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STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

Application for Certification for the Hidden Hills Solar Electric Generating System	)	Docket No. 11-AFC-02

APPLICANT'S PREHEARING CONFERENCE STATEMENT

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I. INTRODUCTION AND PROPOSED TIME ALLOCATIONS

On December 21, 2012, the Committee issued a Notice Of Prehearing Conference And Evidentiary Hearing And Order (the "Notice and Order") requesting certain information from the parties as set forth below. This Prehearing Conference Statement contains the requested information as follows.

The Committee Notice and Order requested that the parties provide estimates of time needed for direct testimony and cross-examination. Although there should be 30-40 hours of hearing time available during the four days set for evidentiary hearings, we anticipate that the estimates received by the parties may exceed the available time. Under these circumstances it may be necessary for the Hearing Officer to allocate specific time to the parties, in order to ensure efficient use of the available time and to ensure that hearings are completed on a timely basis.

In allocating time among the parties, the Committee may wish to consider a technique that is used effectively by Administrative Law Judges in CPUC hearings – the granting of a "block" of time for parties to conduct all of their direct and cross examination. Where the estimates of time by the parties exceeds the time available for hearings, an ALJ will total the estimates by each party and then allocate the allowable time for direct and cross-examination to each party as a block of time. For example, if the ALJ has 30 hours of hearing time, the ALJ may allocate 15 hours to the Applicant, 10 hours to the CPUC Staff and 5 hours to the Intervenors. Then each party is free to decide how best to use the allocated time. A party could use all of their time in direct or cross examination of one witness, or divide their allocated time among multiple witnesses. At the CPUC, the ALJ will assign a neutral timekeeper to maintain a running tally of the time used by each party.

As one specific example, we are attaching hereto as Exhibit 1 an "Administrative Law Judge's Ruling Addressing Scheduling Issues" in a recent CPUC rulemaking on distributed generation. In this matter, the Administrative Law Judge divided the available 28 hours as follows: (1) 36.9% of the time to the Utilities; (2) 31.5% Ratepayer/Public Interest Representatives; and (3) 31.5% of the time to Manufacturers/DG Providers/Competitors.

The benefit of allocating time as a block, rather than on a per witness basis is three fold. First, it encourages efficiency. Parties may shorten or eliminate unnecessary cross, in order to reserve their time for important witnesses. Second, assigning blocks of time prevents parties and witnesses from filibustering. If a party is told that he or she only has 5 or 10 minutes for cross, the party is less likely to filibuster as the time will count against their total block allocation. Third, where a total hearing block of time is assigned, there is no need for the ALJ to interrupt or manage direct testimony or cross as the parties will be responsible for strategically managing their allotted time by checking with the timekeeper – off the record. In short, the block for time allocated for parties direct testimony and cross examination imposes disciplines on all parties in their questioning and thus, there is efficient use of the available hearing time.

In this proceeding, the Applicant is estimating approximately 12 hours for both the presentation of its direct testimony and for cross examination of all witnesses. However, there are only 30-40

hours of hearing time. Therefore, if it is necessary to allocate time among the parties, we recommend that the Hearing Officer assign the Applicant a block of 12 hours. This is approximately 1/3 of the total available time, which we believe is an appropriate allocation in this proceeding because, as we are reminded by the parties, the Applicant bears the burden of proof. We can commit to use this time efficiently and to complete all direct testimony and all cross-examination within this period. We request that the Committee reserve time at the PHC for a discussion of this proposal.

II. NOTICE OF POSSIBLE INFORMAL HEARINGS PROCEDURES

While the Applicant appreciates the spirit behind the Committee exploration of the use of informal hearing procedures, and while the Applicant is committed to the efficient administration of the proceedings, the Applicant has substantial apprehension about the possibility of free-form hearings. In particular, given that the Applicant bears the burden of proof, and given that the Applicant's witnesses familiar with the Commission's processes are used to traditional direct testimony and cross examination, any substantial variation from more traditional hearings creates concern.

To be clear, the Applicant has already committed to procedures to streamline hearings. In particular, the Applicant will present most of its testimony with "panels" of witnesses, instead of individual witnesses to facilitate efficient administration of the hearings.

In addition to using panels for the more contested issue areas, the Applicant would support combining several disciplines into a single panel for similar subjects. As one obvious example, if the Committee decides that it will allow live witness testimony on some of the "Engineering Assessment" subjects, it would be efficient to have a single panel on the issues of Facility Design, Geology & Paleontology, Power Plant Efficiency, Power Plant Reliability, and Transmission System Engineering. Similarly, due to overlapping issues and witnesses, the general subjects of Executive Summary Project Description can be combined with Alternatives.

A "hybrid" approach mixing formal and informal hearings may work well, with the more contested issues being heard in traditional hearings format of direct and cross examination and less contested issues being heard in panel. To further streamline the process, the Applicant is seeking direct examination or cross examination on only seven of the twenty-five subjects in the FSA, as discussed below. For these subjects not requiring live witness testimony, the Applicant supports that all parties' testimony be accepted by declaration without the need for live witness testimony.

Although the Committee Order did not ask parties to agree to or object to the possible use of formal procedures in this Prehearing Conference Statement as provided for in Government Code Section 11445.30, out of abundance of caution, the Applicant would object to informal hearings on the issues of Alternatives, Biological Resources, Cultural Resources, Land Use, Visual Resources, and Water Supply. For these topics, the allegations raised by Staff and the Intervenors contain serious factual errors. The Applicant bears the burden of proof and we must

therefore reserve our rights to cross examine parties on these issues in order to disprove these parties' testimony.[1]

III. RESPONSE TO SPECIFIC INFORMATION REQUESTS IN THE NOTICE AND ORDER

a) The subject areas that are complete and ready to proceed to Evidentiary Hearing;

All topics are complete and ready to proceed.

b) The subject areas that are not complete and not yet ready to proceed to Evidentiary Hearing, and the reasons therefor;

All topics are complete and ready to proceed.

c) The subject areas that remain disputed and require adjudication, and the precise nature of the dispute for each subject area;

There are only seven subject areas where the Applicant intends to provide direct testimony: Alternatives; Biological Resources; Cultural Resources; Land Use; Socioeconomics; Visual Resources; and Water Supply.

There are several other disciplines where the Applicant has disagreement with Staff or one or more of the Intervenors. Moreover, even within these seven areas there are issues that require a decision by the Committee; however, the disputes in these areas are either legal matters which do not require any factual development through live witness testimony, or are factual matters which the Committee must decide on the record, without need for live testimony.

As one example of these matters where live witness testimony is not requested, the Applicant has not requested time on the issue of mitigation ratios for Waters of the State. The Applicant's Opening Testimony provides detailed factual materials demonstrating why a 1:1 ratio for State Water is both appropriate and consistent with Commission and CDFW precedent for similarly situated projects. These issues will be briefed on the record before the Commission.

Per the Committee's request, the following sections discuss the precise nature of the dispute for each of the seven subject areas identified as requiring live witness testimony: Alternatives;

[1] The Applicant further understands that if the Committee does choose to use informal hearing proceedings, the Government Code provides that the Committee "may deny the use of the informal hearing procedure, or may convert an informal hearing to a formal hearing after an informal hearing is commenced, if it appears to the presiding officer that cross-examination is necessary for proper determination of the matter and that the delay, burden, or complication due to allowing cross-examination in the informal hearing will be more than minimal." (Government Code §11445.50(a).) Further the presiding officer may allow cross-examination of witnesses in an informal hearing if it appears to the presiding officer that in the circumstances cross-examination is necessary for proper determination of the matter. (Government Code §11445.50(b).)

Biological Resources; Cultural Resources; Land Use; Socioeconomics; Visual Resources; and Water Supply.

1. **Alternatives**

Qualified project alternatives must be: (i) feasible, (ii) able to satisfy most of the basic project objectives, and (iii) capable of substantially lessening at least one significant effect of the project. If an FSA alternative fails to satisfy any one of these three criteria, it falls outside of the "reasonable range" of alternatives mandated by CEQA and should be eliminated from consideration. The project offers substantial grid reliability benefits that none of the FSA's proposed alternatives can achieve. Moreover, the FSA's proposed Photovoltaic (PV), Parabolic Trough (PT) and Concentrating Solar Thermal Tower with Storage (Tower with Storage) alternatives all fail to satisfy at least one of the three criteria established by CEQA to qualify an alternative for analysis. The PV and PT alternatives are infeasible because they are incapable of being accomplished in a successful manner within a reasonable time. In addition, the PV and PT alternatives fail to achieve most of the FSA's proposed basic project objectives. Moreover, Tower with Storage does not avoid or substantially lessen any of the project's significant environmental effects. Since the PV, PT and Tower with Storage alternatives all fail to meet at least one of the three qualifying criterion, none should be considered by the FSA or the Commission. Finally, the FSA's No Project Alternative should be revised to consider what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services, as required by CEQA.

2. **Biological Resources**

The HHSEGS project has been sited to avoid significant impacts to biological resources. Much of the proposed site has been previously disturbed by human activity. Only one federal and state threatened or endangered species, the desert tortoise, occurs within the site, and habitat values for the tortoise are generally low. No state or federally listed plant species occur within the project site, and approximately 23 acres of lower-quality desert washes are present. Use of the site by avian, mammal and other documented species is also very low. As a result, development of the project site is consistent with state and federal policies that seek to locate renewable energy projects in areas with relatively limited biological resources.

Desert Tortoise: With respect to the Desert Tortoise mitigation ratio, survey data shows that desert tortoise density increases from the west to the east of the project site. No desert tortoise was found in shadscale scrub areas, which comprises approximately half of the site, has a generally low value for the species, and is associated with less suitable soil types. Based on the site's ecology, mitigation should be provided at a ratio of 1.5:1 acres for the portions of the site that include soil type Qa1, at a ratio of 1:1 with other Qa and Qb soil types and lower halogeton (*Halogeton glomeratus*) concentrations, and at a ratio of 0.5:1 ratio where halogeton is abundant and little or no tortoise habitat is present.

Solar Flux and Avian Issues: With respect to Avian issues, the FSA analysis of potential avian and golden eagle impacts, including cumulative impacts, is scientifically insupportable and inaccurate. Expert testimony by Dr. Sönke Johnsen, Professor of Biology at

Duke University, and experimental and survey data show that, due to significant analytical errors made in the FSA, the level of concentrated solar flux (mirror reflections directed towards the central tower) that could potentially affect avian flight feathers is approximately a factor of ten (10) times less than that indicated in the FSA. Flux levels that might impact feathers would only occur in a very small volume of airspace (substantially less than 0.1% of the total airspace) located over the facility around the upper portion of the central towers.

Expert testimony by Dr. Ivan Schwab, Professor of Ophthalmology at the University of California Davis School of Medicine, demonstrates that the chance of significant visual injury to avian species is insignificant. Birds have well-developed protective visual systems that will prevent ocular harm from reflected sunlight or heat. Birds will also tend to react to reflections in the heliostat field in a manner that avoids ocular or other potential harm.

The HHSEGS heliostats are significantly smaller than those used in older solar facilities and will reduce potential avian collision risks. Survey data from two operational facilities using similar technology (the Solar Energy Development Center in Israel, and the Gemasolar facility in Spain) indicate that avian collisions with heliostats, as well as other project structures, would be very rare.

Avian use surveys conducted at HHSEGS have documented that golden eagle use of the site and the surrounding region is very low, even with the presence of artificial perching sites on existing power poles. The nearest potentially occupied golden eagle nest is approximately seven miles west of the proposed facility. Golden eagles are known to respond to human activities at greater distances than many other raptors, and can be expected to avoid the facility during construction and operations for foraging use. All project power lines and power poles will be constructed and maintained in a “raptor-safe” manner in accordance with the APLIC guidelines.

The Applicant recognizes that potential avian impacts are an important issue, and will implement a robust avian monitoring and adaptive management program to identify and respond to detected avian impacts, if any. Based on the best available scientific evidence, and with the implementation of the proposed monitoring and adaptive management measures, project impacts to avian species, including cumulative impacts, will not be significant.

Botany: With respect to Special Status Plant, the FSA concludes that project impacts to four plants, none of which are listed as threatened or endangered, could be significant without mitigation. Due to low rainfall conditions, the Applicant had limited opportunity to demonstrate higher levels of offsite occurrences than currently recorded. It is likely that these species occur to a much greater extent in California and the region. The Applicant is proposing additional mitigation flexibility for potential plant impacts, including in-lieu fee payments, and conducting additional regional surveys that may demonstrate that project impacts are less than significant.

Burrowing Owl: No burrowing owls were detected in the project area during protocol breeding and winter season surveys conducted in 2011 and 2012. There is no evidence or empirical basis for suggesting that any burrowing owl territory would be affected by the project, and no basis for asserting that the project must mitigate for impacts to five territories at a level of 598 acres for each territory.

3. **Cultural Resources**

Pahrump Metapatch Mesquite Woodland-Coppice Dune Archaeological Landscape: With respect to Issues Regarding Pahrump Metapatch Mesquite Woodland-Coppice Dune Archaeological Landscape, the FSA's conclusions regarding the historical significance of the Pahrump Metapatch Mesquite Woodland-Coppice Dune Archaeological Landscape ("Pahrump Metapatch") are not supported by available data, and improperly assume a geographic boundary for the purported resource that is not grounded on fact. Particularly troubling is that the FSA recommends mitigation to ascertain whether this resource is, in fact, a historical resource. The determination of whether a resource is a cultural resource is a threshold issue that must be supported by substantial evidence- the Commission should not impose mitigation to prove an assumption in the FSA.

The FSA's identification of the Pahrump Metapatch as a CRHR-eligible historical resource is significantly flawed. The FSA is internally contradictory regarding the location of the landscape. The FSA's "assumption" regarding the Pahrump Metapatch's eligibility for the California Register of Historical Resources (CRHR) is premised on a portion of the landscape existing in California; however, that assumption is unsupported by the facts in the record; the boundary of the Pahrump Metapatch is solely in Nevada and therefore, the Pahrump Metapatch is not eligible for listing in the CRHR. The FSA offers no factual evidence to support its finding of CRHR eligibility for the Pahrump Metapatch under Criteria 1 or Criteria 4. Even if the Pahrump Metapatch were eligible for the CRHR, the project would not significantly impact it in a manner that would alter its historical significance. The FSA cumulative impact analysis conclusion related to the Pahrump Metapatch is not supported, as the boundaries of the landscape are not defensible and the boundaries of the cumulative effects area were not described, nor were cumulative projects identified. The FSA is flawed because it requires the Applicant to develop the facts to determine whether the Pahrump Metapatch is of historical significance as mitigation.

The Old Spanish Trail/Mormon Road Northern Corridor: The FSA creates a historical resource identified as the Old Spanish Trail - Mormon Road (OST-MR) Northern Corridor without identifying the boundaries and scope of the resource. It does not consider the integrity of the resource or evaluate the potentially contributing or non-contributing elements of the resource. The FSA's conclusions that certain road and trail segments on the project site contain data potential does not take into account the evidence and data that the Applicant has submitted which demonstrates that road and trail segments on site lack any integrity or any further data potential. In addition, the FSA assumes, without any evidentiary support, that all road and trail segments on the project site are contributors to the OST-MR Northern Corridor. In fact, the FSA disregards the Applicant's surveys and relies on discredited hypotheses to assume that tracks and trails located on site are contributors to the OST-MR Northern Corridor. Even if there were a defined "Northern Corridor" and all tracks were assumed to be related to the OST-MR, the trails that cross the project site are not eligible individually or as contributors, since they (a) lack integrity and/or (b) do not have further data potential. Furthermore, the FSA is flawed, because it requires the Applicant to develop the facts to show eligibility/ historical significance of the OST-MR Northern Corridor and tracks/trails on the project site as mitigation (CUL-9).

With respect to Visual Resources, mere visibility of towers from a NRHP-eligible property does not rise to the level of adverse effects that destroy the resource's integrity; the FSA finding of significant visual impact to the OST-MR District is not supported by facts in the record. The FSA cumulative impact analysis related to the OST-MR Northern Corridor is not supported, as the boundaries of the corridor are unclear and similarly, the boundaries of the cumulative effects area were not described.

Ethnographic Landscapes:

The FSA identified three potential ethnographic landscapes: (1) the Salt Song Trail; (2) the Pahrump Paiute Home Landscape, and (3) the Ma-hav Landscape. As discussed in detail in the Applicant's Opening testimony on Ethnographic Landscapes by Dr. Lynne Sebastian, Ph.D., RPA, one of the three ethnographic landscapes identified in the FSA would be eligible under either the NRHP or CRHR.

While a criteria-based argument could be made that individual *places* named in the Salt Song ceremony are historic properties eligible to the NRHP (and to the CRHR, in the case of properties located in California) under Criterion A (or Criterion 1) for their specific and important association with the long-term pattern of this culturally important ceremony, neither the FSA nor the ethnographic report upon which it relies develops this claim or supports such criteria. The claim of eligibility under Criterion 3 as a property possessing high artistic values ignores the NRHP bulletin guidance that makes it clear that this criterion applies to the *design* qualities of a physical property itself. A "property" that stretches across four states and includes enormous swaths of land not demonstrably associated with the Salt Song cycle in any way is incompatible with both the NRHP's role as the nation's inventory of historic places worthy of preservation and its role as a preservation planning tool.

