



FILED

12-08-10

04:59 PM

Exhibit 1

From: Rousseau, Greg J [mailto:Greg.Rousseau@bnsf.com]
Sent: Tuesday, November 17, 2009 7:11 AM
To: 'IMMJFONTANA@aol.com'
Subject: RE: Tessera Solar Right of Way

please call me around 9 am this morning 909-553-1736 I received the approval I needed to write your letter.

GR

Thank You,

Greg Rousseau

Project Engineer
BNSF Railway CO.

909.386.4079 Ph.
909.386.4479 Fx.
<mailto:greg.rousseau@bnsf.com>

From: IMMJFONTANA@aol.com [mailto:IMMJFONTANA@aol.com]
Sent: Monday, November 16, 2009 9:57 AM

12/7/2010

To: Rousseau, Greg J
Subject: Re: Tessera Solar Right of Way

Greg,

Are you available for a call this morning about the ROW??

Irene J

In a message dated 11/13/2009 4:31:29 P.M. Pacific Standard Time, Greg.Rousseau@bnsf.com writes:

Now
via Black Berry of G. Rousseau

From: IMMJFONTANA@aol.com <IMMJFONTANA@aol.com>
To: Rousseau, Greg J
Sent: Fri Nov 13 18:29:19 2009
Subject: Re: Tessera Solar Right of Way

Call you now? Or Monday?

IJ

In a message dated 11/13/2009 4:21:43 P.M. Pacific Standard Time, Greg.Rousseau@bnsf.com writes:

Possibly. Please call me
via Black Berry of G. Rousseau

From: IMMJFONTANA@aol.com <IMMJFONTANA@aol.com>
To: Rousseau, Greg J
Sent: Fri Nov 13 18:14:40 2009
Subject: Re: Tessera Solar Right of Way

Thanks, do you think Monday is possible??

IJ

In a message dated 11/13/2009 4:06:20 P.M. Pacific Standard Time, Greg.Rousseau@bnsf.com writes:

Not yet
via Black Berry of G. Rousseau

From: IMMJFONTANA@aol.com <IMMJFONTANA@aol.com>
To: Rousseau, Greg J
Sent: Fri Nov 13 18:04:51 2009
Subject: Tessera Solar Right of Way

Hi Greg,

Today, I was out in the field again and checked my phone for your email letter. Did not see one. I know that you are busy, but wondered if you had sent it to Camille and I today??

Thanks!

Irene J

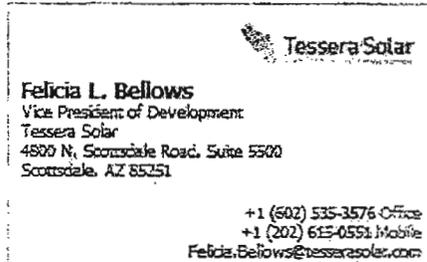
Irene M. James
IM JAMES ENTERPRISES, LLC
Land Development Consultant
Post Office Box 454
Etiwanda, CA 91739
Phone: 909-702-0673
Fax: 909-350-8990
immfontana@aol.com

Exhibit 2

Subj: RE: Tessera Solar MOU re BNSF right of way easement at Hector, CA
Date: 11/19/2009 12:46:34 P.M. Pacific Standard Time
From: Felicia.Bellows@tesseractosolar.com
To: IMMJFONTANA@aol.com, Camille.Champion@tesseractosolar.com

Looks good to me.

Thanks.



From: IMMJFONTANA@aol.com [mailto:IMMJFONTANA@aol.com]
Sent: Thursday, November 19, 2009 11:37 AM
To: Camille Champion; Felicia Bellows
Subject: Fwd: Tessera Solar MOU re BNSF right of way easement at Hector, CA

Here is the right of way approval letter from Greg R, BNSF, for the CEC. Looks OK to me. Any questions or comments?

Irene J

From: Greg.Rousseau@bnsf.com
To: IMMJFONTANA@aol.com
CC: LaToya.Flanigan@am.jll.com, Greg.Rousseau@bnsf.com, Michele.Tucker@BNSF.com, Leif.Smith@bnsf.com
Sent: 11/19/2009 10:26:19 A.M. Pacific Standard Time
Subj: Tessera Solar MOU re BNSF right of way easement at Hector, CA

Irene,

Attached is my general approval letter for the access. All details will still need to be worked out and this is intended as a simple MOU to further the BNSF Right of Way access process by Tessera.

Call with and additional questions or comments.

Thank You,

Greg Rousseau

Project Engineer
BNSF Railway CO.

909.386.4079 Ph.

Thursday, November 19, 2009 AOL: IMMJFONTANA

Exhibit 3



Greg Rousseau
Project Engineer

**BNSF Railway
Company**
740 E. Carnegie Dr.

740 E. Carnegie Dr.
San Bernardino, CA
909-386-4077 Ph.
909-386-4085
greg.rousseau@bnsf.com

November 20, 2009

Felicia Bellows
V.P. of Business Development
Tessera Solar
4800 North Scottsdale Road, Suite 5500
Scottsdale, AZ 85251

Subject: BNSF Application for an Exclusive Right of Way

Dear Ms. Bellows:

It is my understanding that Tessera Solar/Stirling Energy Systems, Inc (SES) is in the process of developing the area north and south of the BNSF Railroad line for a solar facility. The project is located 37 miles east of Barstow, CA. Tessera Solar/SES is requesting permission to access a portion of their project utilizing a portion of the existing BNSF right-of-way (see attached map).

BNSF will not oppose granting Tessera Solar/SES access to Tessera property via BNSF right of way. The location of the access will be between BNSF Needles Subdivision Milepost 712.5 to 714.5 and will be more specifically defined at a later date.

The details of the type of access (easement or lease) can be defined in the Agreement Process with Jones, Lange, La Salle, BNSF Railway property agents.

All local, state, and federal permits must be obtained for grading, drainage, etc. My office will review and approve the roadway grading plan prior to the roadway work being performed.

If you need anything further or have any questions relating specifically to this application please do not hesitate to contact me at 909-386-4079.

Sincerely,

Greg Rousseau

Greg Rousseau, Project Engineer
BNSF Railway Company
740 East Carnegie Drive
San Bernardino, CA 92408

Exhibit 4

From: Rousseau, Greg J [mailto:Greg.Rousseau@bnsf.com]
Sent: Thursday, March 04, 2010 10:04 PM
To: 'Irene M. James'
Subject: RE: Hector Road Crossing and Tessera Solar Bridge Locations

other than the main lines the the s. side run around track has changed over time for maintenance needs so it may or may not be shown on the maps.
The mile post of the private crossing is MP 612.68 which both the track chart and exhibit print show as the crossing location. That is close enough for me.

GR

Thank You,

Greg Rousseau

Project Engineer
BNSF Railway CO.

12/7/2010

909.386.4079 Ph.
909.386.4479 Fx.
<mailto:greg.rousseau@bnsf.com>

From: Irene M. James [mailto:immjfontana@aol.com]
Sent: Wednesday, March 03, 2010 5:39 PM
To: Rousseau, Greg J; Thomas, Melvin V
Cc: 'Felicia Bellows'; bob.byall@tesseractosolar.com; 'Camille Champion'
Subject: Hector Road Crossing and Tessera Solar Bridge Locations

Greg,

As the next step in the BNSF/Tessera Solar Bridge project -- we need to locate the bridge at the correct milepost. You had suggested that we work from the current Hector Road Crossing Agreement. However, there seems to be some possible discrepancy with the crossing location. So, if you could please review the attached information with my notes and help me (yet again, much appreciated) -- that would be great.

1. I have attached the first two pages of the Hector Road Crossing which state that the crossing is located: DOT # 919188X, Line Segment 7200, Mile Post 712.68.
2. The Exhibit A for the Crossing Agreement shows the crossing at that Mile Post 712.68. But that exhibit shows the Crossing over both rail tracks and the siding.
3. The map that you printed for me (only a portion is attached) also shows the crossing at that location and crossing two rail tracks and the siding.
4. But we have been over the Hector Road Crossing a number of times and only remember driving over two rail tracks.
5. When I planned to meet you on the site to review the Hector right of way -- I took this picture which shows (hope that you can see) the crossing and the two tracks. I honestly do not remember driving over three tracks.
6. Next is a copy of a BNSF map that shows the Hector spur, Hector siding and the Hector Crossing. It appears to me, to show the crossing located east of the Hector siding -- which is the correct configuration from my driving over the crossing. But there is a Mile Post noted on this map "712.8 -- but I am not sure what exactly it references. Perhaps it references a larger area?
7. Last is a copy of a portion of a BNSF map that shows the estimated location of the bridge.

