

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov

January 16, 2009

DOCKET
07-AFC-8

DATE	JAN 16 2009
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RECD.	JAN 16 2009
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Mr. John Ruskovich
13084 Soda Lake Road
Santa Margarita, CA 93453

RE: Carrizo Energy Solar Farm (07-AFC-8)

Dear Mr. Ruskovich:

Thank you for your letter dated January 6, 2009 (copy attached) which raises several important issues. The California Energy Commission (Commission) values and appreciates public comments which assist us in reviewing and assessing Applications for Certification. The environmental points you raise will be considered by Commission staff when they prepare their Final Staff Assessment (FSA).

The FSA is currently expected to be issued by the Commission sometime in March 2009, or soon thereafter. I have forwarded your letter to appropriate Commission staff, and am also providing a copy to the applicant. The forthcoming FSA will address the impacts to water, noise, visual resources and other environmental issues you have raised, and staff's final recommendations on appropriate mitigation for the project will be set forth therein.

It appears that we may not have not been successful in conveying a complete understanding of the Commission's siting process. In an effort to address this, my staff contacted the Commission's Office of the Public Adviser, which advises members of the public about our siting process and procedures. I learned that you contacted the Public Adviser's office early in this proceeding and that the Public Adviser's office spoke to you at length on one or more occasions, including a 45-minute conversation that occurred shortly after the initial informational hearing and site visit on or about January 2008. At that time the Public Adviser's office explained your right as a member of the public to provide comments in this proceeding, as well as your right to more actively participate by intervening as a full party should you wish to have a greater and more direct influence of the outcome. I'm told the Public Adviser's office referred you to the Commission's public website which contains answers to a number of frequently asked questions about public participation and Intervention in the siting process.

For your convenience, I enclose a copy of those informational sections of our website. Respectfully, I recommend that you review them again. If you still have questions about your right to comment, your right to intervene, or otherwise about how you can influence the outcome of this proceeding, I recommend that you again contact the Public Adviser, Elena Miller, who can assist you in fully understanding our process.

PROOF OF SERVICE (REVISED 11/25/08) FILED WITH
ORIGINAL MAILED FROM SACRAMENTO ON 1/16/09

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Mr. Ruskovich
January 16, 2009
Page 2

It is not unusual for proceedings on Applications for Certification to have some contested issues of fact. The Commission staff is an independent, objective party with multidisciplinary expertise. It attempts at all times to sort out the inaccuracies and determine the best and most accurate information on which to base our recommendations. The information you submitted is very helpful in that regard and we intend to follow up on it. As I stated above, *all* significant environmental issues that have been raised will be addressed in the FSA.

The teleconference workshop that occurred on January 7, 2009 was successfully attended by approximately 30 persons from geographically disparate parts of California, including Carrizo Plain residents Mike Strobridge and Robin Bell, both of whom you are acquainted with. The public notice of the meeting identified three (3) different ways to connect through computer, phone, or both, and provided a telephone number for technical support to assist members of the public with any problems or questions they might have in trying to join or attend the meeting. I received no other complaints about the telephone hook-up or about members of the public having difficulty accessing the workshop. While your letter does not indicate that you attempted to make use of the available technical support, please know that we would be glad to support you so that you are able to participate in future teleconferences.

Given the considerable additional expense and inconvenience involved in asking all attendees of future workshops focused on the discrete wildlife corridor issues to physically travel to San Luis Obispo County rather than participate by telephone, I am reluctant to discard the public convenience of the teleconference. Accordingly, for the time being staff will continue to hold the corridor workshops by teleconference. If we encounter additional reports of significant problems that technical support cannot resolve, we may revisit this issue.

Again, thank you for your participation and for bringing these important issues to our attention. We appreciate all of your positive contributions to this process.

Sincerely,

John Kessler,
Project Manager

Cc (w/ enclosures):
Docket (07-AFC-8)
Proof of Service List
Perry Fontana, Ausra, Inc.
Elena Miller, Public Adviser

Power Plant Siting Proceedings FREQUENTLY ASKED QUESTIONS

1. What is the Energy Commission's role in the siting (or power plant licensing) process?

The California Energy Commission ensures that needed energy facilities are certified in an expeditious and environmentally acceptable manner. The energy facilities certification process is designed to be rigorous, fair and consistent, while eliminating duplication and regulatory uncertainty.

The power plant site certification process applies to thermal energy facilities that produce 50 megawatts (MW) or more of electricity. Power plants below that threshold are reviewed by local agencies.