The Pahrump Paiute Home Landscape, as defined in the FSA, appears to be simply the traditional territory of this Paiute band; since boundaries are dismissed in the report as being unimportant, it is difficult to be certain. The information provided is largely a recounting of bits and pieces of the history of Paiute people in this area. No specific and important associations between specific physical places and important events (Criterion 1 or A) or between places and the important contributions to history of Chief Tecopa (Criterion 2 or B) are ever proposed.

The *Ma-hav* Landscape is recognized in both the ethnographic report and the FSA as being one of an undefined number of component parts of the Pahrump Paiute Home Landscape, in fact, the FSA says that the historical significance of the *Ma-hav* derives from "its broad contributions to the unique historic events of the Pahrump Paiute Home Landscape" (FSA 2012:4.3-91). Yet no explanation is ever offered as to why this single component of another historic property was defined as a separate landscape and evaluated as a separate historic property. As with the Pahrump Paiute Home Landscape, what we have in the proposed *Ma-hav* landscape is a defined area in which a variety of things that were part of the local history occurred. What we do ***not*** have is a historic property meeting the CRHR or NRHP requirements for specific and important associations with specific and important events. Given the requirements for eligibility under Criterion 4 or D – that archaeological properties must have demonstrated their potential to yield

information through testing or research – we also do not have a property eligible for its information potential.

Moreover, even assuming eligibility, for the sake of argument, because at least half of each of these landscapes, as defined in the ethnographic report, lies outside California, CRHR eligibility is more problematic, and the arguments for NRHP eligibility under Criteria C and D are entirely untenable. Similarly, considering both the scale of these properties and the current assessment of integrity for these landscapes, despite the presence of truly substantial modern developments, what would be the rationale for saying that HHSEGS would "demolish or materially alter" the integrity of location, setting, feeling, or association for either the Salt Song Landscape or the Pahrump Paiute Home Landscape? No adequate rationale is provided to justify the impact finding on these large landscapes or for finding the *Ma-hav* landscape is impacted by HHSEGS.

4. **Land Use**

Land Use Consistency: HHSEGS is consistent with applicable land use LORS. The HHSEGS project is consistent with the Rural Protection ("RP") land use designation in the Inyo County General Plan because "the managed production of resources," includes renewable energy resources such as solar, as a use provided for in the RP designation. Further, for those portions of the HHSEGS site that are part of the Recreational/Resort ("REC") land use designation, as a public/quasi-public use, HHSEGS is consistent with the REC designation. In addition, even assuming for the sake of argument that the HHSEGS site remained in the Open Space and Recreation ("OSR") General Plan designation, the HHSEGS would nevertheless be consistent with an OSR designation, given the existing General Plan Goals and Polices applicable to the HHSEGS site. As a renewable energy facility, HHSEGS is consistent with the OS-40 zoning designation because a renewable energy generating facility, which is the managed production of a solar resource, constitutes a conditionally permitted use in an OS-40 district.

As measured under the criteria of Appendix G of the CEQA Guidelines, the project will not have significant adverse effect to land use. HHSEGS will not divide an existing community, will not conflict with an applicable habitat conservation plan (HCP) or a natural community conservation plan (NCCP) and achieves Inyo County's goals of renewable energy development in the Charleston View area. In addition, although HHSEGS is not located on Bureau of Land Management (BLM) land, it is consistent with the Solar Preliminary Environmental Impact Statement (PEIS) goals/policies for the BLM lands surrounding the project site. Further, there are no impacts to agricultural resources or Williamson Act contract lands associated with implementation of the HHSEGS.

With respect to claims of Inyo County, the County does not hold any rights or public dedications within the Wiley Trust Properties. The offers of dedication included conditions precedent that have not been satisfied and thus there has been no statutory acceptance of these offers. Moreover, there is no factual basis for concluding that such offers of dedication have been accepted by the public under common law theories of acceptance. Indeed, the conditional offers of dedication were revoked before statutory or common law acceptance could occur. Even assuming, arguendo that the offers of dedication were accepted by the public, the rights conveyed were only for the use of private roads. Finally, as a matter of law, even if the offers of dedication have been "accepted" by the public, the Commission can nevertheless approve the

project by exercising its authorities under Section 25525 of the Public Resources Code (the "Section 25525 LORS Approval").

5. **Socioeconomics**

The Applicant's direct testimony will focus primarily on four issues. First, the Applicant will explain the project's benefits from a property tax perspective. Next, the Applicant will focus on the project's employment benefits both during project construction and operations. Third, the Applicant will discuss the environmental justice analyses performed which confirms that there will be no disproportionately high or adverse human health or environmental impacts on any minority or low-income populations. Finally, the Applicant's tax experts will address the project's benefits to Inyo County and the other political subdivisions and special districts within Inyo County. This testimony will both provide the estimated benefits of the project and respond to allegations regarding lack of benefits from the project, primarily those allegations contained in Inyo County's testimony.

6. **Visual Resources**

The project will be located on privately owned lands that have been previously subdivided and developed with a grid of unpaved roads. The project site is flat and does not include features of recognized scenic importance. The project site is located in an area of Inyo County for which the County has not adopted any specific policies or plans for protection of the landscape. In 2011 Inyo County designated the project site and a large area around it as Renewable Energy Overlay zone in which large-scale wind, solar, and transmission line projects would be permitted. The County included the project site in the Overlay Zone specifically because it did not contain sensitive scenic resources. The overlay district designation has been rescinded, but this repeal was due to a legal challenge to the procedures under which the Overlay Zone was adopted, not an objection to the aesthetic effects of solar energy projects in this location.

The visual sensitivity of the lands that immediately surround the project site is low. On its western and southern borders, the site is surrounded by private lands, and as is the case for the project site itself, Inyo County has not adopted any specific landscape protection policies for them. The lands that border the project to the east are managed by the BLM, which has adopted a Visual Resource Management (VRM) Class IV designation for them, which permits a high degree of visual modification. The project is not adjacent to a designated scenic highway. The numbers of potential viewers in areas near the project are relatively small, consisting of the occupants of the no more than 275 vehicles per day that travel on Tecopa Road through the project area, the 68 residents of Charleston View, and the unknown but likely to be small numbers of visitors on the nearby public lands. In the future, the project may be visible to people who visit the Saint Therese Mission, which is now under development. For visitors within the Mission complex, views toward the project facilities will be substantially screened by buildings and landscaping. There would be no significant adverse impacts in California to visual resources resulting from the HHSEGS linears, which are located in Nevada. The impacts of the project's temporary construction activities on visual resources would be less than significant, and mitigation of these impacts is not required. With implementation of the lighting design measures proposed in the AFC, the impacts of the project lighting would be less than significant. The luminosity of the solar boilers located on the tops of the two solar towers would be similar to the

luminosity of the solar boiler that can be seen in operation at the Solar to Steam Demonstration Project in Coalinga, and their visual impact would be less than significant, except in views from the nearby Charleston View residential area (KOP 4), where the impacts will be reduced to a less than significant level through implementation of proposed mitigation measures. The project would comply with Inyo County laws, regulations and standards regarding project design, scenic views and other requirements related to Visual Resources.

With application of the mitigation measures recommended in the AFC, the impacts to the views from Charleston View would be reduced to a level that is less than significant, and the impacts on the views from the other nearby areas of the valley that are not significant would be further attenuated. The mitigation measures the Applicant has proposed to implement include the following. Ground disturbance and soil erosion will be minimized by avoiding steep slopes and by minimizing the amount of construction and ground clearing needed for roads and staging areas. Dust suppression techniques will be employed to minimize impacts of vehicular and pedestrian traffic, construction, and wind on exposed surface soils. A lighting plan that minimizes the project's nighttime light impacts will be developed and submitted to the CEC for review. A color treatment plan to blend the permanent project facilities located within the common area and visible to the public into the existing setting will be developed in consultation with Inyo County and the CEC. The landscape plan will be developed for the project setback area along Tecopa Road. In the portion of the setback area directly north of the Charleston View residential area, this plan will include the use of a mix of tall growing trees to provide partial screening of views toward the solar power towers from the residential area, and lower growing shrubs to screen views into the site from Tecopa Road. The plant species selected for this area will emphasize species with low water needs that are aesthetically compatible with the landscape setting. In the remainder of the setback area along Tecopa Road, the emphasis will be on use of native shrubs with low water requirements that are planted in an informal, naturalistic pattern to provide partial screening of views into the project site. The landscape plan will be submitted to Inyo County and the CEC for review.

In addition, to reduce and mitigate for the changes to the views toward the project site seen from Charleston View, two specific measures will be implemented. First, the Applicant will make provisions for a one-time program to plant trees on the properties of any Charleston View property owner residing in an existing approved residence who indicates an interest in having them. The intent is to plant the trees in locations that will screen views looking toward the solar power towers from the residences on the property and from the property's primary outdoor living areas. The Applicant will employ a professional arborist to identify a list of species that are well adapted to the local conditions and which have characteristics that provide effective screening of views. The tree species selected will avoid invasive exotic species as identified by the USDA and Invasive Species Council of California (ISCC). The Applicant will provide any Charleston View property owner residing in an existing approved residence who is interested in participating in this program with a credit to a local landscape contractor contracted to implement this program. The contractor will work with residents to select up to eight trees from this list of species provided by the arborist and will assist the residents in identifying appropriate locations for their installation. The contractor will provide the trees and will plant them for the property owner. The trees planted will be no larger than the equivalent of a 15-gallon standard nursery size. The property owner will be responsible for making the provisions for tree irrigation. Tree planting is

a one-time opportunity for eligible property owners in Charleston View. Once installed, irrigation and maintenance of the trees will be the responsibility of the property owner and the project owner shall have no further responsibility. As a second measure, to mitigate for the potential visual impact the solar power towers may add to a portion of the view from Charleston View, the Applicant will assist with a one-time cleanup program within the Charleston View rural residential subdivision. This cleanup program will entail the Applicant making provisions to assist property owners residing in an existing approved residence with cleanup of their properties by providing free hauling and disposal of unwanted debris. With the implementation of these mitigation measures, the potential Visual Resources impacts will be mitigated to a level of less than significant.

7. **Water Supply**

To save water in the site's desert environment, the HHSEGS project will use dry-cooling. Dry cooling is an "avoidance" measure. Dry cooling greatly reduces the potential water use for the HHSEGS project, especially compared to wet cooled projects in the desert that have been approved by the Commission. Based on the proposed system design and the use of dry cooling, a maximum supply of 140 acre-feet per year (afy) is all that is needed. The groundwater modeling information provided by the Applicant, including extensive modeling efforts, demonstrate that the project will not have a significant effect on groundwater resources or water supplies. The pumping tests conducted demonstrate that (a) water levels in the aquifer around the HHSEGS wells in the Valley Fill Aquifer stabilize after a short period and do not continue to decline with continued pumping, (b) the drawdown that would be associated with HHSEGS pumping extends less than 1,500 feet from the wells, and (c) no drawdown will occur beyond the site boundaries.

Despite this lack of impact, given the importance of water issues in the desert, the Applicant has also committed to offset project water usage at a 1:1 ratio by the retirement of water rights up-gradient in Nevada. This 1:1 retirement will result in a net benefit to the aquifer, since the project's net water usage is expected to be less than the maximum 140 afy of rights retired. As demonstrated in the proposed revisions to Water Supply-4, the Applicant is committed to protecting other groundwater users in the basin and has proposed a rigorous groundwater monitoring plan in the revised Water Supply-4.

If project groundwater monitoring shows that project-related pumping has the potential to have an adverse effect on other water users, the project will implement a series of measures, including the deepening of existing wells to ensure that other, existing water users are not affected by project groundwater use. The project will also compensate any existing well owners if project groundwater use should lower groundwater levels and increase pumping costs.

The Applicant has also proposed to install a monitoring well array and to analyze the monitoring results using appropriate engineering methods that will identify the project's potential drawdown impacts in the context of other sources of groundwater drawdown. Responses to measured project-related groundwater impacts, if any, are related to specific, reasonable drawdown triggers and include feasible measures that are commensurate with the substantial evidence showing that significant project-related groundwater impacts are highly unlikely to occur.

d) The identity of each witness sponsored by each party (Note: Witnesses must have professional expertise in the discipline of their testimony); the subject area(s) which each witness will present; a brief summary of the testimony to be offered by each witness; qualifications of each witness; the time required to present direct testimony by each witness; and whether the party seeks to have the witness testify in person or telephonically;

The Applicant's witnesses, their topic areas, a brief summary of their testimony, and their qualifications are set forth in the Applicant's pre-filed Opening Testimony and Rebuttal Testimony. Further, the Applicant has attached hereto its proposed time estimates for direct for each discipline as Attachment 1 hereto. Attachment 2 also identifies the witnesses for the Applicant,

e) Subject areas upon which a party desires to cross-examine witnesses, a summary of the scope of each such cross-examination (including voir dire of any witness' qualifications), the issue(s) to which the cross examination pertains, and the time desired for each such cross-examination (Note: A party who fails to provide the scope, relevance and time for cross examination with specificity risks preclusion from cross examining on that subject area);

The Applicant anticipates cross-examination for each discipline as set forth in Attachment 1 hereto.

f) A list identifying exhibits and declarations that each party intends to offer into evidence and the technical subject areas to which they apply (as explained in the following section on "Format for Presenting Evidence"). Note: Parties must identify any evidence which they intend to designate as confidential;

The Applicant's Exhibit List is attached hereto as Attachment 3. The Declarations are attached to the Applicant's pre-filed testimony.

g) Subject areas for which the Applicant will seek either a Commission override due to public necessity and convenience pursuant to Public Resources Code section 25525 or a specific finding that overriding economic, legal, social, technical or other benefits outweigh the significant effects on the environment pursuant to Public Resources Code section 21081(b);

The FSA alleges noncompliance with applicable LORS for three subjects: Biological Resources; Land Use; and Visual Resources. (FSA, pp. ES, p. 1.1-13 to 1.1-15; Table 4.) As discussed in the Applicant's Opening Testimony, we believe the Committee can find that there is substantial evidence in the record supporting the Applicant's findings of compliance with Applicable LORS for all three subjects. However, assuming the Committee either agrees with Staff, or, out of an abundance of caution the Committee chooses to override, the Applicant would recommend that the Committee find both, in the alternative (1) that the project complies with applicable LORS, and (2) even assuming for the sake of argument a potential non-compliance existed, the

Committee nevertheless recommends a Section 25525 Approval for three subjects.[2] The Applicant would seek the Section 25525 Approval for Biological Resources; Land Use; and Visual Resources.

The FSA also alleges a need for a Statement of Overriding Consideration pursuant to Public Resources Code section 21081(b) for four disciplines: Biological Resources; Cultural Resources; Land Use; and Visual Resources. (FSA, pp. ES, p. 1.1-13 to 1.1-15; Table 4.) Again, as discussed in the Applicant's Opening Testimony, we believe the Committee can find that there is substantial evidence in the record supporting the Applicant's findings that the project will not result in any significant unmitigated impacts after imposition of feasible mitigation measures. Nevertheless, assuming the Committee either agrees with Staff, or, if out of an abundance of caution the Committee wants to find both, in the alternative, (1) no significant impacts will result but (2) nevertheless if such impacts did exist, the Committee approves a Statement of Overriding Considerations for Biological Resources, Cultural Resources, Land Use, and Visual Resources, the recommended findings, in the alternative, could be as follows: "We find the HHSEGS project does not result in any significant impacts after imposition of feasible mitigation measures. In addition, out of an abundance of caution, even if we were to assume that the HHSEGS project did result in significant environmental effects, we recommend a Statement of Overriding Considerations is appropriate for the following disciplines: Biological Resources; Cultural Resources; Land Use; and Visual Resources."

h) Proposals for briefing deadlines, impact of scheduling conflicts, or other scheduling matters; and

The Applicant understands that CBD has requested an additional week for Reply Briefs. The Applicant supports this additional week. Otherwise, the briefing schedule set forth in the Committee Order is both reasonable and necessary to an expeditious decision in this proceeding. In order to preserve the ability to relocate Desert Tortoise during the Fall 2013 window to allow construction to commence in 2013, the Applicant must have a decision on the current schedule timeline. Missing the Desert Tortoise Window effectively creates a 6 month slip on the commencement of construction to the spring relocation window in 2014.

The Applicant has several scheduling issues for specific witnesses. These Scheduling constraints are as follows:

- The Applicant's air quality and public health witness is available only on March 14-15;
- The Applicant's avian issues panel (including solar flux issues), is available only on March 14-15;
- The Applicant's hazardous materials and waste management panel is unavailable on March 13;

[2] Recommend findings would read: "We find the HHSEGS project to be in compliance with Applicable LORS. In addition, out of an abundance of caution, even if we were to assume that the HHSEGS project did not comply with applicable LORS, we recommend a Section 25525 Approval for the following disciplines: Biological Resources; Land Use; and Visual Resources."