Can you please, help us determine the correct milepost for the bridge location so that we can work with you and Melvin on the next steps of our process?

I will be sending out my notes for comments tomorrow from our meeting (sorry for delay) -- but need help on this.

As always thanks so much for your help. And I hope your family member is feeling much better. Thanks so much for taking time with us last Thursday.

12/7/2010

Irene M. James
Land Development Consultant
IM JAMES ENTERPRISES LLC
PO Box 454
Etiwanda, CA 91739
909-702-0673
immjfontana@aol.com

Exhibit 5

CONFIDENTIALITY AND REIMBURSEMENT AGREEMENT

This Confidentiality and Reimbursement Agreement (this "Agreement") is made and entered into as of March 26, 2010, by and between **BNSF RAILWAY COMPANY**, a Delaware corporation (the "BNSF") and **CALICO SOLAR, LLC**, a Delaware limited liability company (the "Solar One"). BNSF and Solar One are collectively referred to herein as the "Parties."

RECITALS

A. WHEREAS, BNSF owns certain property located in the County of San Bernardino, California (the "Property").

B. WHEREAS, Solar One is seeking to develop a solar power plant (the "Proposed Plant") and desires to enter into an agreement with BNSF to analyze and determine whether or not there is an option, acceptable to both Parties, which may result in the provision of water from the Property, or other locations, to the Proposed Plant and to analyze and determine whether BNSF will agree to grant Solar One a roadway access agreement and/or a grade separated crossing (the "Analysis").

C. WHEREAS, Solar One started this Analysis by asking BNSF to analyze and determine whether BNSF could provide water from its wells in the Mojave groundwater basin.

D. WHEREAS, Solar One then: (1) asked BNSF to consider supplying water from its Cadiz wells; and (2) began drilling for groundwater beneath its site.

E. WHEREAS, concurrently, Solar One asked BNSF to consider granting it a roadway access agreement and/or a grade separated crossing agreement.

F. WHEREAS, Solar One has also expressed an interest in obtaining water from the Property and in connection therewith the parties entered into that certain Temporary Occupancy Permit dated as of December 23, 2009 (the "Temporary Occupancy Permit") whereby BNSF granted Solar One a license to conduct certain tests on a portion of the Property in accordance therewith, which terminates on March 24, 2010.

G. WHEREAS, Solar One obtained and continues to obtain information regarding potential water sources on the Property and other locations, from BNSF, in connection with both the Temporary Occupancy Permit and the Analysis.

H. WHEREAS, BNSF requires that all information provided to and obtained by Solar One from BNSF, including information obtained in connection with the Temporary Occupancy Permit and all information otherwise previously provided by BNSF and to be provided by BNSF to Solar One, including the information for the Analysis or a resultant transaction, is to be kept confidential unless waived in writing by BNSF.

I. WHEREAS, Solar One requires that certain information provided to BNSF be kept confidential unless waived in writing by Solar One.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **No Agreement Regarding Water Supply**: Solar One agrees that: (i) BNSF has made no promises, representations or other agreements regarding furnishing a water supply to Solar One for the Proposed Plant; (ii) BNSF has provided Solar One with a license to test a groundwater well under the Temporary Occupancy Permit and has provided and will provide information regarding the Analysis.

2. **No Assertion Regarding Water Supply**: Solar One agrees that it will not assert that BNSF has agreed to furnish Solar One with a water supply for the Proposed Plant or that BNSF is a public utility obligated to furnish water to Solar One or has otherwise dedicated a water supply to Solar One for the Proposed Plant.

3. **Communications to Agencies**: BNSF shall have the right and meaningful opportunity to approve any information or representations, whether oral or written, made by Solar One with respect to the subject of this Agreement and to be present at any meeting with an agency to discuss the same.

4. **Solar One to Provide Information and Data**: Solar One agrees to provide BNSF all information, data and reports in its possession or being created on its behalf, which BNSF believes necessary to perform its Analysis. This includes, but is not limited to, the information, data and reports on the wells Solar One is drilling beneath its site and all information provided to agencies, investors or other persons with respect to the provision of water to the Proposed Plant.

5. **Information**. (A) Solar One agrees that the following shall be deemed confidential information (collectively, the "BNSF Confidential Information"): (i) this Agreement and the fact that the parties may commence negotiations regarding the Property or the supply of water to the Proposed Plant and (ii) all data, reports, studies, documents, correspondence and other information, whether written or oral, relating to the Property, including water sources on the Property, or any portion thereof which (a) was acquired by Solar One in accordance with the Temporary Occupancy Permit, (b) furnished by BNSF or BNSF's agents, employees, consultants, representatives, or counsel (collectively, the "BNSF Parties"), to Solar One or to any Qualified Person (as defined below), (c) made available by any of the BNSF Parties for review by Solar One or any Qualified Person, or (d) learned or received by Solar One or any Qualified Person from any source. "BNSF Confidential Information" will not include information that (a) is now, or hereafter becomes, through no act or failure to act on the part of the Solar One or any Qualified Person, generally known or available to the public, or (b) is information that would otherwise be BNSF Confidential Information but which BNSF agrees in writing shall not be so classified. Solar One agrees that, with the exception of BNSF Confidential Information learned or received by Solar One or any Qualified Person from any source other than BNSF or BNSF Parties, the BNSF Confidential Information is the sole

property of BNSF and is being provided to Solar One solely to assist in the Analysis. Solar One agrees it may not use any of the BNSF Confidential Information for any other purpose.

(B) BNSF agrees that the following shall be deemed confidential information (collectively, the "Solar One Confidential Information"): (i) all data, reports, studies, documents, correspondence and other information, whether written or oral, relating to Solar One's investigation, testing and analysis of Solar One's own property, including water sources on Solar One's own property, or any portion thereof which (a) was acquired by BNSF in connection with the Analysis, (b) furnished by Solar One or Solar One's agents, employees, consultants, representatives, or counsel (collectively the "Solar One Parties"), to BNSF or any Qualified Person, (c) made available by any of the Solar One Parties for review by BNSF or any Qualified Person from any source. "Solar One Confidential Information" will not include information that (a) is now, or hereafter becomes, through no act or failure to act on the part of BNSF or any Qualified Person, generally known or available to the public, or (b) is information that would otherwise be Solar One Confidential Information but which Solar One agrees in writing shall not be so classified. BNSF agrees that, with the exception of Solar One Confidential Information learned or received by BNSF or any other Qualified Person from any source other than Solar One or Solar One Parties, the Solar One Confidential Information is the sole property of Solar One and is being provided to BNSF solely to assist in the Analysis. BNSF agrees it may not use any of the Solar One Confidential Information for any other purpose.

6. Additional Work. BNSF hereby agrees to use commercially reasonable efforts to obtain information, reports and studies (the "Additional Work") in accordance herewith; provided, however, the scope of the work, consultants and the consulting agreements for the Additional Work shall be subject to the sole and absolute discretion of BNSF. BNSF shall have the exclusive right to review all data and approve all draft reports and Solar One will not have any access to any reports until such reports have been put in final form. If any draft Report contains information that in the reasonable opinion of BNSF may negatively impact the value of the Property or evaluates or provides information on an option which BNSF determines is not acceptable to it, BNSF may, at its sole discretion, cause such report not to be put into final form. Notwithstanding the foregoing, the cost of all reports shall be at the sole expense of Solar One, even if such Reports are never put into final form.

