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June 3, 2009  
File No.: 04.02.16.02  
Project No. 357891

<b>DOCKET</b> <b>07-AFC-5</b>
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DATE	<u>JUN 03 2009</u>
RECD.	<u>JUN 03 2009</u>

Mr. John Kessler, Project Manager  
California Energy Commission  
Systems Assessment and Facilities Siting Division  
1516 9th Street, MS 15  
Sacramento, CA 95814-5504

RE: Data Response, Set 1M  
Ivanpah Solar Electric Generating System (07-AFC-5)

Dear Mr. Kessler:

On behalf of Solar Partners I, LLC, Solar Partners II, LLC, Solar Partners IV, LLC, and Solar Partners VIII, LLC (Applicant), please find attached one original and four hard copies, plus five CD copies of Data Response, Set 1M.

Please call me if you have any questions.

Sincerely,

CH2M HILL

A handwritten signature in blue ink, appearing to read "John L. Carrier".

John L. Carrier, J.D.  
Program Manager

Enclosure  
c: POS List  
Project File

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# Ivanpah Solar Electric Generating System (ISEGS)

(07-AFC-5)

## Data Response, Set 1M

(Response to Data Request: Biological Resources)

Submitted to the  
**California Energy Commission**

Submitted by  
**Solar Partners I, LLC; Solar Partners II, LLC; Solar Partners IV, LLC;  
and Solar Partners VIII, LLC**

June 3, 2009

With Assistance from

**CH2MHILL**  
2485 Natomas Park Drive  
Suite 600  
Sacramento, CA 95833

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# Introduction

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Attached are Solar Partners I, LLC, Solar Partners II, LLC, Solar Partners IV, LLC, and Solar Partners VIII, LLC (Applicant) response to the California Energy Commission (CEC) Staff's data request number 19 for the Ivanpah Solar Electric Generating System (Ivanpah SEGS) Project (07-AFC-5). The CEC Staff served these data requests on December 12, 2007, as part of the discovery process for Ivanpah SEGS. The responses are grouped by individual discipline or topic area. Within each discipline area, the responses are presented in the same order as CEC Staff presented them and are keyed to the Data Request numbers (1 through 116). New graphics or tables are numbered in reference to the Data Request number. For example, the first attachment used in response to Data Request 19 would be numbered Attachment DR19-1A.

The Applicant looks forward to working cooperatively with the CEC and BLM staff as the Ivanpah SEGS Project proceeds through the siting process. We trust that these responses address the Staff's questions and remain available to have any additional dialogue the Staff may require.

# Biological Resources (19)

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## Background

AFC Table 5.2-15 provides an overview of permits required for biological resources and indicates that the process for each requires approximately six to nine months. The AFC also refers to informal consultation with staff members at agencies regarding the project and potential biological issues of concern. However, staff could not find any documentation on the dates, personnel, and content of communications with the California Department of Fish and Game (CDFG), U.S. Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), or U.S. Fish and Wildlife Service (USFWS) regarding sensitive biological resources, such as the federally threatened desert tortoise, jurisdictional waters, and permitting requirements. In addition, a USFWS-approved Biological Assessment (BA) with agreed upon mitigation needs to be provided so the Preliminary and Final Staff Assessments can be completed.

## Data Request

19. For jurisdictional waters, please provide expected impact acreages as well as mitigation ratios and acreages for the Clean Water Act section 401 and 404 permits and CDFG Streambed Alteration Agreement, as appropriate.

**Response:** A wetland delineation report was submitted to the USACE in February, 2008; it was revised per comments received from Shannon Pankratz and resubmitted in September, 2008 as Attachment DR19-1B. The Applicant has received a letter from USACE (Attachment DR19-1D) that states, "...we have determined that your proposed project would not discharge dredged or fill material into a water of the United States or an adjacent wetland. Therefore, the project is not subject to our jurisdiction under Section 404 or the Clean Water Act and a Section 404 permit would not be required from our office."

ATTACHMENT DR19-1D

# Jurisdictional Determination Letter

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JUN 01 2009

**DEPARTMENT OF THE ARMY**  
LOS ANGELES DISTRICT, CORPS OF ENGINEERS  
P.O. BOX 532711  
LOS ANGELES, CALIFORNIA 90053-2325

May 28, 2009

REPLY TO  
ATTENTION OF

Office of the Chief  
Regulatory Division

Steve De Young  
Bright Source Energy  
1999 Harrison Street, Suite 2150  
Oakland, California 94612

Dear Mr. De Young:

Reference is made to your submittal (File No. SPL-2007-00415-SLP) dated March 14, 2008, for a Department of the Army jurisdictional determination verification for waters located within the Ivanpah Solar Energy project area, located near the City of Calada, San Bernardino County, California (maps enclosed). As part of the permit evaluation process, we have made the jurisdictional determination below.

