

DOCKET	
07-AFC-8	
DATE	APR 10 2009
RECD.	APR 10 2009

State Of California

The Resources Agency of California

Memorandum

Date: April 10, 2009
 Telephone: (916) 654-4679

To: Commissioner Jeffrey D. Byron, Presiding Member
 Commissioner Julia Levin, Associate Member

From: California Energy Commission – John Kessler, Project Manager
 1516 Ninth Street Siting, Transmission & Environmental Protection Division
 Sacramento, CA 95814-5512

Subject: **CARRIZO ENERGY SOLAR FARM PROJECT (07-AFC-8) - STATUS REPORT 2**

Staff has prepared this Status Report in the interest of keeping the Committee informed of project milestones, issues that could affect project schedule for which the Committee may wish to provide guidance, and to update the expected schedule depending on the outcome of these issues.

MILESTONES TO DATE

Staff has been coordinating a number of activities to facilitate the analysis phase of the Application for Certification (AFC) process as follows:

Wildlife Corridor Study

In response to a request from California Department of Fish and Game (CDFG) and U.S. Fish and Wildlife Service (USFWS) to use modeling techniques to evaluate the Carrizo Energy Solar Farm (CESF) project and its contribution to cumulative effects on the movement of wildlife in the Carrizo Plains, staff has been facilitating the wildlife corridor modeling effort. The study is evaluating existing conditions, potential project effects and mitigation options for three focal species, San Joaquin kit fox, pronghorn and tule elk. These species are considered indicative of the habitat and movement needs of an even greater array of wildlife. The study is considering the habitat and movement corridor within the Carrizo Plain extending from the Carrizo National Monument in the south to the Palo Prieto area in the north near the Kern County/San Luis Obispo County line. At this point the corridor connects with broader areas of land where these species reside.

Staff secured its consultant, South Coast Wildlands, and has been conducting the modeling in coordination with CDFG, USFWS, San Luis Obispo County and the applicants of the three solar projects proposed in the Carrizo Plains. The two other solar projects currently proposed in the Carrizo Plain are both photo-voltaic

(PV) energy projects and include the Topaz Solar Farm as proposed by Solar First (previously Optisolar) that would be located immediately north of CESF, and the California Valley Solar Ranch as proposed by SunPower that would be located about 5 miles southeast of CESF. In an effort to provide opportunity for all parties to participate in the study to the extent possible, staff has been distributing study information directly to the agencies, developers, and interveners, and posting information to the website for interested members of the public. Staff has also coordinated with San Luis Obispo County where Supervisor Patterson has provided a conference room for members of the public to participate in Webex teleconferences.

Progress to date includes the following:

1. Conducting a teleconference workshop on January 7, 2009 to provide an overview of the study methodology and process, to receive comments on the study plan, to discuss schedule and to facilitate the exchange of data between parties;
2. Compiling model input data from various sources including:
 - a. recent high-resolution aerial photos and digital elevation models;
 - b. roads;
 - c. vegetation (including crop and agriculture data from San Luis Obispo and Kern counties);
 - d. protected lands;
 - e. species-occurrence data from wildlife agencies, Endangered Species Recovery Program and the California Natural Diversity Database;
 - f. project boundary data from project proponents; and
 - g. criteria rankings for the modeled input of the focal species as provided by wildlife experts.
3. Refining the input data to characterize previously unclassified vegetation areas, reflect the most recent land uses, distinguish irrigated from non-irrigated lands, differentiate between taller vs. shorter grasslands for which shorter grasslands are preferred by kit fox, and establishing fence line data that can impede wildlife movement;
4. Distributing the model input data for review and comments;
5. Responding to comments on the model input data and revising inputs accordingly;
6. Modeling baseline (existing) conditions; and
7. Conducting a teleconference workshop on April 2, 2009 to present the results of modeling the baseline conditions, receive comments and to discuss schedule for the balance of study.

Supporting the Applicant's Development of Draft Mitigation Plans

In response to staff's concerns and recommendations in the Preliminary Staff Assessment as published November 21, 2008, the applicant has been diligent in

preparing draft mitigation plans for Noise and Traffic & Transportation, as well as updating its water use plans and analysis of project effects in its Hydrology and Hydrogeology Report. These plans were provided to staff and the parties on February 13, February 17 and March 2, 2009, respectively. One noteworthy change in the proposed project is that the applicant's estimates for water use during construction has increased from approximately 21 acre-feet/year (AFY) to 144, 72 and 38 AFY during years 1, 2 and 3 of construction respectively. The increase is attributable to the applicant reconsidering its construction water needs for dust control, grading compaction and concrete hydration. Staff is currently evaluating the additional information and incorporating this into the Final Staff Assessment (FSA). The applicant's final plans for mitigation of effects to Biological Resources are still outstanding, and as for the portion contingent on the outcome of the Wildlife Corridor Study, are subject to its schedule for obtaining results adequate to guide those considerations.