7. Solar One's Payment of BNSF Expenses Incurred to Date and Establishment of a Deposit Account. As consideration for BNSF entering into this Agreement, Solar One hereby agrees to reimburse BNSF for all actual out of pocket costs and expenses (including, without limitation, attorneys' fees and costs, consultants' fees and costs, operational costs, equipment costs and employee expenses) incurred by BNSF relating to: (i) all work performed by BNSF, or on its behalf, to assist BNSF in evaluating options relating to water sources in the Mohave groundwater basin and beneath the Property; (ii) the negotiation and performance of this Agreement (including, without limitation, the cost of Additional Work) and the Temporary Occupancy Permit, (ii) research and analysis relating to providing Confidential Information to Solar One, the requested Analysis and any subsequent transactions relating thereto (the "Expenses"). But for this Confidentiality & Reimbursement Agreement, BNSF will not agree to perform any further work in furtherance of the Analysis. The Parties agree that as of March 26,

2010, the estimated Expenses incurred by BNSF equal One Hundred Thirty Thousand Dollars (\$130,000.00) set forth in Exhibit "A" (the "Previously Incurred Expenses"). Within three (3) business days of the execution of this Agreement, and as a condition precedent to BNSF proceeding with any further work to assist the Parties with the Analysis, Solar One shall pay BNSF an amount equal to Three Hundred Sixty Thousand Dollars (\$360,000.00) which amount shall be applied as follows: (i) to reimburse BNSF for the Previously Incurred Expenses; and (ii) the remainder to be held by BNSF for the payment of additional Expenses set forth in Exhibit "B" (the "Deposit Account"). BNSF may distribute funds from the Deposit Account to pay for Expenses as such Expenses are actually incurred (including, without limitation, retainer amounts for the Additional Reports). If at any point during the term of this Agreement BNSF reasonably determines that additional funds will be needed in the Deposit Account to fund the Expenses, Solar One shall deposit such additional funds with BNSF (to be held as part of the Deposit Account) within five (5) days after of receiving such request. Further work by BNSF shall cease unless and until further funding of Deposit Account occurs. Upon the termination of this Agreement, any amounts remaining in the Deposit Account shall be returned to Solar One; provided, however, BNSF may retain any amount it reasonably determines Solar One may owe to it in accordance with this Agreement.

8. **Confidentiality and Non-Use.** Solar One agrees that, with the exception of BNSF Confidential Information learned or received by Solar One or any Qualified Person from any source other than BNSF or BNSF Parties, the BNSF Confidential Information is BNSF's confidential, proprietary information and, individually and on behalf of Solar One and each Qualified Person, agrees:

(a) to maintain, to protect and safeguard the confidentiality of the BNSF Confidential Information against unauthorized use, publication or disclosure (as further described herein) with at least the same degree of care that Solar One uses to protect its own confidential information, but no less than a reasonable degree of care under the circumstances, and to not disclose or discuss the BNSF Confidential Information or disclose the BNSF Confidential Information to any person, company or entity other than Qualified Persons, provided, however, that Solar One may disclose the BNSF Confidential Information in accordance with a judicial or other governmental order so long as Solar One either: (i) gives BNSF reasonable written notice prior to such disclosure to allow it a reasonable opportunity to seek a protective order or equivalent; or (ii) obtains written assurance from the applicable judicial or governmental entity that it will afford the BNSF Confidential Information the highest level of protection afforded under applicable law or regulation, and provided further that Solar One's use of any Confidential Information in any legal proceeding will not be governed by the restrictions on use and disclosure set forth in this Agreement but instead will be subject to the terms of the protective order, if any, that is applicable to the legal proceeding.

(b) to not use any BNSF Confidential Information for any purpose other than the purpose of participating in the Analysis and any subsequent related transactions.

(c) to not make any copies of any of the BNSF Confidential Information except as may be required for review by Solar One and/or Qualified Parties in the ordinary

course of business, including without limitation printing of BNSF Confidential Information received in electronic mail format.

(d) to keep any BNSF Confidential Information in its possession apart from Solar One's and its Qualified Person's day-to-day files and documents.

(e) to limit the disclosure of BNSF Confidential Information to Qualified Persons on a "need to know" basis, and only to the extent necessary, in order to assist Solar One in its Analysis.

(f) to advise in writing each Qualified Person who Solar One will permit to review the BNSF Confidential Information (i) of the requirements of this Agreement, (ii) of the duty of confidentiality imposed on such Qualified Persons hereby, (iii) to maintain the confidentiality of the BNSF Confidential Information in a manner no less protective than set forth in this Agreement, and (iv) to use the BNSF Confidential Information only in accordance with this Agreement.

9. **Return of Confidential Information.** Solar One shall return all BNSF Confidential Information in its or a Qualified Person's possession to BNSF within five (5) days after BNSF's written request therefore if: (a) BNSF determines, in its sole discretion, that Solar One is not diligently participating in the Analysis; (b) BNSF determines, in its sole discretion, that the Analysis has not resulted in an option either acceptable to BNSF or mutually acceptable to both Parties; or (c) Solar One determines, in its sole discretion, that the Analysis has not resulted in an option either acceptable to Solar One or mutually acceptable to both Parties.

10. **Qualified Persons.**

(a) Solar One agrees that the only persons who may review the BNSF Confidential Information shall be the persons described below ("Qualified Persons"):

(i) Officers, directors, employees and agents of Solar One; and

(ii) Solar One's counsel or independent public accountants or other independent experts retained by Solar One in connection herewith.

(b) Solar One agrees to cause all Qualified Persons to abide by each of the provisions of this Agreement applicable to Solar One, and each representation made herein on behalf of Solar One shall be deemed to be a representation made by each Qualified Person. Solar One shall be responsible for any breach by a Qualified Person of any of the terms of this Agreement. At the time of executing this Agreement, Solar One shall advise BNSF of the names, addresses and phone numbers of all Qualified Persons under 9(a)(ii.) In the future, prior to providing BNSF Confidential Information to additional Qualified Persons under 9(a)(ii), Solar One shall provide their names, addresses and phone numbers to BNSF.

11. **Solar One Agreement to Transport Water Via BNSF.** Solar One shall enter into a commercial transportation agreement with BNSF, using BNSF contract terms, for the transport of water to the Proposed Plant. Said agreement shall be on a take or pay basis. Absent this agreement, BNSF would not be willing to perform the Analysis or enter into any subsequent agreements.

12. **Remedies.** Solar One agrees (i) that money damages would not be a sufficient remedy for any breach or threatened breach of this Agreement by Solar One or its employees or agents, and (ii) that, in addition to all other remedies, BNSF shall be entitled to specific performance, and injunctive or other equitable relief, as a remedy for any such breach or threatened breach. Solar One further agrees to waive, and to use its best efforts to cause Qualified Persons to waive, any requirement for the securing or posting of any bond in connection with any remedy. The prevailing party in any action or other judicial proceeding arising out of or relating to this Agreement shall be entitled to recover from the non-prevailing party such sums as the court therein may adjudge to be reasonable attorneys' fees and costs. Solar One agrees that it will indemnify and hold harmless BNSF, the BNSF Parties, and their employees and agents (collectively, the "indemnified party"), from and against any and all claims, losses, damages and liabilities, and all reasonable costs and expenses (including, without limitation, reasonable attorneys' fees) relating thereto, suffered or incurred by the indemnified party in connection with any breach by Solar One, or its Qualified Persons, of the provisions of this Agreement. If any such claim or action is made or filed against the indemnified party by any third party, the indemnified party shall be entitled to select the legal counsel to defend the indemnified party. Solar One shall consult with the indemnified party concerning defense strategy and procedure. Solar One shall not enter into any settlement of any such claim or action without the prior written consent of the indemnified party, which consent shall not be unreasonably withheld.

13. **Acknowledgment and Understanding Regarding any Potential Transaction Involving the Property, or a Portion of the Property, and Water Sources Relating to the Property.** Solar One acknowledges and agrees that: (i) any transaction between BNSF and Solar One, pertaining to the Property or water from water sources relating to the Property, would be on an "as-is" basis, subject only to any warranties or representations to which BNSF hereafter may expressly agree in writing in a separate agreement, and otherwise without recourse to BNSF; (ii) BNSF is not making any representations or warranties as to the accuracy or completeness of any Confidential Information provided to Solar One or Qualified Persons; (iii) Solar One has an independent duty to analyze and evaluate the Confidential Information, the Property and any water sources relating to the Property, to which the Confidential Information pertains, and to obtain any additional Confidential Information which it considers necessary or desirable for the analysis and evaluation of the same; (iv) BNSF shall have no liability hereunder resulting from the use by Solar One or Qualified Persons of any of the Confidential Information, except as the parties hereafter expressly agree in writing; and (v) Solar One will not make any representations or statements regarding the potential water supply for the Proposed Plant from the Property or from BNSF without BNSF's prior written consent, which may be withheld in BNSF's sole and absolute discretion.

Solar One further acknowledges that (i) BNSF has no obligation to present the Property for Solar One's evaluation on an exclusive basis and that BNSF may concurrently solicit other potential purchasers for the Property or for water from water sources relating to the Property and furnish such purchasers with Confidential Information regarding the same, (ii) BNSF has, and will incur, no liability to Solar One for any compensation, fee or expenses incurred by Solar One in connection with the possible sale and purchase of the Property, water from water sources relating to the Property or the review by Solar One or Qualified Persons of the Confidential Information, (iii) this letter does not constitute an offer or commitment to enter into any transaction with respect to the Property or water to Solar One, nor an attempt to define the terms and conditions of any such sale; and (iv) any terms and conditions of any sale of the Property or water would be subject to negotiations, documentation and legal review, all subject to the approval of BNSF.