- The Applicant's socioeconomics panel is unavailable on March 13-15;
- The Applicant's water supply panel is unavailable on March 15; and
- The Applicant's worker safety and fire protection panel is unavailable on March 13.

i) For all subject areas, a description of any proposed modifications to the proposed conditions of certification listed in the Final Staff Assessment (FSA) based upon enforceability, ease of comprehension, and consistency with the evidence.

The Staff-proposed Conditions of Certification the Applicant seeks to modify are set forth in their entirety in the Applicant's pre-filed Opening Testimony and Rebuttal Testimony. The Applicant's proposed modifications generally fall into two categories: (1) the Applicant's proposed changes to Conditions that will not require hearing time or live witness testimony; and (2) the Applicant's proposed changes to Conditions that will likely require hearing time and live witness testimony.

As to the first group, the Applicant has proposed certain, minor changes to Staff-proposed Conditions. There are no factual disputes on the subjects of those Conditions and thus no need for hearing time or live witness testimony. The Applicant is confident that it can come to resolution with Staff regarding these conditions; however, should there be no agreement regarding the exact wording of the conditions, the Applicant still asks the Committee to adopt the Applicant's proposed revisions and changes. The Applicant will present its reasons for those changes in its Briefs.

As to the second group of revisions to Staff-proposed changes -- changes to Conditions that will likely require hearing time and live witness testimony – those Conditions cover only seven subjects. The Applicant will between now and hearings attempt to forge compromise language with Staff to avoid the need for hearing time and live witnesses testimony.

However, to provide the Committee with a full picture of the status of the case at this date, the Applicant believes that the following Conditions are contested and will require live witness testimony. The complete text of these Conditions showing the Applicant's proposed changes to Staff-Proposed Language is also attached hereto as Attachment 4.

Staff- Proposed Conditions Likely Requiring Hearing Time and Live Witness Testimony

Biological Resources:
BIO-7: Biological Resources Mitigation Implementation and Monitoring Plan
BIO-12: Desert Tortoise Compensatory Mitigation
BIO-15: Avian, Bat, and Golden Eagle Protection
BIO-20: Special-Status Plant Compensatory Mitigation Plan – Pending receipt of language omitted from Staff's Rebuttal Testimony
BIO-23: Groundwater-Dependent Vegetation Monitoring Plan[3] -- Pending receipt of language omitted from Staff's Rebuttal Testimony

[3] BIO-23 and Water Supply-4 are read together as a single issue.

Cultural Resources:
CUL-9: Fund a study of the Old Spanish Trail-Mormon Road Northern Corridor (OST-MRNC)
CUL-10: Fund and build an interpretive center / Cultural Museum
CUL-11: Multidisciplinary program of primary research on the geology, geomorphology, hydrology, ecology, and archaeology of the Pahrump Metapatch Mesquite Woodland-Coppice Dune Archaeological Landscape

General Conditions: Closure and Bonding on Private Property[4]
COM-15: Financial Assurance for Closure
BIO-26: Facility Closure, Vegetation, and Reclamation Plan
LAND-2: Requires bonds or other financial assurances to be paid to the Energy Commission to ensure restoration of the project site to pre-project conditions.

Land Use
LAND-1: Despite the fact that the Applicant holds leasehold interests and despite the CEC's exclusive jurisdiction, this condition requires Inyo County approval of a reversionary map or other written approval of another process (i.e., to adjust lot lines) that is acceptable to the County, prior to the start of construction.
LAND-3: Require the dedication of a 25-foot wide setback -- in an addition to the 24-foot right-of-way (ROW) -- along the entire project frontage on Tecopa Road for landscape screening.

Socioeconomics
SOCIO-3: Requires the project owner to come to an agreement with the County and the contractors that will be responsible for the acquisition of materials and the construction of the project so sales and use tax shall be accepted in the unincorporated area of the County of Inyo.

Visual Resources
VIS-3: Permanent Exterior Lighting
VIS-5: Construction Lighting
VIS-6: Scenic Resources Interpretative Area
VIS-7: Charleston View Tree Plantings

Water Supply
WATER SUPPLY-1: Water Supply Offset
WATER SUPPLY–4: Groundwater Monitoring and Reporting For Impacts and Mitigation For Groundwater-Dependent Vegetation, Neighboring Wells, and Water Quality[5]
WATER SUPPLY–6: Ground Subsidence Monitoring and Action Plan
WATER SUPPLY-7: Non-Transient, Non-Community Water System

Again, the Applicant's proposed revisions are set forth in Attachment 4.

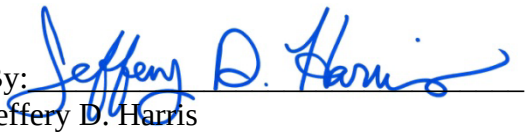
[4] BIO-26; COM-15; and LAND-2 all relate to bonding and site restoration on private land, which the CEC has never required for any project

[5] BIO-23 and Water Supply-4 are read together as a single issue.

February 19, 2013

Respectfully Submitted,

ELLISON, SCHNEIDER & HARRIS L.L.P.

By: 

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Attorneys for the Applicant

ATTACHMENT 1

Applicant's Proposed Time Estimates

Direct and Cross Examination

APPLICANT'S PREHEARING CONFERENCE STATEMENT
11-AFC-2
ATTACHMENT 1

Applicant's Proposed Time Estimates for Direct and Cross Examination

Subject Matter Issue Areas	Estimated time for Applicant's Direct Testimony (In Minutes)	CROSS EXAM ESTIMATES 1) Party and 2) Time Estimate (In Minutes)
Executive Summary & Project Description	15 (If alone; however, recommend combine with Alts panel)	None
Alternatives	45 (60 total, if combined with Executive Summary and Project Description)	25 for Staff 15 for CBD
General Conditions	None	30 for Inyo Supervisor Linda Arcularius and Supervisor Matt Kingsley
Engineering Assessment (Facility Design, Geology & Paleontology, Power Plant Efficiency, Power Plant Reliability, Transmission System Engineering)	None	None
Air Quality	None	None
Public Health	None	None
Biological Resources- Avian Flux	70	45 for Staff
Biological Resources- state waters	None	None
Biological Resources- botany	20	15 for Staff
Biological Resources- Ground water dependent veg	None (Address in Water Supply)	None
Biological Resources- Desert Tortoise	20	10 for Staff
Biological Resources- Burrowing Owl	10	5 for Staff
Cultural Resources- ethnographic landscapes	30	15 for Staff; 5 for Thomas F. King (if testimony is not accepted by declaration)
Cultural Resources- OST/MR	15	15 for Staff
Cultural Resources- Archeo/On-site	10	15 for Staff
Cultural Resources- Pahrump Metapatch	10	15 for Staff
Hazardous Materials	None	None
Land Use – GPA/Zoning	15	10 for Staff
Land Use – Road Dedications	25	60 for Inyo
Noise	None	None
Socioeconomics	15	30 for Inyo County
Soil & Surface Waters	None	None
Traffic and Transportation	None	None
Trans Line Safety/Nuisance	None	None
Visual Resources	20-30	40-50 for Staff
Waste Management	None	None
Water Supply – Impacts and Mitigation	30	20 for Staff
Water Supply – GDV	20	10 for Staff
Worker Safety & Fire Protection	None	None

ATTACHMENT 2

Applicant’s Witnesses and Topic Areas

APPLICANT'S PREHEARING CONFERENCE STATEMENT
11-AFC-2
ATTACHMENT 2

Applicant's Witness List
(in alphabetical order by subject area and last name)

Section	Witness
Air Quality	Gary Rubenstein
Alternatives	Joseph Desmond Jonathan Forrester Clay Jensen, P.E. Arne Olson Jennifer Scholl Chifong Thomas, P.E.
Biological Resources	Dr. Laurence Caretto Dan Franck Amy Hiss Dr. Sönke Johnsen Dr. Alice Karl Mike Klinefelter Dave Phillips Dr. Kathy Rose Gary Rubenstein Gary Santolo Dr. Ivan Schwab, M.D. Dr. W. Geoffrey Spaulding
Cultural Resources	Clint Helton Natalie Lawson Dr. Lynne Sebastion Dr. W. Geoffrey Spaulding
Executive Summary	Joseph Desmond
Facility Design, Power Plant Efficiency & Reliability	Dan Franck Channing Haskell, P.E. Michael Rojansky, P.E. Susan Strachan Susan Walzer
Geologic Hazards & Resources	Thomas Lae, P.G. Michael Rojansky, P.E.
Hazardous Materials	Channing Haskell, ,P.E. Karen Parker
Land Use	Clay Jensen, P.E. Jennifer Scholl
Noise	Mark Bastasch, P.E.
Paleontological Resources	Dr. W. Geoffrey Spaulding
Project Description (including Executive Summary, Closure, & General Conditions)	Clay Jensen, P.E. Susan Strachan
Public Health	Gary Rubenstein

APPLICANT'S PREHEARING CONFERENCE STATEMENT
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Section	Witness
Socioeconomics (Including Environmental Justice)	Matthew Barton Clay Jensen, P.E. Dr. Fatuma Yusuf
Soils & Surface Waters	Matthew Franck Steve Long Michael Rojansky, P.E. Dr. Kathy Rose
Transmission Line Safety & Nuisance	Dr. Robert Pearson , P.E.
Transmission System Engineering	Clay Jensen, P.E. Susan Strachan
Traffic and Transportation	Loren Bloomberg, P.E.
Visual Resources	Dr. Thomas Priestley
Waste Management	Channing Haskell, P.E. Karen Parker
Water Supply	Matthew Franck Dr. John Jansen Michael Rojansky, P.E. Dr. W. Geoffrey Spaulding Tim Thompson, P.G.
Worker Safety & Fire Protection	Wesley Alston Karen Parker

ATTACHMENT 3

Applicant’s Exhibit List

Docket Number: 11-AFC-02

Project Name: **HIDDEN HILLS SOLAR ELECTRIC GENERATING SYSTEM**

APPLICANT'S EXHIBIT LIST

Exhibit	Docket Transaction	Brief Description	Dated	Offered	Admitted	Refused
	APPLICANT'S EXHIBITS 1-299					
1	61756	HHSEGS Application for Certification (AFC); dated 8/5/2011.	8/5/2011			
2	62125	Data Adequacy Supplement	9/7/2011			
3	62322	Data Adequacy Supplement B	9/23/2011			
4	62913	Data Response, Set 1A - CONFIDENTIAL FIGURE (DR34-2)	11/16/2011			
5	63057	Attachment DR20-1 (omitted from DR Set 1A)	12/5/2011			
6	64579	Data Response, Set 1A-2	3/30/2012			
7	63056	Data Response, Set 1B	12/5/2011			

Docket Number: 11-AFC-02

Project Name: **HIDDEN HILLS SOLAR ELECTRIC GENERATING SYSTEM**

APPLICANT'S EXHIBIT LIST

Exhibit	Docket Transaction	Brief Description	Dated	Offered	Admitted	Refused
8	--	Data Response, Set 1B-2	12/30/2011			
9	63486 electronic 63499 hard copy	Data Response, Set 1B-3	1/31/2012			
10	63961	Data Response, Set 1B-4	3/5/2012			
11	64163	Data Response, Set 1B-5	3/15/2012			
12	64870	Data Response, Set 1B-6 - Anabat Quarter 1	4/20/2012			
13	66476	Data Response, Set 1B-6 - Anabat Quarter 2	8/3/2012			
14	68184	Data Response, Set 1B-6 - Anabat Quarter 3	10/25/2012			
15	65453	Data Response, Set 1B-7	5/25/2012			

Docket Number: 11-AFC-02

Project Name: **HIDDEN HILLS SOLAR ELECTRIC GENERATING SYSTEM**

APPLICANT'S EXHIBIT LIST

Exhibit	Docket Transaction	Brief Description	Dated	Offered	Admitted	Refused
16	68632	Data Response, Set 1B-8	11/21/2012			
17	63868	Data Response, Set 1C	12/19/2011			
18	64364	Data Response, Set 1C-2	3/23/2012			
19	65119	Data Response, Set 1C-3	5/8/2012			
20	67903	Data Response, Set 1C-4	10/22/2012			
21	63310	Data Response, Set 1D - CONDIFENTIAL FILES	1/6/2012			
22	63425	Data Response, Set 1D-2 - CONFIDENTIAL (Appendix115-1)	1/20/2012			
23	63564	Data Response, Set 1D-3 - CONFIDENTIAL (Attachment DR127-1)	2/6/2012			

Docket Number: 11-AFC-02

Project Name: **HIDDEN HILLS SOLAR ELECTRIC GENERATING SYSTEM**

APPLICANT'S EXHIBIT LIST

Exhibit	Docket Transaction	Brief Description	Dated	Offered	Admitted	Refused
24	63885 electronic 63792 hard copy	Data Response, Set 1D-4	2/24/2012			
25	64513	Data Response, Set 1D-5 - CONFIDENTIAL (Attachment DR125-1)	3/30/2012			
26	65117	Data Response, Set 1D-6 -CONFIDENTIAL (Attachment DR128-1)	5/8/2012			
27	65322	Data Response, Set 1D-7 - CONFIDENTIAL (Figure DR105-5)	5/17/2012			
28	63608 electronic 63635 hard copy	Data Response, Set 2A	2/9/2012			
29	64052	Data Response, Set 2A-2	3/8/2012			
30	64505	Data Response, Set 2A-3	3/30/2012			
31	67576	Data Response, Set 2A-4	10/5/2012			

Docket Number: 11-AFC-02

Project Name: **HIDDEN HILLS SOLAR ELECTRIC GENERATING SYSTEM**

APPLICANT'S EXHIBIT LIST

Exhibit	Docket Transaction	Brief Description	Dated	Offered	Admitted	Refused
32	63661	Data Response, Set 2B	2/16/2012			
33	63685	Data Response, Set 2B-2	2/20/2012			
34	63966	Data Response, Set 2C	3/5/2012			
35	64639	Data Response, Set 2D	4/9/2012			
36	64906	Data Response, Set 2D-2	4/16/2012			
37	64877	Data Response, Set 2D-3	4/23/2012			
38	--	Data Response, Set 2D-4	7/2/2012			
39	68206	Data Response, Set 2D-4B	10/25/2012			

Docket Number: 11-AFC-02

Project Name: **HIDDEN HILLS SOLAR ELECTRIC GENERATING SYSTEM**

APPLICANT'S EXHIBIT LIST

Exhibit	Docket Transaction	Brief Description	Dated	Offered	Admitted	Refused
40	67437	Data Response, Set 2D-5	10/1/2012			
41	67438	Data Response, Set 2D-6	10/2/2012			
42	65092	Data Response, Set 2E	5/4/2012			
43	65118	Data Response, Set 2F	5/8/2012			
44	68630	Data Response, Set 3	11/21/2012			
45	63259	Supplemental Data Response, Set 1A	12/30/2011			
46	64558	Supplemental Data Response, Set 2 (Boiler Optimization)	4/2/2012			
47	64836	Supplemental Data Response, Set 3--CONFIDENTIAL (Attach SE6-1, Bechtel Construction Security Plan)	4/18/2012			
48	65209	Supplemental Data Response, Set 4	5/11/2012			

Docket Number: 11-AFC-02

Project Name: **HIDDEN HILLS SOLAR ELECTRIC GENERATING SYSTEM**

APPLICANT'S EXHIBIT LIST

Exhibit	Docket Transaction	Brief Description	Dated	Offered	Admitted	Refused
49	67060	Supplemental Data Response, Set 4B	9/10/2012			
50		Supplemental Data Response, Set 5	7/13/2012			
51	66447	Supplemental Data Response, Set 6	8/3/2012			
52	---	Transmittal Letter for Application for Determination of Compliance and Authority to Construct, submitted to Great Basin Unified APCD on August 3, 2011	8/29/2011			
53	--	Email correspondence between Richard Beckstead, Permitting Manager, Department of Air Quality and Environmental Management, Clary County, Nevada and Nancy Matthews, Sierra Research regarding air quality cumulative impact analysis.	8/29/2011			
54	62847	Applicants Presentation at the Informational Hearing	11/3/2011			
55	--	Letter to Duane Ono, GBUAPCD, from Nancy Matthews of Sierra Research, dated October 4, 2011, Regarding: Correction to Air Quality Table 5.1-27.	11/5/2011			
56	--	Letter to Jan Sudomier, Great Basin Unified Air Pollution Control District, from Nancy Matthews, Sierra Research, dated October 4, 2011, Regarding: Response to District Requests for Additional Information	11/5/2011			