2. Who makes the decision about the power plant?

The five members of the California Energy Commission. During the energy facilities certification process, two commissioners are chosen to oversee all hearings, workshops and related proceedings on a specific project. The two-member "committee" will make recommendations to the other Commissioners before final action for certification is determined at a public hearing of the full five-member Commission.

3. What is the role of the Energy Commission staff?

The Energy Commission's staff, which includes a full range of environmental and engineering experts, is an independent, objective party in a power plant siting procedure.

The staff's function is to review information provided by the applicant, coordinate with other federal, state, and local agencies; do necessary field studies; and prepare and present testimony, include recommended conditions of approval, in hearings. The staff also implements a compliance monitoring program to ensure that power plants are constructed and operated according to the conditions of certification.

4. What is the role of the Public Adviser?

The Energy Commission nominates and the Governor appoints a Public Adviser who is responsible for ensuring that the public and other interested parties are given the opportunity to fully and meaningfully participate in all Commission proceedings, including the certification of energy facilities. The Public Adviser's accessibility affords California citizens the unique opportunity to be a part of energy decision-making that could affect their lives. Appointed to a three-year term, the Public Adviser has the primary responsibility of fostering public understanding of and participation in the certification process.

The Public Adviser does not act as the public's legal counsel before the Energy Commission, but rather advises the public on effective ways to participate in the proceedings. While he or she may not advocate any substantive position on issues before the commission, the Adviser provides procedural guidance to the public (including the intervenors) and can also render his or her independent advice and advocate points of procedure that in the Adviser's view will improve public participation in the commission's proceedings.

5. What does the Hearing Officer do?

The Hearing Officer assists the presiding member in conducting the committee proceeding.

6. Where will the hearings take place?

We try to accommodate the public by holding the hearings as much as economically feasible in the area of the project. The final decision is usually made at a regularly scheduled Business Meeting in Sacramento.

7. What laws cover this process?

The Energy Commission is governed by the Warren Alquist Act (Public Resources Code Section 25000 et seq.) and [California Code of Regulations \(Title 20\)](#). Both references are available to you on the Energy Commission Web Site. An updated version of the regulations can be found at www.calregs.com.

8. What can an individual or community expect to influence when going through this process?

The Energy Commission siting process guarantees the right of public participation and an open discussion of all aspects of the proposal. Early public participation helps assure that questions are asked and answered while changes can most effectively be considered.

Before the Energy Commission Committee's first Informational Hearing, the staff identifies issues that may be a problem or need further work and analysis. The information is available in "The Staff's Issue Identification Report." If there are additional issues, the public needs to make the Energy Commission aware through public comments. If the issues cannot be resolved satisfactorily through public comments, it may be necessary to intervene - as an individual or a group - and become a party in the case.

The Energy Commission usually cannot approve a project that does not conform to applicable laws, ordinances, regulations and standards (LORS) or which has significant environmental impacts which cannot be mitigated. By reading the Staff's Issues Identification Report, the public can learn if there are potential LORS and environmental issues. Public participation regarding any LORS or environmental issue can influence the approach that the applicant, staff and others take and ultimately the Energy Commission's decision.

9. What is the most effective way to influence the process?

Each project will have unique features. Earlier participation, when issues are still under study and the parties are more flexible, is the best time to try to influence the design of a project. Issues are discussed and quite often resolved in the workshops. Issues that remain in dispute are decided by the Committee after evidentiary hearings. That decision is made from the hearing record. It is important to note the difference between "public comment" and "testimony." Members of the public and interested governmental agencies are invited to attend evidentiary hearing, and may offer public comment upon the matters discussed. These public comments will be entered into the record of the proceeding and the Committee may rely on them to supplement or explain the evidence of record. Public comments by themselves, however, are not sufficient to support a finding of fact or a decision on any issue. Only the testimony and relevant exhibits contained in the hearing record are sufficient in and of themselves to support a finding. Testimony is made under oath before the commission. To introduce testimony, one must be a party, an intervenor.

10. What does the Energy Commission do to review "impacts" like noise, stack pollutants, and water discharges?

The applicant proposes the project. The staff reviews the project. Before reaching a decision, the Committee, and ultimately the Energy Commission, must make findings and conclusion on all potential impacts. If there are "impacts," there must be conditions that mitigate the impact. The conditions are part of the certificate (license to operate).