14. **Headings.** Headings of the various paragraphs in this Agreement are for the convenience of the parties and shall not alter or modify the terms and provisions of this Agreement.

15. **Applicable Law.** This Agreement shall be governed by, and construed in accordance with the laws of the State of California, and any legal action or proceeding arising out of or in connection with this Agreement shall be brought and maintained in the applicable court in the State of California with venue in the City and County of Los Angeles.

16. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the successors and assigns of Solar One and BNSF, but shall not be assignable by Solar One without BNSF's express written consent.

17. **Execution in Counterparts.** This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be the original and all of which counterparts taken together shall constitute but one and the same instrument.

18. **Amendments.** This Agreement shall not be amended, modified, altered or otherwise changed in any manner unless expressly agreed to in writing by Solar One and BNSF.

19. **Entire Agreement.** This written agreement represents the final agreement between Solar One and BNSF and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements. There are no oral agreements between Solar One and BNSF regarding the subject matter of this Agreement.

IN WITNESS WHEREOF, this Agreement has been duly executed as of
March 26, 2010.

"SOLAR ONE"

CALICO SOLAR, LLC, a Delaware limited liability company

By: Felicia L. Bellows
Name: Felicia L. Bellows
Title: Vice President

Address: 4800 N. Scottsdale Road
Suite 5500
Scottsdale, AZ 85251

Telephone: +1-602-535-3576

"BNSF"

BNSF RAILWAY COMPANY, a Delaware corporation

By: _____
Name: _____
Title: _____

Address: _____

Telephone: _____

**BNSF/TESSERA SOLAR ONE
PREVIOUSLY INCURRED EXPENSES**

COMPANY	FEEES & COSTS TO DATE
LEGAL FEES & COSTS	\$126,206.00
CONSULTANT FEES & COSTS	\$2,530.00
BNSF RAILWAY COSTS	\$1,264.00

EXHIBIT "A"

**BNSF/TESSERA SOLAR ONE
ADDITIONAL EXPENSES**

COMPANY	FEES & COSTS
LEGAL FEES & COSTS	\$125,000.00
CONSULTANT FEES & COSTS	\$100,000.00
BNSF RAILWAY COSTS	\$5,000.00

EXHIBIT "B"

Exhibit 6

AGREEMENT FOR PRIVATE CROSSING

THIS AGREEMENT ("Agreement"), made this 30th day of May, 2008, ("Effective Date") by and between **BNSF RAILWAY COMPANY**, a Delaware corporation (hereinafter called "Licensor") and **SES SOLAR ONE LLC** (hereinafter whether one or more persons or corporations called the "Licensee").

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree to the following:

GENERAL

1. Licensor hereby grants Licensee a non-exclusive license, subject to all rights, interests, estates of third parties, including, without limitation, any leases, licenses, easements, liens, or other encumbrances, and upon the terms and conditions set forth below, to maintain, and use in strict accordance with the drawings and specifications approved by Licensor as part of Licensee's application process ("the Drawings and Specifications") an existing at-grade crossing, forty (40) feet wide ("Crossing"), DOT# 919188X, across the rail corridor of Licensor at or near Licensor's station of Hector, County of San Bernardino, State of California, Line Segment 7200, Mile Post 712.68, at the location and in the manner shown upon the print No. 1-41652, dated July 2, 2007, revised August 22, 2007, March 10, 2008 and May 7, 2008, marked "Exhibit A," attached hereto made a part hereof ("Premises") for the purposes specified in Section 3. For convenience, said Crossing, including crossing surface and all appurtenances thereto between the ends of railroad ties, cattle guards, farm gates or barriers, drainage facilities, traffic signs or devices, identification signs approved by Licensor, whistling posts, or other appurtenances, if any, are hereinafter collectively referred to as the "Crossing." Licensee must also adhere to the stipulations as set forth on the attached Exhibit's "C" and "D".
2. Licensee shall not disturb any improvements of Licensor or Licensor's existing lessees, licensees, easement beneficiaries or lien holders, if any, or interfere with the use of such improvements.
3. It is expressly stipulated that the Crossing is to be a strictly private one, to be solely used for the purpose set forth in Licensee's Application for Crossing attached hereto as Exhibit B, stipulated in Exhibit "C" and specified in Exhibit "D", and is not intended for and shall not be for public use. The Licensee, without expense to Licensor, will take any and all necessary action to preserve the private character of the Crossing and prevent its use as a public road. In the event Licensor determines that:
 - (a) the Crossing is being used for a purpose or in a manner not set forth in Exhibit "B", "C" and "D";
 - (b) there is a significant change in the volume or nature of traffic at the Crossing; or
 - (c) the Licensee has in any way breached the terms or conditions of this Agreement, Licensor shall have the right to terminate this Agreement in accordance with Section 26.

4. In case of the eviction of Licensee by anyone owning or claiming title to or any interest in the Premises or the Crossing, Licensor shall not be liable to refund Licensee any compensation paid hereunder or for any damage Licensee sustains in connection therewith.
5. Any contractors or subcontractors performing work on the Premises or the Crossing, or entering the Premises on behalf of Licensee, shall be deemed agents of Licensee for purposes of this Agreement.

TERM

6. This Agreement shall commence on the Effective Date and shall continue for a period of Three (3) months with Licensee having the option to extend Agreement term for an additional Three (3) month period upon securing Licensor's prior written approval, subject to prior termination as hereinafter described.

COMPENSATION

7. Licensee agrees to pay to Licensor in advance:
 - (a) Consideration payment in the amount of One Thousand and No/100 Dollars (\$1,000.00).
 - (b) Estimated cost of approach and pole gate construction at the Crossing in the amount of Ninety Three Thousand Eight Hundred Seventy Two and No/100 (\$93,872). If actual construction costs exceed this estimate or any future estimate by more than One Hundred and No/100 Dollars (\$100.00), the excess costs (over \$100.00) shall be paid by Licensee within thirty (30) days of the date billed.
8. Licensee agrees to pay to Licensor from time to time within thirty (30) days after bills are rendered therefor the entire cost of maintaining the Crossing, including, but not limited to the expense incurred by Licensor resulting from the necessity to remove and replace the Crossing in connection with resurfacing or maintaining Licensor's right of way and tracks including but not limited to the furnishing of Licensor's Flagman and any vehicle rental costs incurred. The cost of flagger services provided by the Railway, when deemed necessary by the Railway's representative, will be borne by the Licensee. The estimated cost for one (1) flagger is \$600.00 for an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays. The estimated cost for each flagger includes vacation allowance, paid holidays, Railway and unemployment insurance, public liability and property damage insurance, health and welfare benefits, transportation, meals, lodging and supervision. Negotiations for Railway labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase actual or estimated flagging rates. The flagging rate in effect at the time of performance by the Contractor hereunder will be used to calculate the actual costs of flagging pursuant to this paragraph.
9. Licensee agrees to pay to Licensor the entire cost of constructing, installing, performing, maintaining, repairing, renewing, and replacing any cattle guards, farm gates or barriers, track drainage facilities, traffic signs or devices, whistle posts, stop signs or other appurtenances shown on Exhibit "A", or any such appurtenances or warning signs and

devices that may subsequently be required to be upgraded by Licensor, by law, by change of volume and nature of vehicular traffic, or by any public authority having jurisdiction. The Licensee is also responsible for notifying Licensor in writing of any need for upgrading the vehicular traffic control devices or signs at or near the Crossing, since the Licensee is most knowledgeable concerning the volume and nature of the vehicular traffic. In addition, Licensee shall notify Licensor if any significant change in volume or nature of traffic at the Crossing.

COMPLIANCE WITH LAWS

10. (a) Licensee shall observe and comply with any and all laws, statutes, regulations, ordinances, orders, covenants, restrictions, or decisions of any court of competent jurisdiction ("Legal Requirements") relating to the construction, maintenance, and use of the Crossing and the use of the Premises.
- (b) Prior to entering the Premises, Licensee shall and shall cause its contractor to comply with all Licensor's applicable safety rules and regulations. Prior to commencing any work on the Premises, Licensee shall complete and shall require its contractor to complete the safety training program at the Licensor's Internet Website "contractororientation.com". This training must be completed no more than one year in advance of Licensee's entry on the Premises.