Docket Number: 11-AFC-02

Project Name: **HIDDEN HILLS SOLAR ELECTRIC GENERATING SYSTEM**

APPLICANT'S EXHIBIT LIST

Exhibit	Docket Transaction	Brief Description	Dated	Offered	Admitted	Refused
57	---	Revised Authority to Construct Forms dated December 19, 2011	1/3/2012			
58	63266	Email correspondence between Nancy L. Matthews of Sierra Research and Jon Becknell of Great Basin Unified Air Pollution Control District regarding Auxiliary Boilers dated December 31, 2011	1/3/2012			
59	65145	Letter dated May 9, 2012, from Great Basin Unified Air Pollution Control District (Duane Ono) to Mike Monasmith (California Energy Commission) providing a Preliminary Determination of Compliance	5/9/2012			
60	65528	Letter dated August 1, 2012, from Great Basin Unified Air Pollution Control District (Theodore D. Schade) to Mike Monasmith (California Energy Commission) providing a Final Determination of Compliance	8/1/2012			
61	66404	C. MacDonald Response Letter - Response to your reuqest for immediate rectification of errors in HHSEGS AFC (11-afc-02)	7/31/2012			
62	66549	Relocation of the Switchyard and Gas Metering Station Letter	8/10/2012			

Docket Number: 11-AFC-02

Project Name: **HIDDEN HILLS SOLAR ELECTRIC GENERATING SYSTEM**

APPLICANT'S EXHIBIT LIST

Exhibit	Docket Transaction	Brief Description	Dated	Offered	Admitted	Refused
63	--	Updated Workforce Analysis	10/1/2012			
64	--	Confidential California Independent System Operator Cluster 4 Phase I Study Results for the Hidden Hills Solar Electric Generating System (Individual Project Report)	1/5/2011			
65	--	Confidential Valley Electric Associate Queue Cluster A Phase II Report for the Hidden Hills Solar Electric Generating System Project, Appendix A-Q13	11/19/2012			
66	68293	Applicant's Supplemental Avian Study Information	11/1/2012			
67	64509	Center for Biological Diversity, Data Response Set 1	3/30/2012			
68	64780	Center for Biological Diversity, Data Response Set 1B	4/16/2012			
69	--	Preliminary Staff Assessment Comments, Set 1	7/13/2012			
70	66319	Preliminary Staff Assessment Comments, Set 2	7/23/2012			

Docket Number: 11-AFC-02

Project Name: **HIDDEN HILLS SOLAR ELECTRIC GENERATING SYSTEM**

APPLICANT'S EXHIBIT LIST

Exhibit	Docket Transaction	Brief Description	Dated	Offered	Admitted	Refused
71		Applicant's Opening Testimony				
72		Applicant's Rebuttal Testimony				
73		Gervais, J. A., D. K. Rosenberg, and L. A. Comrack. Burrowing Owl (Athene cunicularia) in Shuford, W.D. and T. Gardali, editors. 2008. California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California. Studies of Western Birds 1. Western Field Ornithologists, Camarillo, California, and California Department of Fish and Game, Sacramento, California, USA.				
74		The California Burrowing Owl Consortium (CBOC). 1993. Burrowing owl survey protocol and mitigation guidelines. Tech. Rep. Burrowing Owl Consortium, Alviso, California.				
75		Gervais. J.A., D.K. Rosenberg, R.G. Anthony. 2003. Space use and pesticide exposure risk of male burrowing owls in an agricultural landscape. Journal of Wildlife Management 67(1):155-164.				
76		Schlesinger, et al. On carbon sequestration in desert ecosystems. Global Change Biology (2009) 15, 1488-1490.				

Docket Number: 11-AFC-02

Project Name: **HIDDEN HILLS SOLAR ELECTRIC GENERATING SYSTEM**

APPLICANT'S EXHIBIT LIST

Exhibit	Docket Transaction	Brief Description	Dated	Offered	Admitted	Refused
77		Nussear, K. E. 2004. Mechanistic investigation of the distributional limits of the desert tortoise Gopherus agassizii. Dissertation. Univ. of Nevada, Reno. 213 pp.				
78		Field, K. J., C. R. Tracy, P.A. Medica, R.W. Marlow, and P.S. Corn. 2007. Return to the wild: translocation as a tool in conservation of the desert tortoise (Gopherus agassizii). Biol. Conservation 136:232-245				
79		Southern Nevada Regional Planning Coalition. 2011. Regional Plant List. June 28.				
80		Michael A. Dirr, Manual of Woody Landscape Plants – 6th Edition, Stipes Publishing, 2009				

ATTACHMENT 4

Applicant’s Proposed Conditions of Certification

APPLICANT'S PREHEARING CONFERENCE STATEMENT
11-AFC-2
ATTACHMENT 4

CHANGES TO THE CONDITIONS OF CERTIFICATION AS PROPOSED BY APPLICANT

BIOLOGICAL RESOURCES

CONDITION BIO-7: Biological Resources Mitigation Implementation and Monitoring Plan

BIO-7 The project owner shall develop and implement a Biological Resources Mitigation Implementation and Monitoring Plan (BRMIMP) for the project. The BRMIMP shall incorporate avoidance and minimization measures described in final versions of the Desert Tortoise Translocation Plan, the USFWS Biological Opinion for the HHSEGS project, the Raven Management Plan, the American Badger and Kit Fox Management Plan, the Bird and Bat Conservation Strategy, ~~Avian, Bat, and Golden Eagle Protection Plans~~, Burrowing Owl Impact Avoidance and Minimization Measures, and Closure, Revegetation, and Reclamation Plan.

The BRMIMP shall ~~be prepared in consultation with the Designated Biologist where it involve and~~ include the following:

1. All biological resources mitigation, monitoring, and compliance measures proposed by the project owner and approved by the Commission;

2. All biological resources mitigation, monitoring, and compliance measures specified in the conditions of certification;

3. All biological resource mitigation, monitoring and compliance measures required in state and federal agency terms and conditions, including but not limited to: USFWS Biological Opinion, ~~USFWS Golden Eagle Conservation Permit (if issued),~~ U.S. Army Corps of Engineers Section 404 permit ~~Certification~~, 401 Certification from the Lahontan Regional Water Quality Control Board, California Department of Fish and Game Lake and Streambed Alteration Agreement, and a Food and Agricultural Code Section 80001 native plant harvesting permit;

4. ~~All~~ Legally protected sensitive biological resources to be impacted, avoided, or mitigated by project construction, operation, and closure;

5. All required mitigation measures for sensitive biological resource and remedial actions for standing water onsite, including known or suspected disease outbreaks on the project site;

6. All locations on a map, at an approved scale, of legally protected sensitive biological resource areas and two rain collectors subject to disturbance and areas requiring temporary protection and avoidance during construction and operation;

7. Aerial photographs, at an approved scale, of all areas to be disturbed during project construction activities; include one set prior to any site or related facilities mobilization disturbance and one set subsequent to completion of project construction. Provide planned timing of aerial photography and a description of why times were chosen. Provide a final accounting of the before/after acreages and a determination of whether additional habitat compensation is necessary in the Construction Termination Report;

8. Duration for each type of monitoring and a description of monitoring methodologies and frequency;

9. Performance standards to be used to help decide if/when proposed mitigation is or is not successful;

10. All performance standards and remedial measures to be implemented if performance standards are not met;

11. A discussion of biological resources-related facility closure measures; and

12. A process for proposing plan modifications to the CPM.

Verification: The project owner shall submit two copies of the draft BRMIMP to the CPM for review and approval at least ~~6~~30 days prior to start of any project-related site disturbance activities. No less than ~~3~~10 days prior to any project-related ground disturbing activities, the final revised BRMIMP shall be submitted to the CPM. No ground disturbance may occur prior to approval of the final BRMIMP by the CPM.

If there are any permits that have not yet been received when the BRMIMP is first submitted, these permits shall be submitted to the CPM within five days of their receipt, and the BRMIMP shall be revised or supplemented to reflect the permit condition within at least 10 days of their receipt by the project owner.

The project owner shall notify the CPM no less than five working days before implementing any modifications to the approved BRMIMP.

Any changes to the approved BRMIMP must be approved by the CPM and in consultation with appropriate agencies to ensure no conflicts exist.

Implementation of BRMIMP measures (construction activities that were monitored, species observed) will be reported in the Monthly Compliance Reports by the Designated Biologist. Within 30 days after completion of project construction, the project owner shall provide to the CPM, for review and approval, a written construction termination report identifying which items of the BRMIMP have been completed, a summary of all modifications to mitigation measures made during the project's site mobilization, ground disturbance, grading, and construction phases, and which mitigation and monitoring items are still outstanding.

APPLICANT'S PREHEARING CONFERENCE STATEMENT
11-AFC-2
ATTACHMENT 4

CONDITION BIO-12: Desert Tortoise Compensatory Mitigation

BIO-12 To fully mitigate for habitat loss and potential take of desert tortoise, the project owner shall provide compensatory mitigation for impacts to ~~3,258~~ 3274 acres of habitat or whatever acreage is actually impacted by the project footprint. Impacts to areas supporting those areas of Mojave Desert scrub where most tortoise sign is concentrated shall be mitigated at ratio of ~~3:1 ratio (1580.5 acres)~~ 1.5:1 (362 acres). Areas in both creosote bush scrub and saltbush scrub that host scattered tortoise sign will be mitigated at ~~for and areas that support shadscale scrub communities at~~ a ratio of 1:1 (~~1,616.5~~ 1664 acres). All other lands on the project, even if not occupied, will be mitigated at a 0.5:1 ratio (1248 acres). The total compensatory land acquisition required to mitigate impacts to desert tortoise shall be ~~6,358~~ 2,831 acres or the ratio of lands actually impacted by the project footprint.

1. Responsibility for Acquisition of Lands: The responsibility for acquisition of lands may be delegated by written agreement from the CPM to a third party, such as a non-governmental organization supportive of habitat conservation. Such delegation shall be subject to approval by the CPM, in consultation with USFWS and CDFG, prior to land acquisition, enhancement, or management activities. If habitat disturbance exceeds that described in this analysis, the project owner shall be responsible for funding acquisition, habitat improvements, and long-term management of additional compensation lands or additional funds required to compensate for any additional habitat disturbances. Additional funds shall be based on the adjusted market value of compensation lands at the time of construction to acquire and manage habitat. Water and mineral rights shall be included as part of the land acquisition. Agreements to delegate land acquisition to CDFG or an approved third party and to manage compensation lands shall be implemented within 18 months of the Energy Commission's License Decision.

2. Selection Criteria for Compensation Lands. The compensation lands selected for acquisition to meet Energy Commission and CESA requirements shall:

    a. be of equal or better habitat quality for desert tortoise and within the Eastern Mojave Recovery Unit or other location approved by the CPM in consultation with the CDFG and USFWS, with potential to contribute to desert tortoise habitat connectivity and build linkages between desert tortoise designated critical habitat, known populations of desert tortoise, and/or other preserve lands;

    b. provide habitat for desert tortoise with capacity to regenerate naturally when disturbances are removed;

    c. be near larger blocks of lands that are either already protected or planned for protection, or which could feasibly be protected long-term by a public resource agency or a non-governmental organization dedicated to habitat preservation;

d. be connected to lands currently occupied by desert tortoise, ideally with populations that are stable, recovering, or likely to recover;

e. not have a history of intensive recreational use or other disturbance that exceed conditions on the project site that might make habitat recovery and restoration infeasible;

f. Compensation lands may not include existing roads in the calculations of habitat acreages;

g. not be characterized by densities of invasive species that exceed those on the project site, either on or immediately adjacent to the parcels under consideration, that might jeopardize habitat recovery and restoration; and

h. not contain hazardous wastes.

3. Review and Approval of Compensation Lands Prior to Acquisition. A minimum of three months prior to acquisition of the property, the project owner shall submit a formal acquisition proposal to the CPM, CDFG, and USFWS describing the parcel(s) intended for purchase. This acquisition proposal shall discuss the suitability of the proposed parcel(s) as compensation lands for desert tortoise in relation to the criteria listed above. Approval from the CPM, in consultation with CDFG and the USFWS, shall be required for acquisition of all parcels comprising the compensation acres.

4. Commission Mitigation Security: The project owner shall provide written verification to the CPM and CDFG with copies of the document(s) to the USFWS, to guarantee that an adequate level of funding is available to implement the Energy Commission Complementary Mitigation Measures described in this condition. These funds shall be used solely for implementation of the measures associated with the project. Alternatively, financial assurance can be provided to the CPM and CDFG in the form of an irrevocable letter of credit, a pledged savings account or another form of security ("security") prior to initiating ground-disturbing project activities. Prior to submittal to the CPM, the security shall be approved by CDFG and the CPM, in consultation with the USFWS, to ensure funding in the amount of $9,697,591.00 ~~21,779,329.00~~. This security amount was calculated as follows and may be revised upon completion of a Property Analysis Record (PAR) or PAR-like analysis of the proposed compensation lands:

   a. land acquisition costs for compensation lands, calculated at $1,000/acre = $~~6,358,000~~2,831,000;

   b. costs of initial habitat improvements to compensation lands, calculated at $250/acre = $~~1,589,500.00~~707,750.00;

   c. costs of establishing an endowment for long-term management of compensation lands, calculated at $1,450/acre = $~~9,219,100.00~~4,104,950.00;

d. costs associated with conducting required surveys, assessments for hazardous materials, escrow fees, third party administrative costs and agency costs to accept the parcel; calculated at $2,053,891.00 ~~4,612,729.00 (See Biological resource Table 9 for a breakdown of these costs)~~.

5. Compensation Lands Acquisition Conditions: The project owner shall comply with the following conditions relating to acquisition of the compensation lands after the CPM, in consultation with CDFG and the USFWS, has approved the proposed compensation lands and received security as applicable and as described above.

   a. Preliminary Report: The project owner, or approved third party, shall provide a recent preliminary title report, initial hazardous materials survey report, biological analysis, and other necessary documents for the proposed acquisition acres. All documents conveying or conserving compensation lands and all conditions of title/easement are subject to a field review and approval by CDFG and the CPM, in consultation with the USFWS, California Department of General Services and, if applicable, the Fish and Game Commission and/or the Wildlife Conservation Board.

   b. Title/Conveyance: The project owner shall transfer fee title or a conservation easement to the compensation lands to CDFG under terms approved by CDFG. Alternatively, a non-profit organization qualified to manage compensation lands (pursuant to California Government Code section 65965) and approved by CDFG and the CPM may hold fee title or a conservation easement over the habitat mitigation lands. If the approved non-profit organization holds title, a conservation easement shall be recorded in favor of CDFG in a form approved by CDFG. If the approved non-profit holds a conservation easement, CDFG shall be named a third party beneficiary. If a Security is provided, the project owner or an approved third party shall complete the proposed compensation lands acquisition within 18 months of the start of project ground-disturbing activities.

   c. Initial Habitat Improvement Fund. The project owner shall fund the initial protection and habitat improvement of the compensation lands. Alternatively, a non-profit organization may hold the habitat improvement funds if they are qualified to manage the compensation lands (pursuant to California Government Code section 65965) and if they meet the approval of CDFG and the CPM. If CDFG takes fee title to the compensation lands, the habitat improvement fund must go to CDFG.

   d. Long-Term Management Endowment Fund. Prior to ground-disturbing project activities, the project owner shall provide to CDFG a capital endowment in the amount determined through the Property Analysis Record (PAR) or PAR-like analysis that would be conducted for the compensation acres. Alternatively, a non-profit organization may hold the endowment fees if they

are qualified to manage the compensation lands (pursuant to California Government Code section 65965) and if they meet the approval of CDFG and the CPM. If CDFG takes fee title to the compensation lands, the endowment must go to CDFG, where it would be held in the special deposit fund established pursuant to California Government Code section 16370. If the special deposit fund is not used to manage the endowment, the California Wildlife Foundation or similarly approved entity identified by CDFG shall manage the endowment for CDFG and with CDFG supervision.

e. Interest, Principal, and Pooling of Funds. The project owner, CDFG and the CPM shall ensure that an agreement is in place with the endowment holder/manager to ensure the following conditions:

   i. Interest. Interest generated from the initial capital endowment shall be available for reinvestment into the principal and for the long-term operation, management, and protection of the approved compensation lands, including reasonable administrative overhead, biological monitoring, improvements to carrying capacity, law enforcement measures, and any other action approved by CDFG designed to protect or improve the habitat values of the compensation lands.

   ii. Withdrawal of Principal. The endowment principal shall not be drawn upon unless such withdrawal is deemed necessary by the CDFG or the approved third-party endowment manager to ensure the continued viability of the species on the compensation lands. If CDFG takes fee title to the compensation lands, monies received by CDFG pursuant to this provision shall be deposited in a special deposit fund established pursuant to Government Code section 16370. If the special deposit fund is not used to manage the endowment, the California Wildlife Foundation or similarly approved entity identified by CDFG would manage the endowment for CDFG with CDFG supervision.

   iii. Pooling Endowment Funds. CDFG, or a CPM and CDFG approved non-profit organization qualified to hold endowments pursuant to California Government Code section 65965, may pool the endowment with other endowments for the operation, management, and protection of the compensation lands for local populations of desert tortoise. However, for reporting purposes, the endowment fund must be tracked and reported individually to the CDFG and CPM.

   iv. Reimbursement Fund. The project owner shall provide reimbursement to CDFG or an approved third party for reasonable expenses incurred during title, easement, and documentation review; expenses incurred from other State or State-approved federal agency reviews; and overhead related to providing compensation lands.