Based on the information furnished in your correspondence [CH2MHill 2007 Wetland Delineation Report; CH2MHill 2008 Revised Wetland Delineation Report; in-person meeting on December 9, 2008] and per direction by our USACE Regulatory Headquarters, we have determined that your proposed project would not discharge dredged or fill material into a water of the United States or an adjacent wetland. Therefore, the project is not subject to our jurisdiction under Section 404 of the Clean Water Act and a Section 404 permit would not be required from our office.

This letter contains five approved jurisdictional determinations for the Ivanpah Solar Energy Project. If you object to this decision, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet (Appendix A) and Request for Appeal (RFA) form. If you request to appeal this decision you must submit a completed RFA form to the Corps South Pacific Division Office at the following address:

Tom Cavanaugh  
Administrative Appeal Review Officer,  
U.S. Army Corps of Engineers  
South Pacific Division, CESPDPDS-O, 2042B  
1455 Market Street, San Francisco, California 94103-1399

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 C.F.R. Part 331.5, and that it has been received by the Division Office within 60 days of the date on the NAP. Should you decide to submit an RFA form, it must be received at the above address by July 28, 2009. It is not necessary to submit an RFA form to the Division office if you do not object to the decision in this letter.

This verification is valid for five years from the date of this letter, unless new information warrants revision of the determination before the expiration date. If you wish to submit new information regarding the approved jurisdictional determinations for this site, please submit this information to Shannon Pankratz at the letterhead address by July 28, 2009. The Corps will consider any new information so submitted and respond within 60 days by either revising the prior determination, if appropriate, or reissuing the prior determination. A revised or reissued jurisdictional determination can be appealed as described above.

If you have any questions, please contact Shannon Pankratz of my staff at 213.452.3412 or via e-mail at [Shannon.L.Pankratz@usace.army.mil](mailto:Shannon.L.Pankratz@usace.army.mil).

Please be advised that you can now comment on your experience with Regulatory Division by accessing the Corps web-based customer survey form at:  
<http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,



Mark Durham  
Chief, South Coast Branch  
Regulatory Division

Enclosures





**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 *IVANPAH SOLAR ELECTRIC  
GENERATING SYSTEM*

DOCKET No. 07-AFC-5

PROOF OF SERVICE  
(Revised 4/16/09)

**APPLICANT**

Solar Partners, LLC  
John Woolard,  
Chief Executive Officer  
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Oakland, CA 94612

Steve De Young, Director  
Project Manager  
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Oakland, CA 94612  
[sdeyoung@brightsourceenergy.com](mailto:sdeyoung@brightsourceenergy.com)

**APPLICANT'S CONSULTANTS**

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**COUNSEL FOR APPLICANT**

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& Harris L.L.P.  
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**INTERESTED AGENCIES**

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[e-recipient@caiso.com](mailto:e-recipient@caiso.com)

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Sacramento, CA 95814  
[jbasofin@defenders.org](mailto:jbasofin@defenders.org)  
**E-MAILED PREFERRED**

**ENERGY COMMISSION**

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[jbyron@energy.state.ca.us](mailto:jbyron@energy.state.ca.us)

JAMES D. BOYD  
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Elena Miller  
Public Adviser  
[publicadviser@energy.state.ca.us](mailto:publicadviser@energy.state.ca.us)

**DECLARATION OF SERVICE**

I, Mary Finn, declare that on June 3, 2009, I served and filed copies of the attached Data Response Set 1M. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at:

**[[www.energy.ca.gov/sitingcases/ivanpah](http://www.energy.ca.gov/sitingcases/ivanpah)]**. The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

**(Check all that Apply)**

**FOR SERVICE TO ALL OTHER PARTIES:**

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

  x   by personal delivery or by depositing in the United States mail at Sacramento, CA with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked "email preferred."

**AND**

**FOR FILING WITH THE ENERGY COMMISSION:**

  x   sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (***preferred method***);

**OR**

       depositing in the mail an original and 12 paper copies, as follows:

**CALIFORNIA ENERGY COMMISSION**

Attn: Docket No.   07-AFC-5    
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512  
[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

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



\_\_\_\_\_  
Mary Finn