DEFINITION OF COST AND EXPENSE

11. (a) For the purpose of this Agreement, "cost" or "costs" "expense or expenses" includes, but is not limited to, actual labor and material costs including all assignable additives, and material and supply costs at current value where used.
- (b) All invoices are due thirty (30) days after the date of invoice. In the event that Licensee shall fail to pay any monies due to Licensor within thirty (30) days after the invoice date, then Licensee shall pay interest on such unpaid sum from thirty (30) days after its invoice date to the date of payment by Licensee at an annual rate equal to (i) the greater of (a) for the period January 1 through June 30, the prime rate last published in *The Wall Street Journal* in the preceding December plus two and one-half percent (2 1/2%), and for the period July 1 through December 31, the prime rate last published in *The Wall Street Journal* in the preceding June plus two and one-half percent (2 1/2%), or (b) twelve percent (12%), or (ii) the maximum rate permitted by law, whichever is less.

RIGHT OF LICENSOR TO USE

12. Licensor excepts and reserves the right to be exercised by Licensor and any other parties who may obtain written permission or authority from Licensor:
 - (a) to maintain, renew, use, operate, change, modify and relocate any existing pipe, power, communication lines and appurtenances and other facilities or structures of like character upon, over, under or across the Premises;

- (b) to construct, maintain, renew, use, operate, change, modify and relocate any tracks or additional facilities or structures upon, over, under or across the Premises; or
- (c) to use the Premises in any manner as the Licensor in its sole discretion deems appropriate, provided Licensor uses all commercially reasonable efforts to avoid material interference with the use of the Premises by Licensee for the purpose specified in Section 3 above.

LICENSEE'S OPERATIONS

13. Licensee, at its own expense, shall keep the rail flange ways of said Crossing clear of all snow, dirt, or any other obstructions whatsoever, which may accumulate by virtue of vehicles, equipment, or from machinery crossing thereover or otherwise, and shall remove and keep removed any vegetation along the rail corridor on each side of the crossing so that the motorists' line of sight to approaching trains is not impaired or obstructed by vegetation.
14. It is specifically understood that cables, pipelines, and other electric and/or fiber optic transmission lines may be on, about, along, or under the Premises and Licensee agrees that under no circumstances will Licensee dig in or disturb the surface of the Premises without the express written consent of Licensor.
15. Licensee shall construct and maintain, at its own expense, a roadway (to end of railroad ties) and related roadway drainage in a manner acceptable to Licensor, and safe for use by any vehicles or equipment. Prior to such construction or maintenance, five (5) days advance notice must be given to Licensor's Roadmaster, Paul Martinez, at 200 N Ave H, Barstow, CA 92311, telephone (760) 255-7766.
16. Licensee agrees to keep any Crossing gates, farm gates or barriers (consisting of a bar, cable gate or chain between posts on both sides of the Railroad rail corridor and straddling the roadway), closed and securely fastened, except when being opened to allow access upon said rail corridor.
17. While this Agreement is personal to Licensee, it is recognized that there is a possibility of the Crossing being used by unauthorized persons, and said Licensee agrees that for the purposes of this agreement all persons using the Crossing shall be deemed the agents or invitees of the Licensee.
18. Licensee shall, at its sole cost and expense, perform all activities on and about the Crossing in such a manner as not at any time to be a source of danger to or interference with the existence or use of present or future tracks, roadbed or property of Licensor, or the safe operation and activities of Licensor. If ordered to cease using the Crossing at any time by Licensor's personnel due to any hazardous condition, Licensee shall immediately do so. Notwithstanding the foregoing right of Licensor, the parties agree that Licensor has no duty or obligation to monitor Licensee's use of the Crossing to determine the safe nature thereof, it being solely Licensee's responsibility to ensure that

Licensee's use of the Crossing. Neither the exercise nor the failure by Licensor to exercise any rights granted in this Section will alter the liability allocation provided by this Agreement.

19. If at any time during the term of this Agreement, Licensor shall desire the use of its rail corridor in such a manner as would, in Licensor's reasonable opinion, be interfered with by the Crossing, Licensee shall, at its sole expense, within thirty (30) days after receiving written notice from Licensor to such effect, make such changes in the Crossing as in the sole discretion of Licensor may be necessary to avoid interference with the proposed use of Licensor's rail corridor, including, without limitation, the relocation of the existing or the construction of new a Crossing.
20. Upon termination of this Agreement, Licensor may remove the Crossing and restore the rail corridor to the condition as of the Effective Date of this Agreement at Licensee's sole cost and expense and without incurring any liability to the Licensee. Licensee shall within twenty (20) days after bill is rendered therefor, reimburse Licensor for all costs and expenses, which Licensor may incur in connection therewith.

LIABILITY

21. (a) TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE SHALL RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS LICENSOR AND LICENSOR'S AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS (COLLECTIVELY, "INDEMNITEES") FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION, REMOVAL AND REMEDIATION AND GOVERNMENTAL OVERSIGHT COSTS) ENVIRONMENTAL OR OTHERWISE (COLLECTIVELY "LIABILITIES") OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART):
 - (i) THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ITS ENVIRONMENTAL PROVISIONS,
 - (ii) ANY RIGHTS OR INTERESTS GRANTED PURSUANT TO THIS AGREEMENT,
 - (iii) LICENSEE'S OCCUPATION AND USE OF THE PREMISES,
 - (iv) THE ENVIRONMENTAL CONDITION AND STATUS OF THE PREMISES CAUSED BY OR CONTRIBUTED BY LICENSEE, OR

(v) ANY ACT OR OMISSION OF LICENSEE OR LICENSEE'S OFFICERS, AGENTS, INVITEES, EMPLOYEES, OR CONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER,

EVEN IF SUCH LIABILITIES ARISE FROM OR ARE ATTRIBUTED TO, IN WHOLE OR IN PART, ANY NEGLIGENCE OF ANY INDEMNITEE. THE ONLY LIABILITIES WITH RESPECT TO WHICH LICENSEE'S OBLIGATION TO INDEMNIFY THE INDEMNITEES DOES NOT APPLY ARE LIABILITIES TO THE EXTENT PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN INDEMNITEE.

- (b) FURTHER, TO THE FULLEST EXTENT PERMITTED BY LAW, NOTWITHSTANDING THE LIMITATION IN SECTION 21(a), LICENSEE SHALL NOW AND FOREVER WAIVE ANY AND ALL CLAIMS, REGARDLESS WHETHER BASED ON THE STRICT LIABILITY, NEGLIGENCE OR OTHERWISE, THAT RAILROAD IS AN "OWNER", "OPERATOR", "ARRANGER", OR "TRANSPORTER" WITH RESPECT TO THE PREMISES FOR THE PURPOSES OF CERCLA OR OTHER ENVIRONMENTAL LAWS. LICENSEE WILL INDEMNIFY, DEFEND AND HOLD THE INDEMNITEES HARMLESS FROM ANY AND ALL SUCH CLAIMS REGARDLESS OF THE NEGLIGENCE OF THE INDEMNITEES. LICENSEE FURTHER AGREES THAT THE USE OF THE PREMISES AS CONTEMPLATED BY THIS AGREEMENT SHALL NOT IN ANY WAY SUBJECT LICENSOR TO CLAIMS THAT LICENSOR IS OTHER THAN A COMMON CARRIER FOR PURPOSES OF ENVIRONMENTAL LAWS AND EXPRESSLY AGREES TO INDEMNIFY, DEFEND, AND HOLD THE INDEMNITEES HARMLESS FOR ANY AND ALL SUCH CLAIMS. IN NO EVENT SHALL LICENSOR BE RESPONSIBLE FOR THE ENVIRONMENTAL CONDITION OF THE PREMISES.
- (c) TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE FURTHER AGREES, REGARDLESS OF ANY NEGLIGENCE OR ALLEGED NEGLIGENCE OF ANY INDEMNITEE, TO INDEMNIFY, AND HOLD HARMLESS THE INDEMNITEES AGAINST AND ASSUME THE DEFENSE OF ANY LIABILITIES ASSERTED AGAINST OR SUFFERED BY ANY INDEMNITEE UNDER OR RELATED TO THE FEDERAL EMPLOYERS' LIABILITY ACT ("FELA") WHENEVER EMPLOYEES OF LICENSEE OR ANY OF ITS AGENTS, INVITEES, OR CONTRACTORS CLAIM OR ALLEGE THAT THEY ARE EMPLOYEES OF ANY INDEMNITEE OR OTHERWISE. THIS INDEMNITY SHALL ALSO EXTEND, ON THE SAME BASIS, TO FELA CLAIMS BASED ON ACTUAL OR ALLEGED VIOLATIONS OF ANY FEDERAL, STATE OR LOCAL LAWS OR REGULATIONS, INCLUDING BUT NOT LIMITED TO THE SAFETY APPLIANCE ACT, THE BOILER INSPECTION ACT, THE OCCUPATIONAL HEALTH AND SAFETY ACT, THE RESOURCE CONSERVATION AND RECOVERY ACT, AND ANY SIMILAR STATE OR FEDERAL STATUTE.