The project owner is responsible for all compensation lands acquisition/costs, including but not limited to, title and document review costs, as well as expenses incurred from other State agency reviews and overhead related to providing compensation lands to the department or approved third party; escrow fees or costs; environmental contaminants clearance; and other site cleanup measures. The project owner shall receive a credit or refund of commission mitigation securities for all unused project areas.

Verification: No less than 30 days prior to beginning project ground-disturbing activities, the project owner shall provide written verification to the CPM that the security has been established in accordance with this condition of certification. No less than 90 days prior to acquisition of the property, the project owner shall submit a formal acquisition proposal to the CPM, CDFG, and USFWS describing the parcels intended for purchase.

The project owner, or an approved third party, shall complete and provide written verification of the proposed compensation lands acquisition within 18 months of the start of project ground-disturbing activities. Within 180 days of the land or easement purchase, as determined by the date on the title, the project owner, or an approved third party, shall provide the CPM, CDFG, and USFWS with a management plan for the compensation lands and associated funds. The CPM shall review and approve the management plan, in consultation with CDFG and the USFWS.

Within 90 days after completion of project construction, the project owner shall provide to the CPM and CDFG an analysis with the final accounting of the amount of habitat disturbed during project construction.

CONDITION BIO-15: Avian, Bat, and Golden Eagle Protection Plan

BIO-15 The project owner shall implement the following measures to monitor, mitigate and adaptively manage operational impacts to birds and bats.

1. Monitoring Study: The project owner shall prepare and implement a monitoring study to monitor the potential death and injury of birds and bats caused by collisions with project facilities including heliostats, ~~and~~ solar receiver towers ~~injury caused by~~ flying through concentrated solar energy within the solar field, or by other project-related causes ~~of injury or mortality including the gen-tie line and evaporation ponds~~. The study design shall be based on the USFWS's Monitoring Migratory Bird Take at Solar Power Facilities: An Experimental Approach (Nicolai et al 2011) or more current guidelines if available. Visual surveillance of the heliostat field shall be incorporated into study design, with the intent of documenting species and flight behavior of birds entering heliostat field, measuring elevation at which birds are flying, and documenting~~ation of~~ effects of solar flux exposure. ~~Special effort shall be made to collect the c~~The carcass of any bird observed colliding with project features or coming to the ground within the project boundaries will be collected if possible, along with ~~including recording~~ Global Positioning Satellite (GPS) data. The Monitoring Study shall be subject to review and approval by the CPM in consultation with CDFG and USFWS, shall be incorporated into the project's BBCS and BRMIMP, and implemented by the

Designated Biologist, in coordination with the project owner, CPM, CDFG, and USFWS. The study shall be implemented, for a period of up to ~~not less than~~ 5 years (60 months) total, including the entire construction phase and not less than 2 years during the operational phase and shall continue until the CPM concludes, in consultation with the other agencies, that the cumulative monitoring data provide sufficient basis for estimating long-term bird mortality for the project. ~~Compensatory mitigation, if required by the CPM, shall be developed using results of the monitoring study, and in consultation with the USFWS and CDFG.~~

The Monitoring Study shall also detail disposition of avian and bat carcasses~~. All carcasses found on the solar field should be collected, labeled, and stored in a freezer.~~ The Monitoring Study shall provide techniques and protocols to follow in proper techniques for collection, processing, and preservation of carcasses~~; and specifically, shall specify that flight feathers must be plucked and bagged separately from the carcass. Feather samples are not to be frozen or refrigerated~~. Carcass and feather samples shall be provided to the CPM or CPM's designee upon request. The CPM shall receive notification within 24 hours of detection of a threatened, endangered, or special status bird or bat carcass, and procedures to report other mortality or sublethal injury will also be included in the Monitoring Study.

~~2.~~ Bird and Bat Conservation Strategy (BBCS): The project owner shall prepare and implement a Bird and Bat Conservation Strategy adopting **BIO-16**~~, and all applicable guidelines recommended by the USFWS (2010e) or more current guidelines that may be released~~. The BBCS will describe all proposed measures to minimize death and injury of birds or bats from (1) collisions with facility features including the heliostats, power towers, and ~~gen-tie line~~ towers or transmission lines within the project site, and electrocutions potentially associated with these facilities, and (2) concentrated solar energy (flux) present in the airspace over each heliosat field, and require implementation of conservation actions in response to bird, bat, and golden eagle mortality should such impacts be documented. The BBCS shall describe all available baseline data on golden eagle occurrence, seasonality, activity, and behavior throughout the project area and vicinity, and, a study protocol, as may be required or necessary to include additional annual pedestrian and/or helicopter surveys of golden eagle breeding sites within a 10 mile radius of the project site, to be reviewed and approved by the CPM, in consultation with the project owner and the USFWS . If required or necessary based on the results of the monitoring data, an inventory of existing electrical distribution lines within a 20-mile radius of the project site that do not conform to APLIC (2006) design standards will be provided.

3. ~~Eagle Conservation Plan (ECP): The project owner shall prepare and implement an Eagle Protection Plan adopting all applicable guidelines recommended by the USFWS (2011b) or more current guidelines that may be released. The ECP may be prepared as a stand-alone document or it may be included as a chapter within the BBCS. The ECP shall describe all available baseline data on golden eagle occurrence, seasonality, activity, and behavior throughout the project area and vicinity. The ECP shall outline a study protocol to include annual pedestrian~~

~~and/or helicopter surveys of golden eagle breeding sites within a 10 mile radius of the project site, to be reviewed and approved by the CPM, in consultation with the USFWS~~.

~~The ECP shall describe all proposed measures to minimize death and injury of eagles from (1) collisions with facility features including the heliostats, power towers, and gen-tie line towers or transmission lines, electrocutions on transmission lines or other project components, and (3) concentrated solar flux created over the solar field. The ECP shall specify the project owner's anticipated take of golden eagles. The ECP shall provide an inventory of existing electrical distribution lines within a 20-mile radius of the project site that do not conform to APLIC (2006) design standards to prevent golden eagle electrocution. The inventory shall identify the owner or operator and estimate the number of non-conforming poles for each distribution line. The ECP shall specify that for each anticipated project-related take of a bald or golden eagle, 11 utility poles will be retrofitted to APLICstandards within one year of the take.~~
~~The ECP shall also include any feasible modifications to proposed plant operation to avoid or minimize focusing heliostats at standby points and, instead, move heliostats into a stowed position or another alternative configuration when the power plant is in partial standby mode. The ECP also shall identify any additional feasible conservation measures to minimize collisions and exposure to solar flux. The ECP shall provide a reporting schedule for all monitoring or other activities related to bird or bat conservation or protection to be taken during project construction or operation. The ECP shall be subject to review and approval by the CPM in consultation with CDFG and USFWS, and shall be incorporated into the project's BRMIMP and BBCS, and implemented.~~

Verification: The draft Monitoring Study~~,~~ and BBCS ~~and ECP~~ shall be submitted to the CPM for review in consultation with CDFG, and USFWS, and shall be finalized by the project owner and submitted to the CPM and other agencies no less than 30 days prior to construction. ~~At least 30 days prior to the start of any project-related ground disturbance activities, the project owner shall provide the CPM, CDFG, and USFWS with the a final draft of all three documents, as reviewed and approved by the CPM in coordination with the other agencies.~~ The project owner shall obtain the CPM's written approval of the Monitoring Study~~,~~ and BBCS ~~and ECP~~ prior to the start of construction. ~~any project-related ground disturbance activities~~.

The project owner shall provide the CPM with copies of any written or electronic transmittal from the USFWS indicating the status of Monitoring Study~~,~~ and BBCS ~~and ECP~~ review ~~and any permit that may be required,~~ and any follow-up actions required ~~by~~ of the applicant, within 30 days of receiving such transmittal from USFWS. If comments are not received within 30 days after the project owner's submittal of the Monitoring Study and BBCS to USFWS, it will be assumed that the USFWS has no comments for consideration.

Methods and results of the Monitoring Study shall be submitted to the CPM in ~~Monthly~~ seasonal and Annual ~~Compliance~~ Monitoring Reports throughout the course of the study and until the CPM, in consultation with the other agencies, concludes that the cumulative monitoring data provide sufficient basis for estimating long-term bird mortality for the project. The Reports will include all monitoring data required as part of the monitoring program.

Each year throughout the ~~minimum~~ maximum 5 year monitoring period, the Designated Biologist shall submit an Annual Monitoring Report ~~cover~~ to the CPM, CDFG, and USFWS by January 31 of each calendar year, summarizing all available bird and bat mortality data (species, date and location collected, evidence of injury and cause of death) collected over the course of the year through the preceding fall season. The report shall provide any recommendations for future monitoring and adaptive management actions. The report also shall summarize any additional wildlife mortality or injury documented on the project site during the year, regardless of cause. The Annual Monitoring Report shall be subject to review and approval by the CPM in consultation with CDFG and USFWS. The project owner shall submit revisions within 30 days of receiving written comments from the CPM. At the direction of the CPM, in consultation with the other agencies, the study period will be extended or reduced based on data quality and sufficiency for analysis or if needed to document efficacy of any adaptive management measures undertaken by the project owner. If a carcass of a golden eagle or any state or federally listed threatened or endangered species is found at any time on the project site the project owner or Designated Biologist shall notify ~~contact~~ CDFG and USFWS within one working day of ~~receipt of~~ finding the carcass to report the mortality and for guidance on disposition of the carcass.

Condition BIO-26: Facility Closure, Revegetation, and Reclamation Plan

Bio-26 should be deleted in its entirety.

CULTURAL RESOURCES

CONDITION CUL-9

CUL-9 should be deleted in its entirety.

CONDITION CUL-10

CUL-10 The project owner agrees to ~~shall negotiate,~~ design, plan, and cause to be built two interpretive kiosks, ~~staff, and maintain the infrastructure, and architectural and interior improvements necessary to~~ implementing interpretive and preservation objectives, as follows: ~~that will reduce the project's significant and feasibly unmitigable effects to the Pahrump Metapatch Mesquite Woodland-Coppice Dune Archaeological Landscape, the Pahrump Paiute Home Landscape, the Ma-hav Landscape, and the Old Spanish Trail-Mormon Road Northern Corridor in Pahrump Valley. The interpretive and preservation objectives that the project owner shall implement include, at a minimum:~~

- Kiosk 1: The construction ~~and maintenance~~ of an interpretive kiosk ~~within one hundred yards of the facility site~~ that presents broad overviews of the ~~Pahrump Metapatch Mesquite Woodland-Coppice Dune Archaeological Landscape, the Pahrump Paiute Home Landscape, the Ma-hav Landscape, and the~~ Old Spanish Trail/Mormon Road Historic District. ~~Northern Corridor along with information on the nearby interpretive facilities where the public shall be able to access more in-depth interpretive programs for each resource.~~ The presentation of the overviews and the delivery of information ~~on nearby interpretive facilities~~ could occur in conjunction with the implementation of **VIS-6.**~~, as long as the~~

~~implementation of that condition occurred within the specified distance from the facility site.~~

- Kiosk 2: The construction of an interpretive kiosk that facilitates interpretation of the Native American use of the local landscape in the prehistoric and ethnographic periods, including the Salt Song trail practices.

  ~~The delivery of passive museum displays and multi-media presentations, *and* hands-on, interactive exhibits, at extant interpretive facilities in Pahrump or adjacent valleys, the primary purposes of which shall be to facilitate the interpretation of the cultural landscapes and corridor, and visual resources. The specific interpretive modes shall include, at a minimum, the development and delivery of accessible[1], separate displays, presentations, *and* exhibits, of museum quality[2], for the following topics:~~

  - ~~the genesis, paleoecology, and archaeology of the Pahrump Metapatch Mesquite Woodland-Coppice Dune Archaeological Landscape,~~
  - ~~the seasonal subsistence cycle of the Pahrump Paiute Tribe, and~~
  - ~~the Old Spanish Trail-Mormon Road Northern Corridor.~~

  ~~The interpretation of each of the above topic and subtopic areas shall facilitate separate consideration of the chronologic phases and sociocultural themes relevant to each such area. The planning, development, maintenance, and periodic renewal of these modes shall be done in consultation with stakeholders that actively participated in the consultation process conducted in conjunction with the review of the project owner's application for certification for this project.~~

- ~~The delivery of ethnographic reconstructions,[3] at an extant interpretive facility in Pahrump or adjacent valleys, the purpose of which shall be to facilitate the interpretation of the Native American use of the local landscape in the prehistoric and ethnographic periods. The specific interpretive modes shall include, at a minimum:~~

  - ~~Native American installation and maintenance of an aboriginal horticultural garden reliant on natural spring water to the extent feasible, for public interpretation, and~~
  - ~~the conjunctive Native American installation and maintenance, of an exploratory reconstructed village consisting of a few replica dwellings that~~

~~[1] "accessible" shall be herein defined as comporting with the *Smithsonian Guidelines for Accessible Exhibition Design* (http://accessible.si.edu/pdf/Smithsonian%20Guidelines%20for%20accessible%20design.pdf)~~

~~[2] "museum quality" shall be herein defined as comporting with the *Standards for Museum Exhibitions and Indicators of Excellence* as developed by the Standing Professional Committees Council of the American Association of Museums (http://name-aam.org/about/past-winners/standards-for-museum-exhibitions)~~

~~[3] "museum quality" shall be herein defined as comporting with the *Standards for Museum Exhibitions and Indicators of Excellence* as developed by the Standing Professional Committees Council of the American Association of Museums (http://name-aam.org/about/past-winners/standards-for-museum-exhibitions)~~

~~allow public access to walk in, about, and through the village and garden area. Providing direct visitor access to a real garden, featuring native garden varietals, such as pumpkins, beans, and corn, set near the interpretive materials provided per item 2, above, will greatly enhance the visitor education experience beyond what passive interpretive materials would solely provide.~~

~~The planning, development, maintenance, and periodic renewal of these modes shall be done in consultation with representatives of the Native American communities that actively participated in the consultation process conducted in conjunction with the review of the project owner's application for certification for this project.~~

~~The project owner shall conduct each phase of the implementation of this condition in consultation with stakeholders who formally respond to the project owner's formal invitation to participate in such consultation, and shall also be able to provide evidence, to the satisfaction of the CPM, of all resultant consultation. At a minimum, the stakeholders should include, in addition to representatives of the hosting interpretive facilities, the Pahrump Paiute Tribe, the Old Spanish Trail Association, the Armagosa Conservancy, a representative of each municipality or county government in whose jurisdiction a hosting interpretive facility falls.~~

~~The CPM, in consultation with the California and Nevada Bureau of Land Management, will provide active and discretionary oversight to ensure that the negotiated venues for the delivery of the mitigation objectives, the design of the delivery modes, the environmental planning for those modes, and actual mode delivery, maintenance, and efforts of periodic renewal are consistent with the intent of this condition.~~

Verification: At least 120 days prior to the start of commercial operations, the project owner will provide a draft conceptual plan for the interpretive kiosk to the Old Spanish Trail Association with respect to Kiosk 1, and to the Pahrump Paiute with respect to Kiosk 2, for review and comment, and to the CPM for review and approval. Following CPM approval of the conceptual plan, detailed plans for the interpretive kiosk shall be submitted to the CPM for review and approval. The interpretative kiosks will be installed within 90 days after commercial operation of the HHSEGS or in conjunction with VIS-6 if located on the project site. The project owner shall notify the CPM within seven days after completing installation of the interpretive kiosks that the site is ready for inspection. ~~No later than 12 months after the CPM's issuance of the notice to proceed for the project, the project owner shall conclude negotiations with the facilities that will host the delivery of the mitigation objectives for **CUL-10**. The project owner shall submit, for CPM for review and approval, a report of these negotiations and their respective outcomes, and shall further include, as appendices, formal correspondence from each host facility that specifies precisely what mitigation objectives that the facility has agreed to host, the period of time for which the facility has agreed to host them, and any conditions that the host facility has placed on their agreement with the project owner.~~

~~No later than 6 months after the CPM's issuance of the notice to proceed for the project, the project owner shall submit, for CPM for review and approval, a draft consultation protocol that sets out the precise manner in which the project owner intends to interact with the stakeholders~~

~~whose input the project owner shall seek as the project owner negotiates, designs, plans, constructs, and maintains the delivery modes for the mitigation objectives of this condition. The minimum stakeholder group shall include, to the extent feasible, representatives of the hosting interpretive facilities, the Pahrump Paiute Tribe, the Old Spanish Trail Association, the Armagosa Conservancy, a representative of each municipality or county government in whose jurisdiction a hosting interpretive facility falls. The draft protocol shall include, as appendices, proofs of contact for each of the above members of the minimum stakeholders group and any additional potential stakeholders with whom the project owner has made contact, and an initial stakeholder list.~~

~~No later than 18 months after the CPM's issuance of the notice to proceed for the project, the project owner shall submit, for CPM for review and approval, a draft, host facility-approved, initial design proposal for each delivery venue for each mitigation objective in this condition.~~

~~No later than 24 months after the CPM's issuance of the notice to proceed for the project, the project owner shall submit, for CPM for review and approval, the host facility-approved, final design for each delivery venue for each mitigation objective in this condition.~~

~~No later than 30 months after the CPM's issuance of the notice to proceed for the project, the project owner shall initiate construction or installation of each delivery venue for each mitigation objective in the approved final designs.~~

~~No later than 36 months after the CPM's issuance of the notice to proceed for the project, the project owner shall ensure, and provide the CPM evidence, that each delivery venue for each mitigation objective in the approved final designs is in full operation.~~

~~For the operational life of the project, through project decommissioning, the project owner shall provide evidence in the annual compliance report for the project that each delivery venue for each mitigation objective in the approved final designs continues to be maintained.~~

CONDITION CUL-11

CUL-11 should be deleted in its entirety.