11. If I want to know what's going on, how can I stay informed?

- **Interest List:** Interested persons can be assured notification of upcoming Energy Commission meetings, workshops, hearings and site visits pertaining to a proposed power plant siting case by requesting their names be added to the project's "interest list." Persons may make this request at any of the workshops or hearings on the project or by calling the Public Adviser at 916-654-4489, toll-free in California at 800-822-6228 or by e-mail at PAO@energy.state.ca.us. Complete instructions for placing names on the project mail list via e-mail are located at <http://www.energy.ca.gov/listservers>.

- **Public Comment:** In addition to signing up on the "interest list," individuals also are encouraged to attend Commission meetings on the case which is of particular interest to them. At these meetings, the public always has an opportunity to state their views either orally or in writing. The public also has the opportunity to hear the positions of the other parties and decide if individual interests are being protected. These public comments can be entered into the record of the proceeding and the Committee may rely on them to supplement or explain the evidence of record. However, it will not be sufficient, alone, to support a decision on any issue before the Commissioners. Comments do not have the same weight as testimony.
- **Intervenor Status:** To intervene formally in a case, individuals must petition the Energy Commission committee in a particular case for "intervenor status." intervenors are a full party to the proceedings, with the same rights and obligations as the other parties, such as the applicant and the staff. intervenors have the right to present evidence and witnesses, the opportunity to obtain information from the other parties, the right to cross-examine the witnesses of the other parties at public hearings, and the right to receive all documents filed in the case. intervenors also will have the duty to send copies of all filings to other parties, answer data requests from other parties, and submit witnesses to cross examination by other parties. intervenor evidence can be used by the Commission as the basis for any part of the final decision. The Public Adviser will assist anyone desiring to intervene in a proceeding.

12. Do you have to be an attorney to intervene?

No. The Public Adviser's office can provide you with information, forms, and assistance, but cannot intervene for you.

13. If I want to read a staff report, how do I get a copy?

The Energy Commission's Docket is the repository for official records of all Energy Commission rule-making proceedings, including certification for energy facilities. Upon request, the unit provides copies of docketed materials at a nominal charge when such documents are not available from the Energy Commission Library or the Publications Unit, located at 1516 Ninth Street in Sacramento. In certain instances, copies of docketed materials are also available in selected public libraries throughout California and in communities affected by the proposed facility. The reports and other commission documents are accessible on the Commission Web Site at www.energy.ca.gov/sitingcases/

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Intervening in Siting Cases FREQUENTLY ASKED QUESTIONS

1. What Is Intervention?

A process by which members of the public, individuals and groups, may formally participate in a power plan licensing or siting case by becoming a party to the proceedings of that case.

2. What law governs this process?

The Energy Commission is governed by the [Warren-Alquist Act \(Public Resources Code Section 25000 et seq.\)](#) and [California Code of Regulations \(Title 20\)](#). Both references are available to you on the Energy Commission Web Site. An updated version of the regulations can be found at www.calregs.com.

3. What Rights do intervenors have in a formal siting proceeding?

While any member of the public may comment at formal hearings, only parties can testify. Comments may only be used to influence a decision and cannot, on their own, be used to support a decision. Testimony though, because it is given under oath and subject to cross examination, has greater weight, and can be used to support a finding on any relevant issue. Additionally intervenors have a right to:

- Receive all filings in a case including the original application
- Receive all notices of hearings and workshops
- Present evidence and witnesses at any hearings
- Cross-examine the witnesses presented by other parties
- Request and obtain data from all other parties
- File documents relevant to the siting proceedings including motions, petitions, objections, and briefs

4. What Responsibilities do intervenors have in a formal siting proceeding?

- Serving the intervenor's papers on all other parties
- Presenting the intervenor's witnesses for cross-examination by other parties
- Responding to data requests from other parties as outlined in Energy Commission regulations
- Complying with the assigned committee's orders. Such orders typically require:
 - Identifying witnesses and witness qualifications
 - Identifying issues requiring a decision by the Energy Commission
 - Serving testimony and exhibits by due dates established in the order
 - Filing and serving post-hearing briefs when necessary to protect the intervenor's interests in a case
 - Complying with all other requirements of a party

5. How can a group or individual become an intervenor in a formal siting proceeding?

The Intervention process begins with a formal request to the Energy Commission called a Petition for Intervention. Twelve copies of this petition must be submitted. The petition is then considered by a two member

committee who will grant the petition if appropriate grounds are stated in the request or the presiding member of the committee may grant leave to the extent he or she deems reasonable and relevant. Appropriate grounds would include living in the vicinity of the proposed power plant, having an interest in the area, having an interest in the construction of the plant, having an interest in a waterway or other natural body affected, as well as other similar interests.