- (d) Upon written notice from Licensor, Licensee agrees to assume the defense of any lawsuit or other proceeding brought against any Indemnitee by any entity, relating to any matter covered by this Agreement for which Licensee has an obligation to assume liability for and/or save and hold harmless any Indemnitee. Licensee shall pay all costs incident to such defense, including, but not limited to, attorneys' fees, investigators' fees, litigation and appeal expenses, settlement payments, and amounts paid in satisfaction of judgments.

PERSONAL PROPERTY WAIVER

22. ALL PERSONAL PROPERTY, INCLUDING, BUT NOT LIMITED TO, FIXTURES, EQUIPMENT, OR RELATED MATERIALS UPON THE PREMISES WILL BE AT THE RISK OF LICENSEE ONLY, AND NO INDEMNITEE WILL BE LIABLE FOR ANY DAMAGE THERETO OR THEFT THEREOF, WHETHER OR NOT DUE IN WHOLE OR IN PART TO THE NEGLIGENCE OF ANY INDEMNITEE.

INSURANCE

23. Licensee shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

- A. **Commercial General Liability Insurance.** This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$5,000,000 each occurrence and an aggregate limit of at least \$10,000,000. Coverage must be purchased on a post 1998 ISO occurrence or equivalent and include coverage for, but not limited to, the following:
- ◆ Bodily Injury and Property Damage
 - ◆ Personal Injury and Advertising Injury
 - ◆ Fire legal liability
 - ◆ Products and completed operations

This policy shall also contain the following endorsements, which shall be indicated on the certificate of insurance:

- ◆ The employee and workers compensation related exclusions in the above policy shall not apply with respect to claims related to railroad employees.
- ◆ The definition of insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
- ◆ Any exclusions related to the explosion, collapse and underground hazards shall be removed.

No other endorsements limiting coverage may be included on the policy.

- B. **Business Automobile Insurance.** This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:
- ◆ Bodily injury and property damage
 - ◆ Any and all vehicles owned, used or hired

- C. **Workers Compensation and Employers Liability Insurance.** This insurance shall include coverage for, but not limited to:
 - ◆ Licensee's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
 - ◆ Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.

- D. **Railroad Protective Liability Insurance.** This insurance shall name only the Licensor as the Insured with coverage of at least \$2,000,000 per occurrence and \$6,000,000 in the aggregate. The coverage obtained under this policy shall only be effective during the initial installation and/or construction. If further maintenance is needed at a later date, an additional Railroad Protective Liability Insurance Policy shall be required. The policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following:
 - ◆ Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
 - ◆ Endorsed to include the Limited Seepage and Pollution Endorsement.
 - ◆ Endorsed to include Evacuation Expense Coverage Endorsement.
 - ◆ No other endorsements restricting coverage may be added.
 - ◆ The original policy must be provided to the Licensor prior to performing any work or services under this Agreement

In lieu of providing a Railroad Protective Liability Policy, Licensee may participate in Licensor's Blanket Railroad Protective Liability Insurance Policy available to Licensee or its contractor. The limits of coverage are the same as above. The cost is \$500.

- I elect to participate in Licensor's Blanket Policy;
- I elect not to participate in Licensor's Blanket Policy.

Other Requirements:

Where allowable by law, all policies (applying to coverage listed above) shall contain no exclusion for punitive damages and certificates of insurance shall reflect that no exclusion exists.

Licensee agrees to waive its right of recovery against Licensor for all claims and suits against Licensor. In addition, its insurers, through policy endorsement, waive their right of subrogation against Licensor for all claims and suits. The certificate of insurance must reflect waiver of subrogation endorsement. Licensee further waives its right of recovery, and its insurers also waive their right of subrogation against Licensor for loss of its owned or leased property or property under its care, custody or control.

Licensee's insurance policies through policy endorsement, must include wording which states that the policy shall be primary and non-contributing with respect to any insurance carried by Licensor. The certificate of insurance must reflect that the above wording is included in evidenced policies.

All policy(ies) required above (excluding Workers Compensation and if applicable, Railroad Protective) shall include a severability of interest endorsement and shall name Licensor and Staubach Global Services - RR, Inc. as an additional insured with respect to work performed under this agreement. Severability of interest and naming Licensor and Staubach Global Services - RR, Inc. as additional insureds shall be indicated on the certificate of insurance.

Licensee is not allowed to self-insure without the prior written consent of Licensor. If granted by Licensor, any deductible, self-insured retention or other financial responsibility for claims shall be covered directly by Licensee in lieu of insurance. Any and all Licensor liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by Licensee's insurance will be covered as if Licensee elected not to include a deductible, self-insured retention, or other financial responsibility for claims.

Prior to commencing the Work, Licensee shall furnish to Licensor an acceptable certificate(s) of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments. The policy(ies) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Licensor in writing at least 30 days prior to any cancellation, non-renewal, substitution or material alteration. This cancellation provision shall be indicated on the certificate of insurance. In the event of a claim or lawsuit involving Railroad arising out of this agreement, Licensee will make available any required policy covering such claim or lawsuit.

Any insurance policy shall be written by a reputable insurance company acceptable to Licensor or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.

Licensee represents that this License has been thoroughly reviewed by Licensee's insurance agent(s)/broker(s), who have been instructed by Licensee to procure the insurance coverage required by this Agreement. Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.

Not more frequently than once every five years, Licensor may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

If any portion of the operation is to be subcontracted by Licensee, Licensee shall require that the subcontractor shall provide and maintain insurance coverages as set forth herein, naming Licensor as an additional insured, and shall require that the subcontractor shall release, defend and indemnify Licensor to the same extent and under the same terms and conditions as Licensee is required to release, defend and indemnify Licensor herein.

Failure to provide evidence as required by this section shall entitle, but not require, Licensor to terminate this License immediately. Acceptance of a certificate that does not comply with this section shall not operate as a waiver of Licensee's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by Licensee shall not be deemed to release or diminish the liability of Licensee including, without limitation, liability under the indemnity provisions of this License. Damages recoverable by Licensor shall not be limited by the amount of the required insurance coverage.

For purposes of this section, Licensor shall mean "Burlington Northern Santa Fe Corporation", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

ENVIRONMENTAL

24. (a) Licensee shall strictly comply with all federal, state and local environmental laws and regulations in its use of the Premises, including, but not limited to, the Resource Conservation and Recovery Act, as amended (RCRA), the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, CERCLA (collectively referred to as the "Environmental Laws"). Licensee shall not maintain a treatment, storage, transfer or disposal facility, or underground storage tank, as defined by Environmental Laws on the Premises. Licensee shall not release or suffer the release of oil or hazardous substances, as defined by Environmental Laws on or about the Premises.
- (b) Licensee shall give Licensor immediate notice to Licensor's Resource Operations Center at (800) 832-5452 of any release of hazardous substances on or from the Premises, violation of Environmental Laws, or inspection or inquiry by governmental authorities charged with enforcing Environmental Laws with respect to Licensee's use of the Premises. Licensee shall use the best efforts to promptly respond to any release on or from the Premises. Licensee also shall give Licensor immediate notice of all measures undertaken on behalf of Licensee to investigate, remediate, respond to or otherwise cure such release or violation.
- (c) In the event that Licensor has notice from Licensee or otherwise of a release or violation of Environmental Laws arising in any way with respect to the Premises which occurred or may occur during the term of this Agreement, Licensor may require Licensee, at Licensee's sole risk and expense, to take timely measures to investigate, remediate, respond to or otherwise cure such release or violation affecting the Premises or Licensor's right-of-way.
- (d) Licensee shall promptly report to Licensor in writing any conditions or activities upon the Premises known to Licensee which create a risk of harm to persons, property or the environment and shall take whatever action is necessary to prevent injury to persons or property arising out of such conditions or activities; provided, however, that Licensee's reporting to Licensor shall not relieve Licensee of any obligation whatsoever imposed on it by this Agreement. Licensee shall promptly respond to Licensor's request for information regarding said conditions or activities.

DEFAULT

25. If default shall be made in any of the covenants or agreements of Licensee contained in this document, or in case of any assignment or transfer of this Agreement by operation of law, Licensor may, at its option, terminate this Agreement by serving five (5) days' notice in writing upon Licensee. Any waiver by Licensor of any default or defaults shall not constitute a waiver of the right to terminate this Agreement for any subsequent default or defaults, nor shall any such waiver in any way affect Licensor's ability to enforce any Section of this Agreement. The remedy set forth in this Section 25 shall be in addition to, and not in limitation of, any other remedies that Licensor may have at law or in equity.