Preparation of the FSA

Staff is expanding its range of analytical tools to insure its analysis meets the standards under the California Environmental Quality Act. Staff's expected schedule for completing the FSA is dependent on a number of factors discussed below in the Schedule section.

Clarifying the Permitting Approach of the Army Corps of Engineers (ACOE) and the Endangered Species Act (ESA) Consultation with USFWS

The USFWS had issued a letter to the Army Corps dated January 27, 2009 in response to the ACOE's request for Section 7 ESA Consultation indicating that the USFWS had concerns that could cause a more lengthy Section 10 ESA consultation process.

Subsequent to the January 27, 2009 letter, Ausra met with CDFG and USFWS and expressed a willingness to recognize the project's potential biological resources effects and to develop appropriate mitigation. Assuming that Ausra will deliver a satisfactory mitigation proposal, USFWS confirmed to staff that they are willing to proceed with a Section 7 consultation with the ACOE that would allow Ausra to expeditiously receive a permit to construct two road crossings of Carrisa Creek in the laydown area.

ISSUES

Disclosure of Wildlife Corridor Study Results

The Wildlife Corridor Study is designed to address all three solar energy projects proposed for the Carrizo Plain. However, the applicants for the three projects have expressed concern that the public disclosure of modeling results could adversely impact their ability to obtain necessary habitat compensation lands from among the parcels identified as having high value for habitat compensation and wildlife movement. Staff expects that this issue will be brought before the

Committee shortly, at which time all parties will be allowed to address the need for temporary confidentiality from disclosure, as well as the methods and the length of any such temporary confidentiality that are appropriate.

Consideration of Discovery Period

The Committee has recently observed a number of data requests from interveners followed by responses by applicant and staff stating their belief that the discovery period has ended. Intervenors John Ruskovich and Mike Strobridge also filed on or about March 30, 2009 and March 31, 2009 respectively, petitions for extension of data discovery. Staff believes the discovery period closed as of June 16, 2008, and that these requests should rather be considered as petitions to reopen the discovery period. Staff will be filing a response to the motions by the interveners in an effort to identify issues the Committee may wish to weigh in considering the petitions.

SCHEDULE

At this time, staff foresees that the publication of the FSA could occur as early as May or as late as August, depending on the outcome of factors described as follows:

Providing Opportunity for Public Review and Comment on Substantially Changed Sections of the Staff Assessment

In the November 21, 2008 Preliminary Staff Assessment (PSA), staff was unable to conclude that there were adequate mitigation measures proposed by the applicant to reduce impacts to levels less than significant, or in the case of Land Use, that the project would conform with laws, ordinances, regulations and standards (LORS). The technical areas where mitigation was deemed insufficient included Biological Resources, Land Use, Noise & Vibration, Soil & Water Resources, Traffic & Transportation, and Visual Resources. Staff requested, and has recently received, additional analysis and information from the applicant in the form of draft mitigation plans for Noise & Vibration and Traffic & Transportation, and in a revised Hydrology and Hydrogeology Report for evaluation of Soil and Water Resources. Staff has also since been able to obtain the information it needed to complete its Land Use assessment.

As noted above, the applicant's final plans for mitigation of impacts to Biological Resources are still outstanding, and are dependent on the results of the Wildlife Corridor Study. As a means to allow publication of the FSA prior to final identification of mitigation measures, staff, CDFG and USFWS are exploring the feasibility of developing science-based performance standards as a means to address habitat compensation and mitigation for wildlife corridor impacts. Although the Commission has adopted performance standards for the acquisition of habitat compensation, the

concept of using performance standards to ensure mitigation for wildlife corridor impacts is new. The ability to develop such standards could allow publication of the FSA by late May or early June.

Staff is proposing to conduct a workshop or series of workshops as needed to discuss the new information and staff's updated analysis and conclusions for the technical areas that have changed substantially since the PSA. Staff's concept is to make the draft FSA sections available by circulating notice of availability and posting to the Energy Commission's website draft sections of the FSA for these technical areas that have changed substantially. In addition, staff believes its Alternatives analysis has been revised substantially and should also be discussed at a workshop. Staff will be preparing for the workshop by presenting updated information and a summary of our analysis and conclusions, and planning to respond to any written comments received prior to the workshop. Staff intends for the scheduling of the workshop(s) to occur concurrent with overall FSA preparation activities, and not to substantially affect the FSA publication schedule.