[Sample Form 1 in Adobe Acrobat PDF](#) (PDF, 2 pages, 48 kb)

[Sample Form 1 in Microsoft Word](#) (MS Word file, 1 page, 44 kb)

6. When must the Petition for Intervention be filed with the Energy Commission?

The petition must be filed at least thirty days prior to the first evidentiary hearing of the siting proceeding. This hearing will take place between ninety and one-hundred days after the application has formally been accepted to begin the siting process. Petitions for intervention are not usually accepted until the committee is appointed and data adequacy phase is complete (usually forty-five days after an application is first filed). If the petition is filed after the first evidentiary hearing has been held, the petitioner must additionally make a showing of good cause. In any event, it is important to intervene as soon as possible as any issues resolved prior to intervention will not be reopened unless the intervenor can show good cause in a motion to the presiding committee member (typically changed factual circumstance, unacceptable prejudice, or critical new evidence). The petition along with proof of service should be sent to the Energy Commission Docket Unit at:

California Energy Commission
Docket Unit
1516 Ninth Street, MS 4
Sacramento, CA 95814

7. What happens if an individual's Petition for Intervention is denied by the two member committee?

The petitioner may appeal a denial to the full five member committee but must do so within fifteen days of denial or that denial becomes final.

[Click Here For Applicable Law](#) (Title 20 California Code of Regulations Section 1207(d))

8. Can an intervenor ever withdraw from participation in the siting proceeding?

At any time during the proceeding, an intervenor or party may request to withdraw from further participation by filing a Request to Withdraw.

[Sample Form 2 in Adobe Acrobat PDF](#) (PDF, 1 page, 36 kb)

[Sample Form 2 in Microsoft Word](#) (MS Word file, 1 page, 32 kb)

9. What does it cost to intervene in Energy Commission Proceedings?

The intervenor is responsible for all intervention related costs. The costs of intervention vary significantly, depending primarily upon the following factors: (1) the number of workshops and hearings held; (2) the method of representation, such as self-representation or representation by an attorney; (3) the costs for time spent on intervention-related activities, and (4) the number and scope of various filings in the case. The Commission does not charge for processing the petitions to intervene. Also, it does not reimburse intervenors for any intervention-related costs. Therefore, we have no information regarding these costs except to state that they may vary significantly for reasons mentioned above.

10. Can an intervenor be excused from costs associated with being an intervenor?

If either requirement of intervention: (1) Filing twelve copies of the Petition for Intervention or (2) serving all other parties of record with the petition creates an undue financial hardship upon the intervenor due to unemployment or other such reasons, the intervenor may so state in a petition to intervene or file with the Commission a Financial Hardship Petition. If granted, the intervenor will be excused from these requirements. The decision to grant or deny a Financial Hardship Petition is discretionary and determined by the two-member committee assigned to conduct the proceeding. The intervenor granted hardship status must still file the original of the document with the Dockets Unit, but the copying and serving requirements are performed for the intervenor by the Docket Unit. Alternatively, the intervenor may file one original paper copy with the Docket Unit and electronic copies in the manner specified in section 1209.5 of the Commission's regulations.

[Sample Form 3 in Adobe Acrobat PDF](#) (PDF, 1 page, 44 kb)

[Sample Form 3 in Microsoft Word](#) (MS Word file, 1 page, 42 kb)

[Applicable Law](#) (Title 20 California Code of Regulations Section 1209.5)

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DOCKET

07-AFC-8

DATE JAN 06 2009

RECD. JAN 07 2009

January 6, 2009

John Kessler
Project Manager
California Energy Commission
1516 Ninth Street, MS-15
Sacramento, CA 95814-5512

Subject: Carrizo Energy Solar Farm (07-AFC-8)
Resident Questions to Continued Water Concerns & Adverse Affects of
Project on neighboring Families

Dear Mr. Kessler:

The questions I have I want answered as soon as possible. Please contact me by phone within the month. If we are again ignored and not responded too we will be turning all this information over to our attorney, who will be researching all of the misinformation and lies and will be requesting that an injunction be placed on this project until all issue are resolved.

INACCURATE WELL REPORT

We have proof that the Well Test (Calscience Work Order) that was supposedly done on 2-15-08 is inaccurate, as we know the test was not pulled out of the big Well on the Lottie King Ranch (Asura's Site).