TERMINATION

26. This License may be terminated by Licensor, at any time, by serving thirty (30) days' written notice of termination upon Licensee. This License may be terminated by Licensee upon execution of Licensor's Mutual Termination Letter Agreement then in effect. Upon expiration of the time specified in such notice, this License and all rights of Licensee shall absolutely cease.
27. If Licensee fails to surrender to Licensor the Premises, upon any termination of this Agreement, all liabilities and obligations of Licensee hereunder shall continue in effect until the Premises are surrendered. Termination shall not release Licensee from any liability or obligation, whether of indemnity or otherwise, resulting from any events happening prior to the date of termination.

ASSIGNMENT

28. Neither Licensee, nor the heirs, legal representatives, successors or assigns of Licensee, nor any subsequent assignee, shall assign or transfer this Agreement or any interest herein, without the prior written consent and approval of Licensor, which may be withheld in Licensor's sole discretion.

NOTICES

29. Any notice required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if (i) placed in the United States mail, certified, return receipt requested, or (ii) deposited into the custody of a nationally recognized overnight delivery service, addressed to the party to be notified at the address for such party specified below, or to such other address as the party to be notified may designate by giving the other party no less than thirty (30) days' advance written notice of such change in address.

If to Licensor: Staubach Global Services - RR, Inc.
 3017 Lou Menk Drive, Suite 100
 Fort Worth, TX 76131
 Attn: Licenses/Permits

with a copy to: BNSF Railway Company
2500 Lou Menk Dr. – AOB3
Fort Worth, TX 76131
Attn: Senior Manager Real Estate

If to Licensee: SES Solar One LLC .
2920 E. Camelback Rd., Suite 150
Phoenix, AZ 85016

SURVIVAL

30. Neither termination nor expiration will release either party from any liability or obligation under this Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration, or, if later, the date when the Premises are restored to its condition as of the Effective Date.

RECORDATION

31. It is understood and agreed that this Agreement shall not be placed on public record.

APPLICABLE LAW

32. All questions concerning the interpretation or application of provisions of this Agreement shall be decided according to the substantive laws of the State of Texas without regard to conflicts of law provisions.

SEVERABILITY

33. To the maximum extent possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by, or held to be invalid under, applicable law, such provision shall be ineffective solely to the extent of such prohibition or invalidity, and this shall not invalidate the remainder of such provision or any other provision of this Agreement.

INTEGRATION

34. This Agreement is the full and complete agreement between Licensee and Licensor with respect to all matters relating to Licensee's use of the Crossing, and supersedes any and all other agreements between the parties hereto relating to Licensee's use of the Crossing as described herein. However, nothing herein is intended to terminate any surviving obligation of Licensee or Licensee's obligation to defend and hold Licensor harmless in any prior written agreement between the parties.

MISCELLANEOUS

35. In the event that Licensee consists of two or more parties, all the covenants and agreements of Licensee herein contained shall be the joint and several covenants and agreements of such parties.

- 36. The waiver by Licensor of the breach of any provision herein by Licensee shall in no way impair the right of Licensor to enforce that provision for any subsequent breach thereof.
- 37. In the event Licensee conveys, transfers, leases or otherwise grants a right of access and/or use of any interest in all or a portion of Licensee's property which is accessed by the Crossing, Licensee shall notify Licensor in writing of the same within thirty (30) days prior to the date of such conveyance, transfer, lease or grant of access and/or use, and Licensee shall cause any receiver or subsequent holder(s) of such an interest or right ("Holder") to: (1) file an application with Licensor's outside contractor, Staubach Global Services, for use of the Crossing, which application may be granted or denied in Licensor's sole discretion; and (2) upon Licensor's approval of Holder's application, Licensee shall cause Holder to execute Licensor's standard License Agreement then in effect for the use of the Crossing. Licensee may not assign or otherwise transfer, or permit the use of this Agreement or the Crossing by Holder without Licensor's prior written approval for the same and any attempt to do so is a material breach of this Agreement and shall render it null and void.

Staubach Global Services – RR, Inc. is acting as representative for BNSF Railway Company.

IN WITNESS WHEREOF, this License has been duly executed, in duplicate, by the parties hereto as of the day and year first above written.

BNSF RAILWAY COMPANY

Staubach Global Services - RR, Inc., its Attorney in Fact
3017 Lou Menk Drive, Suite 100
Fort Worth, TX 76131

By: 
Ed Darter
Title: Vice President National Accounts

SES SOLAR ONE, LLC
2920 E. Camelback Road, Suite 150
Phoenix, AZ 85016

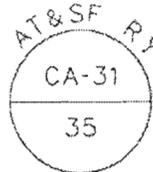
By: 
D. B. O'Connell
Title: CEO

EXHIBIT "A"

ATTACHED TO CONTRACT BETWEEN
BNSF RAILWAY COMPANY
AND

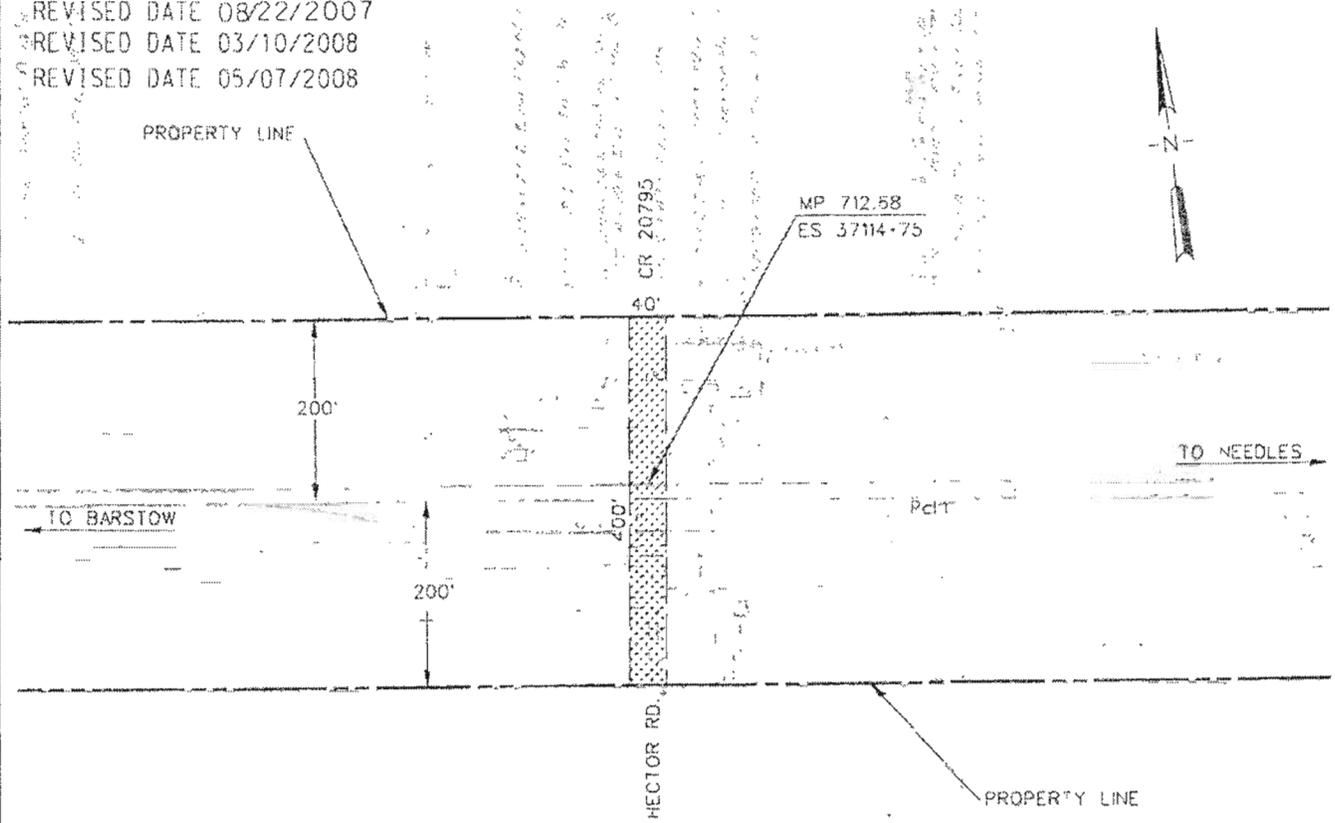
SES SOLAR ONE LLC

SCALE: 1 IN. = 200 FT.
CALIFORNIA DIV.
NEEDLES SUBDIV. L.S. 7200
DATE 07/02/2007
REVISED DATE 08/22/2007
REVISED DATE 03/10/2008
REVISED DATE 05/07/2008