GENERAL CONDITIONS

CONDITION COM-15, FINANCIAL ASSURANCE FOR CLOSURE

COM-15 should be deleted in its entirety.

LAND USE

CONDITION LAND-1

LAND-1 should be deleted in its entirety.

CONDITION LAND-2

LAND-2 should be deleted in its entirety.

CONDITION LAND-3

LAND-3 should be deleted in its entirety.

SOCIOECONOMICS

CONDITION SOCIO-3

SOCIO-3 should be deleted in its entirety.

VISUAL RESOURCES

CONDITION VIS-3: Permanent Exterior Lighting

VIS-3 To the extent feasible, consistent with safety and security considerations, the project owner shall design and install all permanent exterior lighting such that:

a.) lamps and reflectors are not visible from beyond the project site, including any off-site security buffer areas;

b.) lighting does not cause excessive reflected glare;

c.) direct lighting does not illuminate the nighttime sky; except as required for FAA aircraft safety lighting;

d.) illumination of the project and its immediate vicinity is minimized, and

e.) the plan complies with local policies and ordinances.

Verification: At least 90 days prior to ordering any permanent exterior lighting, the project owner shall submit to the ~~contact~~ CPM the construction and operations project lighting plans. ~~to discuss the documentation required in the lighting mitigation plan~~. At least 60 days prior to ordering any permanent exterior lighting, the project owner shall submit to the CPM for review and approval and simultaneously to Inyo County for review and comment a lighting ~~mitigation~~ plan. Review comments on the plan are to be provided to the Applicant within 10 days of submission. If the CPM determines that the plan requires revision, the project owner shall provide to the CPM a revised plan for review and approval by the CPM. The submittal shall include three printed sets of full-size plans (not to exceed 24 x 36 inches), three sets of 11- x 17-inch reductions and a digital copy in PDF format. The project owner shall not order any exterior lighting until receiving CPM approval of the lighting ~~mitigation~~ plan.

The project owner shall submit to the CPM for review and approval and simultaneously to Inyo County for review and comment a lighting ~~mitigation~~ plan that includes the following:

a.) Location and direction of light fixtures shall take the lighting ~~mitigation~~ requirements into account;

b.) Lighting design shall consider setbacks of project features from the site boundary to aid in satisfying the lighting mitigation requirements;

c.) Lighting shall incorporate fixture hoods/shielding, with light directed downward or toward the area to be illuminated;

d.) Light fixtures that are visible from beyond the project boundary shall have cutoff angles that are sufficient to prevent lamps and reflectors from being visible beyond the project boundary, except where necessary for security;

e.) All lighting shall be of minimum necessary brightness consistent with operational safety and security;

f.) Lights in high illumination areas not occupied on a continuous basis (such as maintenance platforms) shall have (in addition to hoods) switches, timer switches, or motion detectors so that the lights operate only when the area is occupied and

g.) Statement of conformance with all federal, state and local statutes and regulations related to dark skies or glare, including, but not limited to, ~~the Inyo County General Plan~~.

Verification: ~~At least 90 days prior to ordering any permanent exterior lighting, the project owner shall contact the CPM to discuss the documentation required in the lighting mitigation plan. At least 60 days prior to ordering any permanent exterior lighting, the project owner shall submit to the CPM for review and approval and simultaneously to Inyo County for review and comment a lighting mitigation plan. If the CPM determines that the plan requires revision, the project owner shall provide to the CPM a revised plan for review and approval by the CPM. The submittal shall include 3 printed sets of full-size plans (not to exceed 24" x 36"), 3 sets of 11" x 17" reductions and a digital copy in PDF format. The project owner shall not order any exterior lighting until receiving CPM approval of the lighting mitigation plan.~~

Prior to commercial operation, the project owner shall notify the CPM that the lighting has been completed and is ready for inspection. If after inspection the CPM notifies the project owner that modifications to the lighting are needed, within 30 days of receiving that notification the project owner shall implement the modifications and notify the CPM that the modifications have been completed and are ready for inspection.

Within 48 hours of receiving a <u>legitimate</u> lighting complaint, the project owner shall provide the CPM with a complaint resolution form report as specified in the Compliance General Conditions including a proposal to resolve the complaint, and a schedule for ~~implementation~~ <u>resolution</u>. The project owner shall notify the CPM within 48 hours after ~~completing implementation of the proposal~~resolution. A copy of the complaint resolution form report shall be submitted to the CPM within 30 days.

CONDITION VIS-5: Construction Lighting

VIS-5 The project owner shall ensure that lighting for construction of the power plant is deployed in a manner that minimizes potential night lighting impacts, as follows:

a.) all lighting shall be of minimum necessary brightness consistent with worker safety and security;

b.) all fixed position lighting shall be shielded or hooded, to the extent feasible given safety and security concerns, and directed downward toward the area to be illuminated to ~~prevent~~ minimize direct illumination of the night sky and direct light trespass (direct light extending outside the boundaries of the power plant site or the site of construction of ancillary facilities, including any security related boundaries);

c.) ~~screening shall be provided to effectively prevent nighttime construction lighting from shining toward Charleston View;~~ and

d.) wherever feasible~~, safe~~ and not needed for security or safety, lighting shall be kept off when not in use.

e.) FAA and required security lighting shall be included on all construction structures per regulations.

Verification: Within seven days after the first use of construction lighting, the project owner shall notify ~~and~~ the CPM that the lighting is ready for inspection. If the CPM requires modifications to the lighting, within 15 days of receiving that notification, the project owner shall implement the necessary modifications and notify the CPM that the modifications have been completed.

Within 48 hours of receiving a legitimate lighting complaint, the project owner shall provide the CPM with a complaint resolution form report as specified in the General Conditions section including a proposal to resolve the complaint, and a schedule for ~~implementation~~ resolution. The project owner shall notify the CPM within 48 hours after completing ~~implementation~~ resolution of the proposal. A copy of the complaint resolution form report shall be included in the subsequent Monthly Compliance Report following complaint resolution.

CONDITION VIS-6: Scenic Resources Interpretative Area

~~**VIS-6** The project owner shall provide an Interpretive Area with parking and interpretive panels highlighting the views of wilderness areas and landforms in the project vicinity. A detailed plan shall be developed and shall include visitor interpretation of visual resource highlights which have been adversely impacted by the introduction of the project.~~

~~**Verification:** A conceptual plan for the Scenic Resources Interpretative Area located within the project vicinity in Inyo County shall be submitted to the CPM for review and approval within 180 days of receipt of a license to construct and operate HHSEGS. Following CPM approval of the conceptual plan, detailed plans for the interpretive area shall be submitted to the CPM for review and approval, and to Inyo County for review and comment 90 days prior to completion of the HHSEGS project. Plan details shall include:~~

~~a.) Site plan clearly indicating primary project components and location;~~

~~b.) Landscape plan, including visitor area surface treatments~~

~~c.) Irrigation plan;~~

~~d.) Parking area plan indicating lighting (if any), parking striping, ingress and egress;~~

~~e.) Material finishes and details for all components;~~

~~f.) Design plans for interpretive panels and displays, which take into consideration the following visual resource aspects:~~

- ~~Identification of the wilderness and national recreation areas and the major landscape features in the vicinity of the project site (i.e. wilderness areas, mountain ranges, named peaks and other landforms, including, at a minimum, Mount Charleston and the Spring Mountains, Nopah Peak and the Nopah Wilderness Area, Emigrant Pass, the South Nopah Wilderness Area and Pahrump Dry Lake). In addition to a description of the formation of these landforms and their geologic history, information shall include a discussion of the significance of these features from a Native American perspective and as landmarks and waypoints relative to the Old Spanish Trail - Mormon Ro~~
- ~~Introduction to the solar electric technology in use at HHSEGS site.~~
- ~~Pointers to the interpretive resources provided for in CUL-10.~~

~~g.) The plan shall include a maintenance plan and schedule for the duration of the project.~~

~~If the Scenic Resources Interpretive Area is located within the project boundaries, a-b-c-d-e-f above may be incorporated into the landscape plans required in **VIS-2** and lighting plans required in **VIS-3**.~~

~~The Scenic Resources Interpretive Area shall be installed within 90 days of completion of the HHSEGS or in conjunction with landscape and lighting as required by **VIS-2** and **VIS-3** if located on the project site. The project owner shall simultaneously notify the CPM and Inyo County within seven days after completing installation of the interpretive area plan that the site is ready for inspection. A report to the CPM describing how the completed interpretative area meets the conditions of **VIS-6** shall be submitted in conjunction with the inspection.~~

~~The project owner shall report maintenance activities for the previous year of operation in each Annual Compliance Report.~~

VIS-6 The project owner shall provide an Interpretive Area in the project vicinity.

Verification: A conceptual plan for the Scenic Resources Interpretative Area located within the project vicinity in Inyo County shall be submitted to the CPM for review and approval at least 120 days prior to the start of commercial operation of the first solar plant. Following CPM approval of the conceptual plan, detailed plans for the interpretive area shall be submitted to the CPM for review and approval, and to Inyo County for review and comment. Plan details shall include:

a.) Site plan clearly indicating primary project components and location;

b.) Landscape plan, including visitor area surface treatments

c.) Irrigation plan, if applicable;

d.) Parking area plan, if applicable, indicating lighting (if any), parking striping, ingress and egress;

e.) Material finishes and details for all components;

f.) Design plans for interpretive panels and displays,

g.) The plan shall include a maintenance plan and schedule for the duration of the project.

If the ~~Scenic Resources~~ Interpretive Area is located within the project boundaries, a-b-c-d-e-f above may be incorporated into the landscape plans required in **VIS-2** and lighting plans required in **VIS-3**.

The ~~Scenic Resources~~ Interpretive Area shall be installed within 90 days of completion of the HHSEGS or in conjunction with landscape and lighting as required by **VIS-2** and **VIS-3** if located on the project site. The project owner shall simultaneously notify the CPM and Inyo County within seven days after completing installation of the interpretive area plan that the site is ready for inspection. A report to the CPM describing how the completed interpretative area meets the conditions of **VIS-6** shall be submitted in conjunction with the inspection.

The project owner shall report maintenance activities for the previous year of operation in each Annual Compliance Report.

CONDITION VIS-7: Charleston View Tree Plantings

VIS-7 The project owner shall make provisions to plant trees on the properties of any property owner in Charleston View residing in an approved existing residence that indicates an interest in having them. The intent is to plant the trees in locations that will screen views looking toward the solar power towers from the existing approved residences on the property and from the property's primary outdoor living areas. This shall be available to the residents and property owners (so long as the property is used as a residence) for the ~~life of the project~~ first 2 years of project operation. The project owner shall meet the following requirements:

a.) The project owner shall employ a professional arborist to identify a list of species that are well adapted to the local conditions and which have characteristics that provide effective screening of views. Selected plants shall avoid invasive exotic species as indentified by the USDA and Invasive Species Council of California (ISCC). (See **VIS-2**)

b.) ~~The arborist shall work with residents to select up to eight trees from this list of species and will assist the residents in indentifying appropriate locations for their installation. The project owner will take responsibility for purchasing and installing the trees, which shall be the equivalent of a 15-gallon standard nursery size.~~ The project owner shall provide any property owner of Charleston View residing in an existing approved residence who is interested in participating in this program with a credit to a local landscape contractor contracted to implement this program. The contractor shall work with residents to select up to eight trees from this list of species provided by the arborist and will assist the residents in indentifying appropriate locations for their installation. The contractor will provide the trees and will plant them for the property owner. The trees planted shall be the equivalent of a 15-gallon standard nursery size. The property owner will be responsible for making the provisions for tree irrigation. Tree planting is a one-time opportunity for eligible property owners in Charleston View. Once

installed, irrigation and maintenance of the trees will be the responsibility of the property owner and the project owner shall have no further responsibility.

Verification: Within 120 days ~~of beginning construction~~ after project operations begin~~,~~ the project owner shall contact eligible property owners in Charleston View and the CPM by registered mail to notify them of the tree planting program. The project owner shall provide in the Monthly Compliance Report a summary of the program, including the following:

a.) parcel numbers of property owners contacted;
b.) actions taken to ensure property owners fully understand the program;
c.) list of installations by parcel number;
d.) quantity and species installed on each parcel;
e.) documentation of any property owner who declined to participate by parcel number.

WATER SUPPLY

CONDITION WATER SUPPLY-1: WATER SUPPLY OFFSET PLAN

WATER SUPPLY-1 The Project owner shall submit a Water Supply Plan that will identify how the project would mitigate project overdraft impacts to Pahrump Valley Groundwater Basin (PVGB). These activities shall result in replacement of ~~288 acre feet per year for construction and~~ 140 acre-feet per year for groundwater pumped from the PVGB during project operation. ~~Replacement shall occur or be in implementation; by the time the project begins to pump groundwater for construction.~~ The activities proposed for mitigation may include, but are not limited to, retirement of active and senior water rights, forbearance of water use, and water conservation. The proposed method would be outlined in the Water Supply Plan to be submitted to the CPM for review and approval.

Verification

The Water Supply Plan shall include the following at a minimum:

1. Identification of the activity and water source that would replace ~~288 acre feet per year for construction and~~ 140 acre-feet per year for groundwater pumped from the PVGB during project operation;
2. Demonstration of the project owner's legal entitlement to the water or ability to conduct the activity;
3. Assessment of whether any artificial recharge of groundwater can be achieved while using storm water controls in accordance with **SOILS-5** and **SOILS-6** or other methods. If recharge can be achieved then the volume recharged can be used to offset project water use in accordance with this condition.
4. Include a discussion of any needed governmental approval of the identified activities, including a discussion of the discussion of the conditions of approval;
5. Discuss whether any governmental approval of the identified activities would be needed, and, if so, whether that approval would require compliance with CEQA or NEPA;

6. Demonstration of how water pumped from the PVGB would be replaced for each of the activities;
7. An estimated schedule for completion of the activities;
8. Performance measures that would be used to evaluate the amount of water replaced by the activities;
9. Monitoring and Reporting Plan outlining the steps necessary and proposed frequency of reporting to show the activities are achieving the intended benefits and replacing PVGB extractions.

The project owner shall implement the activities reviewed and approved in the Water Supply Plan in accordance with the agreed upon schedule in the Water Supply Plan. ~~If agreement on identification or implementation of mitigation activities cannot be achieved the project owner shall not begin construction or operation until assurance that the agreed upon activities can be identified and implemented.~~

~~Verification:~~ ~~–~~The project owner shall submit a Water Supply Plan to the CPM for review 120 days prior to start of construction. ~~Construction or o~~Operation pumping will not begin until the Water Supply Plan has been approved by the CPM and implemented by the project owner.

CONDITION WATER SUPPLY–4: ~~GROUNDWATER MONITORING AND REPORTING FOR IMPACTS AND MITIGATION FOR GROUNDWATER-DEPENDENT VEGETATION, NEIGHBORING WELLS, AND WATER QUALITY~~

WATER LEVEL MONITORING FOR NEIGHBORING WELLS, MITIGATION AND REPORTING

WATER SUPPLY–4: The project owner shall submit a Groundwater Monitoring, Mitigation, and Reporting Plan (GMMRP) to the CPM for review and approval in advance of construction activities and prior to the operation of onsite groundwater supply wells. The GMMRP shall provide detailed methodology for monitoring background, on site, and off-site groundwater levels and water quality. The monitoring period shall include pre-construction, construction, and Project operation periods. The plan shall establish pre-construction and Project related groundwater level trends and water quality that can be quantitatively compared against predicted trends near the Project pumping wells and near potentially impacted resources. The GMMRP shall include all of the following:

Monitoring Well Locations

The project owner will install up to eleven (11) wells, subject to the ability to gain access and the right to use certain off-site well locations:

- Three wells directly up-gradient (gradient hereafter refers to inferred groundwater potentiometric surface included as part of staff analysis) from the Power Block 1 production well, in a linear array, within the property boundary. Two wells shall be installed within one –half mile of the Power Block 1 production well. The third well site shall be as close to the property lines as possible. (the "Power Block 1 Monitoring Well Array").

