RIO MESA SOLAR
ELECTRIC GENERATING FACILITY*

Docket No. 11-AFC-04

PLEASE TAKE NOTICE that the Committee designated by the Energy Commission to conduct proceedings on the **RIO MESA SOLAR GENERATING FACILITY** Application for Certification (AFC) has scheduled a Mandatory Status Conference to take place as follows:

***Monday, March 19, 2012
Beginning at 2:00 p.m.***

**California Energy Commission
Hearing Room A
1516 Ninth Street
Sacramento, CA 95814**



TELECONFERENCE OPTION: Parties and the public may attend the Mandatory Status Conference in person at the above location or by telephone and/or by computer via our "WebEx" web conferencing system. For details on how to participate by WebEx, please see the "Participation in the Mandatory Status Conference Through WebEx" directions attached to this notice.

On February 1, 2012, the assigned Committee conducted an informational hearing and environmental scoping meeting (Hearing) to apprise the public about the Energy Commission's licensing process and the proposed Rio Mesa Solar Generating Facility project. The Applicant, Energy Commission Staff, and Intervenor Center for Biological Diversity (CBD) presented their perspectives on the project, the project's potential environmental impacts, and the appropriate timeline to evaluate the AFC. Before the hearing, the Committee received preliminary written issue summaries from the parties.¹

¹ See Staff's Issues Identification Report (IIR) at [http://www.energy.ca.gov/sitingcases/riomesa/documents/2011-01-25_CEC_Staffs_Issues_Identification_Report_TN-63455.pdf]; Applicant's Comments on Staff's IIR at [http://www.energy.ca.gov/sitingcases/riomesa/documents/applicant/2012-01-30_Applicant_Comments_re_Issues_Identification_Report_and_Staff_Proposed_Schedule_TN-63475.pdf]; and CBD's Response to Staff's IIR at:

Near the end of the Hearing, the Committee stated it would schedule a conference to address the data adequacy and scheduling issues raised by the parties. A threshold issue is CBD's claim that the AFC is not data adequate, particularly in view of the December 16, 2011 request of REAT² biology staff for at least one additional year of bird and bat surveys.³ The biologists' underlying rationale is that:

[t]he baseline data provided in the AFC will not support an adequate analysis of the project's potential impacts to bird species listed as threatened or endangered pursuant to the federal Endangered Species Act (ESA), the California Endangered Species Act (CESA), the Migratory Bird Treaty Act, Bald and Golden Eagle Protection Act and/or fully protected under the Fish and Game Code; other special-status birds and bats on the project site and in the surrounding habitat; migratory birds that may pass over the site, on the Colorado River migratory corridor; or the large populations of wintering shorebirds and waterfowl that make use of wetlands at the Cibola National Wildlife Refuge and other wildlife reserves in the area.

(Attachment to Dec. 16, 2011 Communication, p.1, emphasis added.) In turn, this request for additional surveys raises scheduling concerns. Commission Staff's IIR indicates that this additional survey data is a necessary prerequisite to Staff and the U.S. Bureau of Land Management (BLM) issuing a Preliminary Staff Assessment/Draft Environmental Impact Statement (PSA/DEIS). Staff further indicates that BLM requires additional surveys in the technical area of Cultural Resources, which can be conducted while additional bird and bat surveys are completed.

Staff submits that the PSA/DEIS will not issue any sooner than the second quarter of 2013. Under this proposed timeline, the Commission would exceed the 12-month deadline set forth in Public Resources Code section 25540.6 for Energy Commission action on an AFC. The Applicant suggests, however, that a 12-month certification process is achievable.

The March 19 conference will address the issues raised during the Hearing as well additional factors that might affect scheduling, including: (1) a January 31, 2012 communication from the U.S. Fish and Wildlife Service suggesting the possible need for

[http://www.energy.ca.gov/sitingcases/riomesa/documents/others/2012-01-31_Center_for_Biological_Diversity_Response_to_Issues_Identification_Report_TN-63521.pdf].

² REAT is the acronym for the Renewable Energy Action Team, which is an inter-agency task force comprised of the U. S. Fish and Wildlife Service, U.S. Bureau of Land Management, California Department of Fish and Game, and the Energy Commission.

³ See December 16, 2011 REAT communication at:

[http://www.energy.ca.gov/sitingcases/riomesa/documents/2011-12-16_Email_to_Rio_Mesa_Regarding_Bird-Bat_Surveys.pdf].

several years of additional bird surveys⁴; (2) pending litigation challenging a Riverside County development fee imposed on certain solar facilities; and (3) the recent distemper-related deaths of kit foxes near Blythe, California.

The Committee therefore directs the parties to brief the following topics:

- *Whether the AFC is data adequate in the technical areas of Biological Resources and Cultural Resources.*

Discuss the data adequacy issues raised by CBD; Staff's representations that a PSA/DEIS cannot issue until further surveys are conducted in the technical areas of Biological Resources and Cultural Resources; and, the data adequacy requirements set forth in Commission Regulations sections 1704 and 1709 and Appendix B to Chapter 5 of the Commission's Regulations. (See footnotes 1, 3, and 4.)

- *Whether one additional year of bird and bat surveys will be adequate as indicated by the December 16, 2011 REAT communication or, if several years of additional bird and bat surveys are required as indicated by the January 31, 2012 USFWS communication. (See footnotes 3 and 4.)*
- *Whether, and how, the pending litigation challenging the legality of Riverside County's solar facility development fees will affect Commission evaluation of the project's compliance with the county's land use laws, ordinances, regulations, and standards (LORS).*
- *Whether, and how, recent adverse health impacts to kit foxes in the project vicinity might affect the scope and timeline of Commission review of the AFC.*
- *Any additional matters relating to data adequacy or scheduling that are not identified in this notice.*

The Committee invites interested agencies including BLM, USFWS, California Department of Fish and Game, and Riverside County to brief or submit written comments on the above-listed topics.