Schedule for Completing the Wildlife Corridor Study

Staff was not able to complete the wildlife corridor study during January or February this year as originally projected because it was prudent to establish a collaborative to include the three solar developers and to allow for participation by interveners and the public to the extent possible. The original concept for conducting the study was to do so among CDFG, USFWS, San Luis Obispo County, and staff and its consultant as part of staff's analysis in preparing the FSA. However, staff appreciated the interests expressed by the parties and the public to also participate and that this would bring a higher likelihood of mutual acceptance of the results by having opportunity to contribute data and to comment on the modeling parameters and results. In order to include time for review and comment periods, to develop responses to comments, revise model parameters based on comments, and to facilitate presentations of task deliverables in workshops, staff has realized that the process is requiring approximately one month for each task with an estimated schedule as follows:

- Task 1 – Model Baseline Conditions - March
- Task 2 – Model Effects of Three Solar Projects - April
- Task 3 – Model Proposed Mitigation Strategies - May
- Task 4 – Prepare Draft Report – June
- Task 5 – Prepare Final Report - July

Assuming that the wildlife study continues in this manner and that it is necessary to complete the study and incorporate final results into the FSA, the FSA could be published in August.

Consideration of Discovery Period

Should the Committee grant the petitions for reopening data discovery, the schedule could be extended one or more months depending on the term of that period.

Other Applicant Milestones Contributing to Schedule

1. Activities Affecting the FSA Publication:
 - a. Apply to CDFG for a Streambed Alteration Agreement so that conditions normally included in the CDFG permit can be incorporated into the FSA;

2. Activities Affecting Overall Project Schedule:
 - a. Formally file with CDFG for an Incidental Take Permit (ITP) in follow-up to the draft application and Biological Assessment previously submitted by applicant to CDFG (this is a formality, and will not affect staff's ability to incorporate the requirements of the ITP into a FSA condition of certification);
 - b. Propose the wildlife habitat and movement compensation lands needed to mitigate project impacts, including their location, and in coordination with the Wildlife Corridor Study;
 - c. Obtain the Biological Opinion associated with the Section 7 ESA consultation; and
 - d. Recognize that compensation requirements for effects to agriculture for the loss of 645.7 acres of significant farmland may be in addition to the wildlife habitat compensation, and propose appropriate mitigation.

cc: Docket (07-AFC-8)
Proof of Service List



**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 *CARRIZO ENERGY*
*SOLAR FARM PROJECT***

**Docket No. 07-AFC-8
PROOF OF SERVICE
(Revised 4/10/2009)**

APPLICANT

*Perry H. Fontana, QEP
Vice President-Projects
Ausra, Inc.
303 Ravendale Drive
Mountain View, CA 94043
perry.fontana@ausra.com

APPLICANT CONSULTANT

Angela Leiba, GISP
Senior Project Manager
GIS Manager/Visual Resource Specialist
URS Corporation
1615 Murray Canyon Road, #1000
San Diego, CA 92108
angela_leiba@urscorp.com

Kristen E. Walker, J.D.
URS Corporation
1615 Murray Canyon Road, Suite 1000
San Diego, California 92108
kristen_e_walker@urscorp.com

COUNSEL FOR APPLICANT

Jane E. Luckhardt
DOWNEY BRAND
621 Capitol Mall, 18th Floor
Sacramento, CA 95814
jluckhardt@downeybrand.com

INTERESTED AGENCIES

California ISO
e-recipient@caiso.com

INTERVENORS

Mr. John A. Ruskovich
13084 Soda Lake Road
Santa Margarita, California 93453
agarnett@tcsn.com

Mr. Michael Strobridge
9450 Pronghorn Plains Road
Santa Margarita, California 93453
mike_76@live.com

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

John Burch
Traditional Council Lead
Salinan Tribe
8315 Morro Road, #202
Atascadero, California 93422
salinantribe@aol.com

Environmental Center of
San Luis Obispo (ECOSLO)
c/o Babak Naficy
P.O. Box 13728
San Luis Obispo, California 93406
babaknaficy@sbcglobal.net

ENERGY COMMISSION

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

Gary Fay
Hearing Officer
Gfay@energy.state.ca.us

John Kessler
Project Manager
jkessler@energy.state.ca.us

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

Michael Doughton
Staff Counsel
mdoughto@energy.state.ca.us

Elena Miller
Public Adviser
publicadviser@energy.state.ca.us

*indicates change

DECLARATION OF SERVICE

I, Hilarie Anderson, declare that on April 10, 2009, I served and filed copies of the attached Status Report # 2. 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:

[<http://www.energy.ca.gov/sitingcases/carrizo/index.html>]. The document has 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:

 x sent electronically to all email addresses on the Proof of Service list;

 x by personal delivery or by depositing in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above 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. 07-AFC-8
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.

Original Signature in Dockets
Hilarie Anderson