- One well directly up-gradient from the Power Block 1 production well (well site not yet identified), between 1.0 and 1.5 miles from the project property boundary at the western edge of the mesquite Thicket on BLM land (BLM Mesquite Thicket Monitoring Well 1").
- Three wells directly up-gradient from Power Block 2, in a linear array, within the property boundary. Two wells shall be installed within one-half mile of the Power Block 2 production well (well site not yet identified) with the third well being as close to the property lines as possible (the "Power Block 2 Monitoring Well Array").
- One well directly up-gradient from Power Block 2, between 1.0 and 1.5 miles from the project property boundary (the "BLM Mesquite Thicket Monitoring Well 2").
- One well at the southern end of the site within the project boundaries (the "Southern Monitoring Well").
- One well at the northern end of the site within the project boundaries (the "Northern Monitoring Well").
- One well offsite in California between 2.0 and 3.0 miles from the southwest corner of the site, located between a bearing of southwest (225°) and west (270°) (the "Offsite California Monitoring Well").

On-Site and Off-Site Monitoring Well Locations

The eight monitoring wells located within the project Site shall be known as the "On-Site Monitoring Wells." The three monitoring wells located outside the project site (BLM Mesquite Thicket Monitoring Well 1, the BLM Mesquite Thicket Monitoring Well 2 and the Offsite California Monitoring Well) shall be known as the "Off-Site Monitoring Wells."

The On-Site Monitoring Wells shall be installed and operational before the project begins commercial operations. Commercial operations shall be defined as when the project first synchronizes to the transmission grid for purposes other than testing of the facility.

The ability to gain access to and the right to use the Off-Site Monitoring Wells is subject to the Project Owner's ability to obtain the right to use these sites for groundwater monitoring purposes. If the right to use one or more of the Off-Site Monitoring Wells is denied or delayed, the Project Owner shall continue to use commercially reasonable efforts to obtain the right to use these sites. If the right to use one or more of the sites cannot be obtained despite commercially reasonable efforts, the Project Owner shall propose for CPM review and approval alternative location(s) for Off-Site Monitoring Wells. During the time when the Project Owner is pursuing the right to use sites for the Off-Site Monitoring Wells, the Project Owner shall nevertheless be allowed to proceed with the GMMRP and construction and operation of the Project.

Background wells shall be the existing wells beyond the extent of project pumping either on-site or off-site that the Project Owner is able to access and monitor before commencement of project construction and during subsequent project construction and operation.

As authorized access allows, measure groundwater levels from the Off-Site Monitoring and On-Site Monitoring Wells within the network and Background Wells to provide initial

groundwater levels for pre-project trend analysis. Assess the apparent trend and delineate project induced drawdown using the Drawdown Distance Method described below.

Distance Drawdown Methodology

Drawdown will be evaluated using the "Distance-Drawdown Plot Method." The test is based on the simple assumption that any drawdown in the aquifer created by the project wells would follow the established hydraulic laws that govern the shape of a cone of depression in an aquifer. For either the Power Block 1 Monitoring Well Array or the Power Block 2 Monitoring Well Array, if the apparent water level declines after Filtering (see Filtering Methodology description below), fall along a linear trend on a 'distance-drawdown' plot from the project pumping wells, and if the slope of that line defines an aquifer transmissivity value that is consistent with the aquifer properties defined by initial pumping tests, then the water level declines can be reasonably assumed to be from project pumping. If the magnitude of the drawdown projected at the northeastern property line exceeds the 'Tier 1 Trigger Level', as defined below, for a duration of two years (based upon the preceding 2 years of Filtered water level data), then the applicant will initiate the approved mitigation measures.

If the drawdowns measured in either the Power Block 1 Monitoring Well Array or the Power Block 2 Monitoring Well Array in the aquifer cannot be attributed to project related drawdown by use of the Distance Drawdown Plot Method, they must be associated with other causes and the applicant will not be required to institute the mitigation measures.

The water level data for the monitoring well network will be filtered using the Filtering Methodology as described in USGS report 'SIR2006-5024'. This USGS method removes water level variations from many sources, such as barometric responses, seasonal and annual variation in recharge, and pumping from other wells. The effectiveness of the filtering method depends on having reliable water level data from background wells and knowing the pumping rate, location and aquifer properties from other pumping sources. While the Filtering Methodology is expected to remove many sources of water level variation in the aquifer, it will not account for extraneous factors for which we do not have reliable data. Therefore, the drawdown that remains after the filtering process cannot be definitively assigned to project related pumping unless it can be shown to fit a Distance-Drawdown pattern consistent with pumping from the project wells.

A. Prior to Project Construction

The project owner shall:

1. Conduct a well reconnaissance review to investigate and document the condition of existing water supply wells located within 3 miles of the project site, provided that access is granted by the well owners.
2. Monitor to establish preconstruction conditions. The monitoring plan and network of monitoring wells shall make use of new monitoring wells installed after commencement of construction by the Project Owner. Monitoring wells shall be installed to a depth that matches the depth of the project pumping wells or to a maximum depth of 600 feet (the locations and depth of each well shall be decided based on the acceptance of the GMMRP). A plan for design and construction of the monitoring wells and an evaluation of how they will be effective in evaluating project pumping impacts on domestic well owners shall be submitted to the CPM for review and approval prior to installation and monitoring.

Construction activities unrelated to the monitoring wells shall be allowed to proceed while the plan is under CPM review.

3. As access allows, measure groundwater levels from the off-site and on-site wells within the network and background wells to provide initial groundwater levels for pre project trend analysis.

4. Construct updated water level maps within the Pahrump Valley basin, within 5 miles of the site from the groundwater data collected prior to construction. Update trend plots and statistical analyses, as data are available.

5. Commence water quality monitoring to establish pre-construction groundwater quality conditions in the monitored wells. All monitoring wells shall be sampled at least quarterly for the following constituents: TDS, chloride, nitrates, major cations and anions, oxygen-18 and deuterium isotopes. The monitoring wells along the site property boundary, the production wells, and the monitoring wells closest to each production well shall be monitored on a monthly basis for a maximum of one year and then on a quarterly basis until the start of construction pumping for the same parameters.

B. Groundwater Monitoring and Protection of Groundwater Dependent Vegetation During Construction and Operation

The project owner shall:

1. Collect water levels from wells within the monitoring network on an hourly basis (based on site and well access) throughout the construction period and at the end of the construction period. Perform statistical trend analysis for water levels. Assess apparent trend and delineate project induced drawdown using the Drawdown Distance Method.

2. If water levels in either of the Power Block 1 or Power Block 2 Onsite Monitoring Wells identify a projected two (2) feet or greater project related drawdown, at the northeastern property boundary due to project pumping as measured using the Distance Drawdown Methodology during construction or operation for a continuous period of at least two years, the 'Tier 1 Trigger Level', the project owner shall **1)** comply with BIO-23 and initiate groundwater dependent vegetation monitoring, and **2)** initiate groundwater mitigation to reduce project related drawdown to less than 2 feet at the northeastern property line and maintain it below that level for the life of the project. Mitigation measures may include, but are not limited to:

   - relocating the pumping wells to the western portion of the site to increase the separation of the wells from the site's northeastern boundary and allow water levels to recover in areas northeast of the site;

   - groundwater recharge to replace all or a portion of the project pumping and restore groundwater levels along the northeastern site boundary;

   - conducting vegetation monitoring described in BIO-23 to demonstrate that a greater groundwater drawdown will not result in significant adverse impacts to the groundwater dependent vegetation.

3. If water levels in either of the Power Block 1 or Power Block 2 Onsite Monitoring Wells identify a projected five (5) feet or greater project-related drawdown at the northeastern property boundary due to project pumping as measured using the Distance Drawdown Methodology during construction or operation, the 'Tier 2 Trigger Level', the project owner shall implement additional mitigation measures, including, but not limited to (i) purchase and retire additional senior water rights, (ii) seek water from other sources that may then be available, and/or (iii) conduct a feasibility study to determine whether an aquifer recharge program along the northeastern property line would reduce project related drawdown.

4. Prior to use of any groundwater for construction, all baseline groundwater quality monitoring data shall be reported to the CPM. The report shall include the following:

    a. An assessment of pre-project groundwater quality with groundwater samples analyzed for TDS, chloride, nitrates, major cations and anions, oxygen-18 and deuterium isotopes. The report to the CPM shall assess the utility of these constituents for future monitoring. Any recommendations to add or remove constituents shall be supported with the data and other relevant factual evidence. The CPM shall finalize the required list of constituents to be analyzed based on these recommendations and review of two years of monitoring results. The CPM may also modify the frequency of sampling required depending on the trends demonstrated by the monitoring results.

    b. The data shall be tabulated, summarized, and submitted to the CPM. The data summary shall include the range (minimum and maximum values), average, and median for each constituent analyzed.

5. During project construction, the project owner shall ~~monthly~~ monitor the quality of groundwater and changes in groundwater quality in the monitoring network and submit data semi-annually to the CPM. Sampling will be on a quarterly basis for all wells determined to have no statistically significant trends in water quality during preconstruction monitoring. Sampling shall be on a monthly basis for wells that were determined to have a valid trend in pre-construction monitoring to determine if any changes in the trend line have occurred. The summary report shall document water quality monitoring methods, the water quality data, water quality plots, and a comparison between pre- and post-construction water quality trends as itemized below. The report shall also include a summary of actual water use conditions. The report shall be provided to CPM 60 days following completion of each semi-annual monitoring period.

    a. Groundwater samples from all wells in the monitoring well network shall be analyzed and reported semiannually for the following constituent list: TDS, chloride, nitrates, major cations and anions, oxygen-18 and deuterium isotopes.

    b. The compliance data shall be analyzed for both trends and for contrast with the pre-project data. For analysis purposes, pre-project water quality shall be defined by samples collected prior to project construction as specified above, and compliance data shall be defined by samples collected after the construction start date.

6. During the first year of project operation, the project owner shall monitor the quality of groundwater and changes in groundwater quality in the monitoring network and submit data semiannually to the CPM. Sampling will be on a quarterly basis for all wells determined to

have no statistically significant trends in water quality during preconstruction or construction monitoring. Sampling shall be on a monthly basis for wells that were determined to have a valid trend in pre-construction or construction monitoring to determine if any changes in the trend line have occurred.

7. After the first year of project operation, the project owner shall quarterly monitor the quality of groundwater and changes in groundwater quality in the monitoring network and submit data semiannually to the CPM. The summary report shall document water quality monitoring methods, the water quality data, water quality plots, and a comparison between pre- and post-construction water quality trends as itemized below. The report shall also include a summary of actual water use conditions.

    a) Groundwater samples from all wells in the monitoring well network shall be analyzed and reported semiannually for the constituent list approved by the CPM.

    b) The compliance data shall be analyzed for both trends and for contrast with the pre-project data. For analysis purposes, pre-project water quality shall be defined by samples collected prior to project construction as specified above, and compliance data shall be defined by samples collected after the construction start date.

8. Groundwater quality data shall be used to ensure the project owner complies with the requirements of WATER SUPPLY-7. If the water quality data show that project pumping is causing a decline in water quality that could lead to exceedance of the allowable Water Quality Objectives for beneficial uses of the PVGB the project owner shall prepare an engineering report consistent with the RWQCB requirements for protection of beneficial uses (See also SOILS-9, Septic System).

C. Protection for Neighboring Wells

If the monitoring well system put in place pursuant to this Condition demonstrates that water levels in neighboring wells have been lowered as a result of project-related drawdown 10 feet or more (under static-non-pumping conditions), the project owner shall provide CPM with evidence that the project owner has offered to compensate private well owners for the increased energy cost associated with pumping groundwater as a direct result of a drop in water levels associated with the project groundwater use.

If Project pumping has lowered water levels in existing neighboring wells such that to substantially impact well yield so that it can no longer meet its intended purpose, causes the well to go dry, or causes casing collapse, an assessment of remedial options will be conducted by project owner, followed by payment or reimbursement of an amount equal to the cost of cleaning or rehabilitating the well to restore its capacity, lowering the pump (as in item (e) below), deepening the well, or replacing the well (as cooperatively determined as the appropriate resolution) shall be provided to accommodate these effects. Payment or reimbursement shall be at an amount equal to the customary local cost of deepening the existing well or constructing a new well of comparable design and yield (only deeper). The demand for water, which determines the required well yield, shall be determined on a per well basis using well owner interviews and field verification of property conditions and water requirements compiled as part of the pre-

project well reconnaissance. Well yield shall be considered substantially impacted if it is incapable of meeting 110% of the well owner's maximum daily demand, dry-season demand, or annual demand – assuming the pre-project well yield documented by the initial well reconnaissance met or exceeded these yield levels.

To be eligible for the well protection guarantee program, the well owner must notify project owner of the location and the well, provide such well construction data as may be known, and authorize the project owner to inspect the well, document relevant factors such as the well depth, depth to static water level, pumping rate, and pumping water level, and allow the project owner access to the well to verify the conditions of any claims.

Pump lowering – In the event that groundwater is lowered as a result of Project pumping to an extent where pumps are exposed but well screens remain submerged under static non-pumping conditions, the pumps shall be lowered to maintain production in the well. The Project shall reimburse the impacted well owner for the costs associated with lowering pumps.

Deepening of wells – If the groundwater is lowered enough as a result of Project pumping that well screens and/or pump intakes are exposed under static-non-pumping conditions, and pump lowering is not an option, such affected wells shall be deepened or new wells constructed. The project owner shall reimburse the impacted well owner for all reasonable costs associated with deepening existing wells or constructing new wells shall be borne by the project owner.

After the first five-year operational and monitoring period the CPM shall evaluate the data and determine if the monitoring program for water level measurements should be revised or eliminated. Revision or elimination of any monitoring program elements shall be based on the consistency of the data collected. The determination of whether the monitoring program should be revised or eliminated shall be made by the CPM.

Verification:

The project owner shall submit a Groundwater Monitoring, Mitigation, and Reporting Plan (GMMRP) to the CPM for review and approval in advance of construction activities and prior to the operation of onsite groundwater supply wells. The GMMRP shall provide detailed methodology for monitoring background, on site, and off-site groundwater levels and water quality. The monitoring period shall include pre-construction, construction, and Project operation periods.

On a hourly basis for the first year of operation and daily thereafter for the life of the project, the project owner shall collect water level measurements from wells identified in the groundwater monitoring program to evaluate operational influence from the Project. Operational parameters (i.e., pumping rate) of the water supply wells shall be monitored. Additionally, annual groundwater-use in the southern Pahrump Valley shall be estimated based on available data.

On an annual basis, the project owner shall perform statistical trend analysis of water level data and compare to predicted water level declines due to project pumping. Analysis of the apparent trend shall be determined and the magnitude of that trend estimated. Assess the apparent trend and delineate project induced drawdown using the Distance Drawdown Methods.

On an annual basis, the project owner shall perform statistical trend analysis of water quality data and compare to pre-project water quality. Analysis of the apparent trends shall be determined.

The project owner shall also provide to the CPM all monitoring reports, complaints, studies and other relevant well monitoring data within 10 days of being received by the project owner. Workshop/Brief.

CONDITION WATER SUPPLY–6: GROUND SUBSIDENCE MONITORING AND ACTION PLAN

WATER SUPPLY–6 One monument monitoring station per production well or a minimum of three stations shall be constructed to measure potential inelastic subsidence that may alter surface characteristics of the PVGB and affect structures near the proposed production wells. The project owner shall:

A. Prepare and submit a Subsidence Monitoring Plan (SMP), including all calculations and assumptions. The plan shall include the following elements:

1. Construction diagrams of the proposed monument monitoring stations including size and description, planned depth, measuring points, and protection measures;

2. Map depicting locations (minimum of three) of the planned monument monitoring stations;

3. Monitoring program that includes monitoring frequency, thresholds of significance, reporting format.

B. Prepare annual reports commencing three (3) months following commencement of groundwater production during construction and operations.

1. The reports shall include presentation and interpretation of the data collected including comparison to the thresholds developed in Item C.

C. Prepare a Mitigation Action Plan that details the following:

1. Thresholds of significance for implementation of proposed action plan based on monitoring station data;

a. Subsidence caused by project pumping shall not be allowed to damage existing structures either on or off the site or alter the appearance or use of the structure;

b. Any subsidence caused by project pumping that may occur shall not be allowed to alter natural drainage patterns or permit the formation of playas or lakes;

~~c. If any subsidence violates (a) or (b) the project owner shall investigate the need to immediately modify or cease pumping for project operations until the cause is interpreted and subsidence caused by project pumping abates and the structures and/or drainage patterns are stabilized and corrected.~~

2. The project owner shall prepare an Action Plan that details proposed actions by the Applicant in the event thresholds are achieved during the monitoring program

The project owner shall submit the Ground Subsidence Monitoring and Action Plan that is prepared by an Engineering Geologist registered in the State of California thirty (30) days prior to the start of extraction of groundwater for construction or operation.