Opening briefs shall be filed and served by 5:00 p.m. on Wednesday, March 7, 2012. Responsive briefs, if any, shall be filed and served by 5:00 p.m. on Wednesday, March 14, 2012.

The parties should also anticipate Committee questions regarding Commission Staff's and BLM's proposed coordination and joint preparation of environmental review documents.

⁴ See January 31, 2012 U.S. Fish and Wildlife communication at [http://www.energy.ca.gov/sitingcases/riomesa/documents/others/2012-01-31_US_FWS_Clarifications_Golden_Eagle_Survey_TN-63565.pdf].

Public Adviser and Public Participation

The Energy Commission invites members of the public and other interested parties to participate either on an informal basis or by intervening in the proceeding. Both types of participation allow written and oral comments. At the informal participation level, written and oral public comments are considered by the Commissioners and are part of the record, but are not part of the formal evidentiary record. Intervenors have the right to introduce evidence into the evidentiary record and cross-examine the other parties' witnesses.

The Energy Commission's Public Adviser's Office is available to provide the public with an understanding of a proceeding and to make recommendations for meaningful participation. For assistance, contact Jennifer Jennings, the Public Adviser, at (916) 654-4489 or 800-822-6228 or e-mail at: [\[publicadviser@energy.state.ca.us\]](mailto:publicadviser@energy.state.ca.us).

If you have a disability and need assistance to participate in this event, contact Lourdes Quiroz no less than five days prior to the hearing at 916-654-5146 or e-mail: [\[lquiroz@energy.state.ca.us\]](mailto:lquiroz@energy.state.ca.us).

Information

Questions of a legal or procedural nature should be directed to Kourtney Vaccaro, the Hearing Adviser, at (916) 654-4328 or e-mail: [\[kvaccaro@energy.state.ca.us\]](mailto:kvaccaro@energy.state.ca.us).

Technical questions concerning the project should be addressed to Pierre Martinez, the Staff Project Manager, at (916) 651-3765 or e-mail: [\[pmartine@energy.state.ca.us\]](mailto:pmartine@energy.state.ca.us).

Media inquiries should be directed to the Office of Media and Public Communications at (916) 654-4989 or e-mail: [\[mediaoffice@energy.state.ca.us\]](mailto:mediaoffice@energy.state.ca.us).

Information concerning the status of the project, as well as notices and other relevant documents may be viewed on the Energy Commission's Internet web page at: [\[http://www.energy.ca.gov/sitingcases/riomesa/index.html\]](http://www.energy.ca.gov/sitingcases/riomesa/index.html).

Dated: February 23, 2012, at Sacramento, California.

Original Signed By:

CARLA PETERMAN
Commissioner and Presiding Member
Rio Mesa SEGF AFC Committee

Original Signed By:

KAREN DOUGLAS
Commissioner and Associate Member
Rio Mesa SEGF AFC Committee

Mailed to Lists: POS, 7411, 7412, 7413, 7414

PARTICIPATION IN THE MANDATORY STATUS CONFERENCE THROUGH WEBEX
THE ENERGY COMMISSION'S ON-LINE MEETING SERVICE

1. COMPUTER LOG-ON WITH A DIRECT PHONE NUMBER:

- Please go to <https://energy.webex.com> and enter the meeting number unique to the specific hearing date:
 - 3/19/12 - meeting number: **492 129 765**

When prompted, enter your information and the meeting password: **riomesa#1**

After you login, a prompt will appear on-screen for you to provide your phone number. In the **Number box**, type your area code and phone number and click OK. **You will receive a call back on your phone for the audio of the meeting.** International callers can use the "Country/Region" button to help make their connection.

2. COMPUTER LOG-ON FOR CALLERS WITH AN EXTENSION PHONE NUMBER, ETC:

- Please go to <https://energy.webex.com> and enter the unique meeting number.
- 3/19/12 - meeting number: **492 129 765**

When prompted, enter your information and the meeting password: **riomesa#1**

After you login, a prompt will ask for your phone number. Click "CANCEL."

- ***Instead** call 1-866-469-3239 (toll-free in the U.S. and Canada). When prompted, enter the meeting number above and your unique Attendee ID number which is listed in the top left area of your screen after you login.*

3. TELEPHONE ONLY (NO COMPUTER ACCESS):

- Call **1-866-469-3239** (toll-free in the U.S. and Canada) and when prompted enter the meeting number:
- 3/19/12 - meeting number: **492 129 765**

If you have difficulty joining the meeting, please call the WebEx Technical Support number at 1-866-229-3239. To see if your computer is compatible, visit [<http://support.webex.com/support/system-requirements.html>].

Please be aware that the meeting's WebEx audio and on-screen activity may be recorded.



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ELECTRIC GENERATING FACILITY**

DOCKET NO. 11-AFC-04
PROOF OF SERVICE
(Revised 2/13/12)

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DECLARATION OF SERVICE

I, RoseMary Avalos, declare that on February 23, 2012, I served and filed copies of the attached NOTICE OF MANDATORY STATUS CONFERENCE, dated February 23, 2012. This document is accompanied by the most recent Proof of Service list, located on the web page for this project at: [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 **NOT** marked "e-mail preferred."

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-4

1516 Ninth Street, MS-4

Sacramento, CA 95814-5512

docket@energy.state.ca.us

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:

California Energy Commission

Michael J. Levy, Chief Counsel

1516 Ninth Street MS-14

Sacramento, CA 95814

mlevy@energy.state.ca.us

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.

Original Signed By:

RoseMary Avalos
Hearing Adviser's Office