Please re-read the Water Report and look into the many problems/misinformation in this report, the first being that it is a 40 years old report done in 1967.

Remember the water report for the California Spring Lodge & Resort that was submitted by Asura. The report was supposedly done on 7-2-02, that stated there were Well drilled on my land, which never happened. Just more proof of a poor or false Well Report, again submitted by Asura/URS.

You keep referencing the 2 big Ag Wells:

- The 1100 gallon per minute Well on Section 3 collapsed in the early 90's.
- The 600 gallon per minute Well on Section 2 collapsed in the late 80's.
- The Well listed on Section 27 does not exist.

In conclusion, where is the 14 inch cast, 620 foot deep Well. It is not anywhere on the old Arco section of land at all. Check our map and pictures (see attachments 1 & 2); do you see a well anywhere?

PLEASE RETHINK AND RE-EVALUATE THE WATER!

MITIGATION FOR THE FAMILIES ADVERSELY AFFECTED

Mitigation Plan!! All we here is Mitigation, Mitigation, Mitigation!! What does this mean to my family and others who do not want Asura here? What happens to our way of life that we enjoy? Are you, the CEC, Asura or URS going to Mitigate us, will we be compensated for the destruction, the noise, or having to look at an obscene Solar Plant that will be part of our lives, forever changing the very peaceful lifestyle we enjoy on the Plains. We are not going to benefit from ANY of the 3 projects.

Asura should be made to Mitigate the families that live within the 3 mile buffer who do not want this project, since it is our peace and quiet-lifestyle that will be changed/ruined drastically. Those of us who do not want it have been ignored since the beginning. But, better yet, just make Asura build somewhere else.

But, no matter what, I want answers to my questions, not ignored. Lies and misinformation is what is going to stop this project. The lies must stop being tolerated by the CEC. Those of us that are providing information need to be listened to and taken seriously.

As far as the wildlife corridor study that is going to be held by telephone. It is funny, none of us know how to get on-line, and are expected to hold a phone for 3 hours. This is unacceptable and a meeting must be scheduled here in SLO County. Again, we are being excluded from the process. I like many others definitely feel that the wildlife corridor is extremely important, but because we can not do a teleconference, or stay on a phone for 3 hours, we are being excluded. This meeting has to be held in SLO County, so no one is excluded.

The last photo proves that agriculture has not destroyed the Plains as Asura claims. Where else can you see this kind of beauty. Will you let Asura destroy it and us.

Thank you, hoping to hear from you ASAP.

John Ruskovich
13084 Soda Lake Road
Santa Margarita, CA 93453

Cell: 805-441-7006
Home: 805-475-2255

URS

500 0 500 1000 Feet
SCALE: 1" = 500' (1:12,000)

SOURCES: California Resource Agency
(Public Lands 2005); USDA FSA Aerial
Photography Field Office, County image
message for San Luis Obispo, CA (2005)

CARRIZO ENERGY SOLAR FARM (CESF)