Verification: The project owner shall do all of the following:

1. At least thirty (30) days prior to project construction, the project owner shall submit to the CPM, a comprehensive report presenting all the data and information required in item A above.

2. During project construction and operations, the project owner shall submit to the CPM annual reports presenting all the data and information required in item B above.

3. The project owner shall submit to the CPM all calculations and assumptions made in development of the report data and interpretations.

4. After the first five (5) years of the monitoring period, the project owner shall submit a 5-year monitoring report to the CPM that submits all monitoring data collected and provides a summary of the findings. The CPM shall determine if the Ground Subsidence Monitoring and Action Plan frequencies should be revised or discontinued.

CONDITION WATER SUPPLY-7: NON-TRANSIENT, NON-COMMUNITY WATER SYSTEM

WATER SUPPLY-7 If the project installs a non-transient, non-community water system as defined in ~~The project is subject to the requirements of~~ California Code of Regulations, Title 22, Article 3, Sections 64400.80 through 64445 (22 CCR § 64400.80 – 64445) ~~for a non- months). T~~the project owner shall submit water system plans to the CPM for review and approval, and to the Inyo County Environmental Health Services for review and comment ~~approval~~. In addition, the system will require periodic monitoring consistent with **WATER SUPPLY-4**, for various bacteriological, inorganic and organic constituents.

~~Verification:~~ ~~The project owner shall obtain a permit to operate a non-transient, non-community water system with the Inyo County Environmental Health Services a~~At least sixty (60) days prior to ~~to commencement of construction~~ the installation of a non-transient, non-community water system at the site, the project owner shall submit an application and applicable filing fees for a permit to operate a non-transient, non-community water system to the Inyo County Environmental Health Services for review and comment. The same application shall be submitted to the CPM for review and approval. In addition, the project owner shall submit to the CPM a monitoring and reporting plan for production wells operated as part of the domestic water supply system

prior to plant operations. The plan shall include reporting requirements including monthly, quarterly, and annual submissions.

The project owner shall designate a California Certified Water Treatment Plant Operator as well as the technical, managerial, and financial requirements as prescribed by State law. The project owner shall supply the CPM updates on an annual basis regarding monitoring requirements, any submittals to the Inyo County Environmental Health Services, and proof of annual ~~renewal~~ payment of the operating permit fee.

EXHIBIT 1

Administrative Law Judge's Ruling Addressing Scheduling Issues
Rulemaking 99-10-025
Order Instituting Rulemaking into Distributed Generation
(Filed October 21, 1999)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking into Distributed Generation.	Rulemaking 99-10-025 (Filed October 21, 1999)

ADMINISTRATIVE LAW JUDGE'S RULING ADDRESSING SCHEDULING ISSUES

At the May 10, 2000 scheduling prehearing conference (PHC), Commissioner Bilas and I indicated that a subsequent ruling would be issued establishing, to the extent possible, a schedule for the upcoming hearings in terms of witness order, cross-examination allocations, etc. As explained at the PHC, we have approximately 28 hours of cross-examination time available. The time has been allocated as follows: Utilities/ISO—10 hours and 20 minutes;[1] Ratepayer/Public Interest Representatives—8 hours and 50 minutes;[2] and Manufacturers/DG Providers/Competitors—8 hours and 50 minutes.[3] The

[1] This grouping consists of Edison Electric Institute, Pacific Gas and Electric Company, San Diego Gas & Electric Company, Sierra Pacific, Southern California Edison Company, and California Independent System Operator.

[2] This grouping consists of Latino Issues Forum/Greenling Institute, Natural Resources Defense Counsel, Office of Ratepayer Advocates, The Utility Reform Network, Utility Consumers Action Network, Federal Executive Agencies, and Department of General Services/University of California/California State Universities.

[3] California Solar Energy Industries Association/Center for Energy Efficiency and Renewable Technology, Distributed Power Coalition of America/California Manufacturers' & Technology Association, Enron North America Corp. and Enron Energy Service, Inc., Honeywell Power Systems, Inc., New Energy, Inc., Cogeneration Association of California and the Energy Producers and Users Coalition, and NEO.

parties within each grouping should agree amongst themselves on how to allocate the time allotted. In addition, 45 minutes have been allocated to Solar Development Cooperative (SDC).[4]

Cross-examination should be limited to examination of the factual issues underlying a particular party's positions. These hearings are not the time to argue policy or legal issues, those will be handled in briefs. The issues currently being addressed by the California Energy Commission, for example, specific interconnection standards and permit/CEQA streamlining for distributed generation, are not ripe for cross-examination at this time.

Attachment 1 provides the cross-examination schedule for hearings and Attachment 2 summarizes the cross estimates submitted by witness or party as further updated at and following the PHC.

The schedule established represents my best efforts to estimate when a given witness will appear. If date certain appearances were requested, they have been accommodated and are indicated as such. I cannot determine with precision how long particular witnesses will be on the stand, so witnesses who have not received a date certain should be available in the general timeframe surrounding the date I have indicated you will appear. Parties with aligned interests have also been encouraged to consider presenting witnesses as panels when appropriate and feasible, but panels are not required.

To the extent that a limited number of parties request cross of a given witness, I encourage the parties to make best efforts to prepare stipulated exhibits/responses that provide the answers, in lieu of witnesses appearing. In

[4] The Administrative Law Judge (ALJ) may ask prepared written questions on behalf of SDC within this allotted time.

addition, there are some witnesses who have no cross requested of them, assuming there are no objections, we will receive the testimony of these witnesses without their appearing. Recognizing that these estimates were, in many cases, submitted prior to review of rebuttal testimony, parties should contact me and the affected party immediately in the event that a witness they desire to cross does not appear on the schedule so that the schedule can be modified.

Motions to strike prepared testimony and rebuttal are due in writing no later than May 25 and should be served concurrently by e-mail on all parties. Motions submitted on that date will be handled on the first day of hearings. If a party whose testimony is the subject of a motion to strike cannot appear on the first day of hearings, it should contact me immediately to arrange a date to take up the motion. If motions are submitted on or before May 19, the subject party of the motion shall respond in writing no later than May 26.

Attachment 3 to this ruling are instructions for preparation of cross-examination exhibits. Please follow these guidelines to ensure a smooth running hearing.

At the PHC we discussed a change in the schedule of Phase 2 testimony and hearings. After consulting with Commissioner Bilas, we set the following new testimony dates: Direct Testimony - 6/30; Reply Testimony - 7/24. Hearings previously scheduled for the week of July 24 are cancelled. Hearings are rescheduled for September 5 - 15, 2000.

IT IS RULED that:

1. Evidentiary hearings will commence May 31, 2000 at 9:00 a.m.
2. Hearings will run from 9:00 a.m. to 1:00 p.m. on May 31, June 1-2, and 6-9. Hearings will run from 10:00 a.m. to 4:00 p.m. on June 5 and 12.

3. Parties will receive the amount of cross-examination time as set forth in the discussion above.

4. The cross-examination schedule will be as set forth in Attachment 1.

5. Motions to strike are due not later than May 25.

6. After consulting with Commissioner Bilas, I will determine whether responses are required.

7. Phase 2 Direct Testimony shall be served on June 30. Phase 2 Reply Testimony shall be served July 24.

8. Hearings previously scheduled for the week of July 24 are cancelled.

9. Phase 2 hearings are rescheduled for September 5 - 15, 2000.

Dated May 16, 2000, at San Francisco, California.

Michelle Cooke
Administrative Law Judge

ATTACHMENT 1

Party	Witness	Tentative Date of Cross
SCE	Nunnally	5/31
SCE	Jurewitz	5/31
SCE	Jazayeri	5/31
ISO	Carlson (date certain)	6/1
SDG&E	Sakarias	6/1
SDG&E	Keilani	6/1
SDG&E	Geier	6/1
SDG&E	Hyatt	6/2
DPCA/CMTA	Castelaz (date certain)	6/2
EEI	Hall (date certain)	6/2
EEI	Harris (date certain)	6/2
EEI	Linderman (date certain)	6/2
PG&E	Rubin	6/5
PG&E	Buchholz	6/5
PG&E	Schleimer	6/5
DPCA/CMTA	Mertens (date certain)	6/5
LIF/GL	Gonzales	6/5
TURN	Florio	6/6
ORA	Mazy	6/6
FEA	Brubaker (date certain, a.m.)	6/7
ORA	Morse	6/7
ORA	Cluff	6/7
ORA	Kirby	6/7
NRDC	Carter	6/7
ORA	Tan	6/8
CalSEIA/CEERT	Starrs	6/8
CalSEIA/CEERT	Shugar	6/8
New Energy	Townley	6/8-6/9
ORA	Key	6/9
Honeywell	Skowronski	6/9-6/12
Enron	Mara/Hoatson	6/12
UCAN	Shames (date certain)	6/12

The following witnesses were not scheduled, either because no cross was requested, or such limited cross was requested that I assume parties can reach stipulations in order to respond to questions: Quadrini (PG&E), Wilson (SCE), Middleburg (SCE), Carson (Sierra), Gamboa (LIF/GL), Waxer (CalSEIA), Moore (CalSEIA), Ross (CAC/EPUC), Smith (SDC). In the event that cross is required, contact me ASAP.

We may not be able to complete witnesses as set forth above. Witnesses should generally be available the day before and after the date for which they are tentatively scheduled.

(End of Attachment 1)
ATTACHMENT 2
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Party	Witness	Cross By	Estimate
PG&E	Not specified	Honeywell SDC	30 minutes 90 minutes
	Rubin	ORA Enron New Energy TURN CalSEIA LIF/GL	60 minutes 30 minutes 15 minutes 60 minutes 20 minutes 20 minutes
	Buchholz	ORA Enron New Energy CalSEIA	30 minutes 45 minutes 10 minutes 20 minutes
	Schleimer	New Energy TURN	5 minutes 60 minutes
	Quadrini	CalSEIA	20 minutes
SDG&E	Not specified	Honeywell SDC	30 minutes 90 minutes
	Sakarias	PG&E ORA Enron TURN LIF/GL UCAN	5 minutes 20 minutes 20 minutes 60 minutes 30 minutes 30 minutes
	Keilani	CalSEIA	30 minutes
	Geier	TURN UCAN	60 minutes 30 minutes
	Hyatt	ORA Enron	10 minutes 10 minutes
SCE	Not specified	Honeywell	45 minutes
	Nunnally	ORA Enron New Energy TURN SDC	75 minutes 30 minutes 20 minutes 60 minutes 30 minutes

ATTACHMENT 2
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Party	Witness	Cross By	Estimate
SCE	Jurewitz	ORA Enron New Energy TURN SDC	60 minutes 30 minutes 10 minutes 60 minutes 30 minutes
	Jazayeri	ORA New Energy TURN SDC	10 minutes 15 minutes 60 minutes 30 minutes
	Wilson	SDC	30 minutes
	Middleburg	SDC	30 minutes
Cal ISO	Carlson	PG&E ORA Enron New Energy Honeywell UC/CSU/DGS CalSEIA LIF/GL EEI	5 minutes 45 minutes 45 minutes 20 minutes 30 minutes 60 minutes 20 minutes 15 minutes not specified
EEI	Not specified	Honeywell	30 minutes
	Hall	ORA SDC	10 minutes 30 minutes
	Harris	CalSEIA LIF/GL SDC	30 minutes 15 minutes 30 minutes
	Linderman	ORA Enron TURN UCAN SDC	10 minutes 10 minutes 60 minutes 30 minutes 30 minutes
Sierra	Carson	SDC	30 minutes
LIF	Gonzales	SDG&E UCAN SDC	10 minutes 30 minutes not specified
LIF/GL	Gamboa		

ATTACHMENT 2
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Party	Witness	Cross By	Estimate
NRDC	Carter	PG&E SDG&E LIF/GL SDC EEI	5 minutes 10 minutes 15 minutes 30 minutes not specified
ORA	Morse	PG&E SCE SDC EEI	30 minutes 2.5 hours 30 minutes not specified
	Cluff	PG&E ISO SCE SDC	30 minutes 10 minutes 60 minutes 30 minutes
	Mazy	PG&E ISO SCE FEA SDC EEI	30 minutes 20 minutes 2.5 hours 15 minutes 30 minutes not specified
	Tan	PG&E SCE	30 minutes 90 minutes
	Key	PG&E SCE SDC	30 minutes 60 minutes 30 minutes
	Kirby	PG&E SCE	30 minutes 60 minutes
	Morse/Tan/ Kirby	Enron	10 minutes
TURN	Florio	PG&E SDG&E SCE Enron SDC	60 minutes 15 minutes 3 hours 10 minutes 60 minutes

ATTACHMENT 2
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Party	Witness	Cross By	Estimate
UCAN	Shames	PG&E	30 minutes
		SDG&E	15 minutes
		SCE	30 minutes
		ISO	10 minutes
		LIF/GL	15 minutes
		SDC	30 minutes
FEA	Brubaker	Enron	15 minutes
		CalSEIA	5 minutes
CalSEIA/ CEERT	Not specified	SDG&E	10 minutes
	Starrs	PG&E	15 minutes
		SCE	30 minutes
		FEA	15 minutes
		SDC	30 minutes
		EEI	not specified
	Waxer	None	
	Moore	PG&E	5 minutes
	Shugar	PG&E	30 minutes
		SCE	60 minutes
		FEA	15 minutes
		SDC	30 minutes
DPCA/CMTA	Not specified	SDG&E	15 minutes
	Mertens	PG&E	15 minutes
		SCE	90 minutes
		FEA	15 minutes
		UCAN	30 minutes
		SDC	30 minutes
		EEI	not specified
	Castelaz	PG&E	15 minutes
		SCE	90 minutes
		ISO	20 minutes
		LIF/GL	20 minutes
Enron	Mara/Hoatson	PG&E	60 minutes
		SCE	3.5 hours
		ISO	30 minutes
		FEA	15 minutes
		SDC	60 minutes

ATTACHMENT 2
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Party	Witness	Cross By	Estimate
Honeywell	Skowronski	PG&E SDG&E SCE ISO SDC EEI	30 minutes 10 minutes 2 hours 20 minutes 30 minutes not specified
New Energy	Townley	SDG&E SCE ISO FEA SDC EEI	10 minutes 2 hours 20 minutes 15 minutes 30 minutes not specified
CAC/EPUC	Ross	None	
SDC	Smith	None	

(End of Attachment 2)

ATTACHMENT 3

EXHIBITS

Service of Exhibits

All prepared written testimony should be served on all appearances and state service on the service list, as well as on the Assigned Commissioner's office and on the Assigned ALJ. Prepared written testimony should NOT be filed with the Commission's Docket Office.

Identification of Exhibits in the Hearing Room

Each party sponsoring an exhibit should, in the hearing room, provide **two copies to the ALJ and one to the court reporter**, and have at least 5 copies available for distribution to parties present in the hearing room. **The upper right hand corner of the exhibit cover sheet should be blank for the ALJ's exhibit stamp.** Please note that this directive applies to cross-examination exhibits as well. If there is not sufficient room in the upper right hand corner for an exhibit stamp, please prepare a cover sheet for the cross-examination exhibit.

Cross-examination With Exhibits

As a general rule, if a party intends to introduce an exhibit in the course of cross-examination, the party should provide a copy of the exhibit to the witness and the witness' counsel before the witness takes the stand on the day the exhibit is to be introduced. Generally, a party is not required to give the witness an advance copy of the document if it is to be used for purposes of impeachment or to obtain the witness' spontaneous reaction. An exception might exist if parties have otherwise agreed to prior disclosure, such as in the case of confidential documents.

Corrections to Exhibits

Generally, corrections to an exhibit should be made in advance and not orally from the witness stand. Corrections should be made in a timely manner by providing new exhibit pages on which corrections appear. The original text to be deleted should be lined out with the substitute or added text shown above or inserted. Each correction page should be marked with the word "revised" and the revision date.

Exhibit corrections will receive the same number as the original exhibit plus a letter to identify the correction. Corrections of exhibits with multiple sponsors will also be identified by chapter number. For example, Exhibit 5-3-B is the second correction made to Chapter 3 of Exhibit 5.

(End of Attachment 3)

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Addressing Scheduling Issues on all parties of record in this proceeding or their attorneys of record.

Dated May 16, 2000, at San Francisco, California.

Kris Keller

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

* *

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TDD# (415) 703-2032 five working days in advance of the event.

STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

Application for Certification for the HIDDEN HILLS SOLAR ELECTRIC GENERATING SYSTEM PROJECT	))))	Docket No. 11-AFC-2

PROOF OF SERVICE

I, Karen A. Mitchell, declare that on February 19, 2013, I served the attached *Applicant's Prehearing Conference Statement* via electronic mail to all parties with email addresses and U.S. mail to the parties requesting hard copies on the attached service list.

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

Karen A. Mitchell

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