SECTION: 9
TOWNSHIP: 8N
RANGE: 5E
MERIDIAN: SBM

MAP REF. 503601



DESCRIPTION:

A 40 FT PRIVATE ROAD CROSSING SHOWN SHADED
DOT # S19188X

AT HECTOR
COUNTY OF SAN BERNARDINO

STATE OF CA

AFV

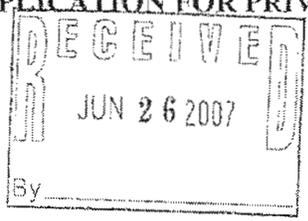
07-32775

EXHIBIT B



APPLICATION FOR PRIVATE CROSSING

Staubach Global Services, Inc.
Permit Services
3017 Lou Menk Drive, Suite 100
Fon Worth, TX 76137-2800



Date: June 20, 2007

To be completed for Residential use:

Licensee: _____ Daytime Phone: _____
(Legal Name as shown for Permit) Fax Number: _____
Address: _____

To be completed for Commercial/Industrial Use:

Licensee: Stirling Energy Systems, Inc. Daytime Phone: 1-602-957-1818
(Legal name as shown on permit) Fax Number: 1-602-957-1919
Address: 2920 E. Camelback Rd., Suite 150 Phoenix, AZ 85016

Corporation: SES Solar One, LLC State in which incorporated: Delaware
Is applicant a Railroad Shipper? Yes ___ No X If yes, BNSF Marketing Rep name and number: _____

The Following is to be completed by all applicants:

Type of Crossing (plank, concrete, etc.): Dirt New: ___ Existing: X Width: _____
If Existing: Need Rehab? Yes ___ No X
Crossing Location: Hector Rd., 1 mile North of I-40 City: 35 Miles East Barstow County: San Bernardino State: CA
Section: 9 Township: 8N Range: 5E Highway Name/Number: North I-40 by 1 mile
Temporary: ___ Permanent: X Crossing, located at RR Milepost: _____ DOT# _____
If Temporary, specify time period crossing will be required: 6 months
What use will be made of the crossing: Commercial- survey vehicles needed to cross to proposed project development area
User Vehicle Type: 4x4 trucks for land survey and well drilling equip. for test well to be drilled on north side of RR tracks
Total number of vehicle crossing per day: 5 crossings per month for 6 months

Other private crossings in vicinity: Yes X No ___
If yes, give distance/direction from the crossing: 4.5 Miles East of Hector Road near Pisgah Substation used by SCE
What is the distance to the closest public crossing in either direction: _____

Do you own or lease the land on either side of your crossing: Lease ___ Own X (If will be, purchase arrangements in process)
If leased, provide owners name and telephone number: _____
If leased, please provide written authorization for legal owner with application.

If this is an existing crossing, how many families are using it now? None If known, list names and addresses on reverse.
If Cooperative use, please provide names and permit numbers held by others (attach) and provide proof of land ownership.

What are the future plans for this property? Long term - Total 50 year life of solar power facility- Currently working with BNSF project team to design build and construct overpass to replace Hector Road Crossing.

Applicant understands he or she will be requested to sign a regular crossing permit, which will provide that Applicant will
1) assume the cost to construct the crossing, 2) furnish insurance as requested by BNSF Railway, 3) assume the cost to remove the crossing if crossing is temporary, and 4) reimburse BNSF Railway for the expense incurred to maintain this crossing.

Date: 6/20/07

Signature: _____

Print Name: ERIKA HANSON - SES
Phone Number: 602-957-1810 Fax: 602-957-1919
Email: ehanson@stirlingenergy.com

BNSF



Rupert A. Tobosa
Director Field Safety Support

BNSF Railway Company

2600 Lou Menk Drive
Fort Worth, Texas 76131

EXHIBIT "C" (Revised)

Re: Request submitted to be permitted for the use of an existing At-Grade Private crossing at or near Hector, San Bernardino County, California at Line Segment 7200 , Mile Post 712.68 , DOT # 919188X.

The above referenced request is hereby approved under the following conditions.

1. This permit application is for a temporary crossing for a period of THREE (3) months with renewals at the discretion of BNSF.
2. Crossing approaches require modification to attain level grade in order to accommodate proposed vehicle traffic. BNSF Engineering will generate estimate (Jim Goff needs to be notified that Greg J. Rousseau is currently working on approach and pole gate estimate) and BNSF approved contractor perform work at the sole cost and expense of Licensee.
3. SES will install and maintain a pipe gate the crossing on the south side at their sole cost and expense.
4. All SES contractors are required to complete the BNSF Contractor Safety Orientation and Operation Lifesaver training.
5. In the event SES acquires a property interest in the property adjacent to the crossing and commences construction of its "Solar 1 - Solar Farm" facility on the premises, SES agrees to construct an overpass to replace the Hector Road crossing. During the construction of the overpass, SES shall apply for a temporary at-grade private crossing agreement to utilize the private crossing. Upon completion of the construction of the overpass, the Hector Road crossing will be permanently closed to SES use.
6. Licensee will be required to have a BNSF flag person present at their sole cost and expense to coordinate vehicle movements that exceed 10,001 pounds Gross Vehicle Weight 'GVW'.
7. Licensee agrees to provide Licensor's local Roadmaster with at least seven (7) days advanced notice of need for flag person.

Exhibit "D"

Only URS

Required Equipment	Maximum Weight	Crossing Frequency
4-wheel drive support trucks	8,000 lb	Daily
4-wheel drive fork lift	8,000 lb	Daily
Backhoe, rubber tire	16,000 lb	2 times
Drilling rig - 3 options depending on driller availability/BNSF preference:		
1. Drilling rig - 4-wheel drive rubber tire	26,000 lb	2 times
2. Drilling rig - rubber tracked	14,000 lb	
3. Drilling rig - rubber tracked on standard trailer	17,000 lb	

And

EAGLE WELL DRILLING & PUMP SERVICE

Required Equipment	Maximum Weight	Crossing Frequency
Transport trailer with Rubber Track Mounted CAT 257 Skidsteer	28,000 lbs including transport truck/trailer	2 times At beginning & end of task
Reich Drill R650 Rig	55,000 lb	2 times At beginning & end of task
2,000 gal Water Truck	45,000 lb	8 times
Pipe Trailer	30,000 lb With everything on it	2 times At beginning & end of task
4-wheel drive support trucks	8,000 lb	Daily
Mud System Trailer (if needed)	30,000 lb including transport truck/trailer	2 times At beginning & end of task

vehicles will be allowed to use the crossing per Exhibit "D".

Exhibit 7

Letter of Transmittal

DATE: June 9, 2010

TO: Cynthia Lea Burch, Partner, Katten Muchin Rosenman, LLP
2029 Century Park East, Suite 2600, Los Angeles, CA 90067-3012
P: 310-788-4539 F: 310-712-8415

FROM: Felicia Bellows, VP Development, Tessera Solar

RE: Calico Bridge Concept Submittal

ITEMS: AS REQUESTED RESPECTFULLY SUBMITTED FOR BNSF REVIEW,
COMMENTS AND APPROVAL

1. Cover page, Guidelines for Railroad Grade Separation Projects (dtd 1/2/07)
2. Submittal information on pages 11 and 12 from above Guidelines
3. Electronic PDF file of complete submittal sent June 9, 2010 via email
4. Four (4) sets of original details signed and stamped by Cameron Duncan, TranSystems, containing:
 - a. Introduction, Railroad Requirements, Proposed Bridge Structure, Bridge Foundations and Utilities general information
 - b. Location and Vicinity Maps (color) with bridge location
 - c. Four site photos in controlling directions with reference location and direction noted (east, west, south and north, plates 1 to 4)
 - d. 11 x 17 Planning Study showing plan, elevation and typical section (also note the photo locations are marked 1 to 4)
 - e. Preliminary Pile Design based on existing geotechnical report of area
 - f. Design Load for Pile
 - g. Basis of Design

Letter of Transmittal

DATE: August 10, 2010
TO: Blaine Bilderback, BNSF and Cynthia L. Burch
FROM: Irene James
RE: Calico Solar Bridge

ITEMS: AS REQUESTED

1. CD of the 30% Bridge Design Submittal, as requested.