SITE PLAN

CREATED BY: JN DATE: 09-12-07
PM, AL PROJ. NO. 22239472

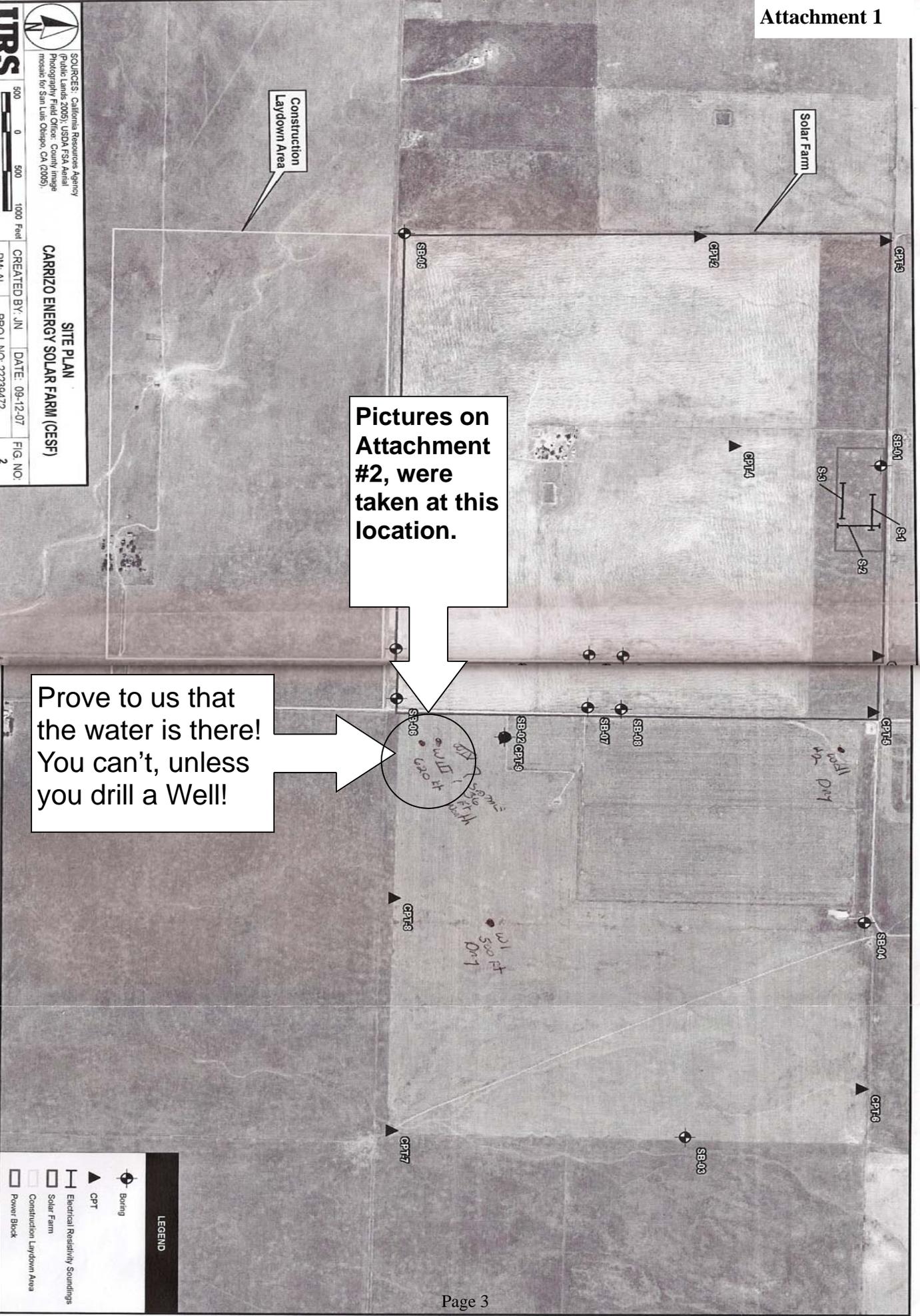
FIG. NO. 2

Construction Laydown Area

Solar Farm

Pictures on Attachment #2, were taken at this location.

Prove to us that the water is there! You can't, unless you drill a Well!





Picture taken 1-3-09 at the Acro Site, at the corner Hwy 58 and Tracey Lane Trail. Where John is standing is the exact measured spot where Asura's Water Report shows that there is a 620 foot deep Well. This is the same Well that CEC is basing it's decisions on.

WHERE'S THE WELL???



This is the beauty that Asura wants to destroy!





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 11/25/2008)

INSTRUCTIONS: All parties shall either (1) send an original signed document plus 12 copies or (2) mail one original signed copy AND e-mail the document to the address for the Docket as shown below, AND (3) all parties shall also send a printed or electronic copy of the document, which includes a proof of service declaration to each of the individuals on the proof of service list shown below:

CALIFORNIA ENERGY COMMISSION
 Attn: Docket No. 07-AFC-8
 1516 Ninth Street, MS-15
 Sacramento, CA 95814-5512
docket@energy.state.ca.us

APPLICANT

Perry H. Fontana, QEP
 Vice President-Projects
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COUNSEL FOR APPLICANT

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INTERESTED AGENCIES

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e-recipient@caiso.com

INTERVENORS

California Unions for Reliable Energy
(CURE)
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601 Gateway Boulevard, Suite 1000
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John Burch
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salinantribe@aol.com

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

ENERGY COMMISSION

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mdoughto@energy.state.ca.us

Elena Miller
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publicadviser@energy.state.ca.us

DECLARATION OF SERVICE

I, Hilarie Anderson, declare that on January 16, 2009, I deposited copies of the attached Letter to Mr. Ruskovich in the United States mail at Sacramento, CA with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

OR

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

I declare under penalty of perjury that the foregoing is true and correct.

Original Signature in Dockets
Hilarie Anderson