



**FPL Energy**

<b>DOCKET</b>	
<b>89-AFC-1c</b>	
<b>DATE</b>	<b>AUG 30 2005</b>
<b>RECD.</b>	<b>SEP -7 2005</b>

August 30, 2005

Mr. Steve Munro  
 Compliance Project Manager  
 California Energy Commission  
 1516 Ninth St.  
 Sacramento, California 95814

RE: SEGS IX, Petition for Change in Conditions of Certification Marsh Restoration  
 Conditions BIO-11.k

Mr. Munro:

On behalf of Harper Lake Company (HLC) IX, FPL Energy Operating Services Inc. herein submits petition for post certification amendment to the above referenced Condition of Certification for the Solar Electric Generation Station (SEGS) IX facility. HLC IX is the managing general partner of LUZ Solar Partners Ltd IX (LSP IX). The CEC certified the SEGS IX project in its Decision issued February 1999 (Docket No. 89-AFC-1). The current holder of the CEC certification is LSP IX and is currently operated by FPL Energy Operating Services Inc.

This formal request follows on the negotiated *Harper Lake Water Agreement for Compliance with Wetland Maintenance Condition of Certification for Solar Electric Generating Station (SEGS) VIII and IX Projects at Harper Lake, California* (Agreement). This Agreement was executed on 02/23/05 by LSP VIII and IX, on 3/10/05 by the Bureau of Land Management (BLM), and on 04/12/05 by the Systems Assessment and Facilities Siting Division of the California Energy Commission (CEC). The Agreement is attached in its entirety as Attachment A.

This petition for a post certification amendment has been prepared pursuant to 20 CCR 1769. Included below the required petition information as enumerated in 20 CCR 1769(a)(1)(A) including the background leading to the Agreement referenced above.

**20 CCR 1769 (a)(1)(A) - Description of the proposed modification.**

Docket No. 88-AFC-1C & 89-AFC-1C / Order No. 00-0426-10 (April 2000) (Attachment B) for the SEGS IX Project contains the following condition:

*SEGS IX Biological Resources Condition of Certification*

BIO-11.k. The project owner shall, in cooperation with the SEGS VIII project owner, transfer water rights to 75 acre feet of water per year, from a producer or producers of water in the Harper Lake Basin to the Bureau of Land Management (BLM), as described in the Harper Lake water agreement (Agreement) included as Appendix A of this Order. The water will be used for maintenance of the Harper Lake wetlands. The project owner shall also provide \$60,000 to the BLM to construct a water well and water conveyance system as specified in the Agreement. The required \$60,000 shall be paid by the date specified in the Agreement. The water rights transfer must be completed and approved by the Mojave Water Agency by

the date specified in the Agreement.

Verification: Within 10 days of payment of the required \$60,000 to the BLM, the project owner shall submit to the CPM a copy of the financial transfer check or instrument. Within 30 days of the transfer of required water rights to the BLM, the project owner shall submit a copy of the water rights transfer document to the CPM. The CPM shall, upon written confirmation from the BLM that the water rights have been transferred and that the required \$60,000 has been received, send a letter notifying the project owner that this condition has been permanently satisfied. Upon notification that the BLM has completed its obligation under the agreement, the project owner shall sign and return a release and acknowledgement to the BLM and the CPM discharging the BLM and the State from any claims regarding this condition.

We propose to modify the condition as follows.

*SEGS IX - Proposed Modification to Biological Resources Condition of Certification*

BIO-11.k. The project owner shall, in cooperation with the SEGS VIII project owner, allow transfer water rights to 75 acre feet of water per year, from a producer or producers of water in the Harper Lake Basin to the Bureau of Land Management (BLM) to pump up to 75 acre feet of water per year, as described in the Harper Lake Water Agreement (Agreement) included as Appendix A of this Order. The water will be used for maintenance of the Harper Lake wetlands. The project owner has ~~shall also provided~~ \$60,000 to the BLM to construct a water well and water conveyance system as specified in the Agreement. ~~The required \$60,000 shall be paid by the date specified in the Agreement. The water rights transfer must also be completed and approved by the Mojave Water Agency by the date specified in the Agreement.~~

Verification: ~~Within 10 days of payment of the required \$60,000 to the BLM, the project owner shall submit to the CPM a copy of the financial transfer check or instrument. Within 30 days of the transfer of required water rights to the BLM, the project owner shall submit a copy of the water rights transfer document to the CPM. The CPM shall, upon written confirmation from the BLM that the water rights have been transferred and that the required \$60,000 has been received, send a letter notifying the project owner that this condition has been permanently satisfied. Upon notification that the BLM has completed its obligation under the Agreement, The project owner shall sign and return a release and acknowledgement to the BLM and the CPM discharging the BLM and the State from any claims regarding this condition.~~ Within 35 days of the approval of this order, the project owner shall provide photo-documentation of the BLM well along with its latitude and longitude. The project owner shall also provide the well number as assigned by the Watermaster's local designation and state well number designation and submit this information in writing to the CPM. The project owner shall submit to the CPM the annual record of water pumped by BLM.

*Background and description of the proposed modification*

In 1998, FPL Energy became the operator of the SEGS VIII and IX facilities. At that time, HLC VIII and HLC IX/LSP VIII and LSP IX began formal negotiations with the CEC and BLM. These negotiations resulted in the *Agreement for Compliance with Wetland Maintenance Condition of Certification for SEGS VIII and IX, Harper Lake, California*. The latter agreement was executed on 7/28/99 by the Bureau of Land Management (BLM), on 8/12/99 by the Facilities Siting and Environmental Protection Division of the California Energy Commission (CEC), and on 12/17/99 by LSP VIII and IX. The Agreement is attached in its entirety as Attachment A. Implementation of the Agreement specifies that Harper Lake Company VIII transfers 75 acre-feet (in total) of water rights to the BLM. The BLM will then arrange for a water delivery system capable of delivering up to 75-acre feet of water annual to a point on lands within the lakebed of Harper Dry Lake. The parties to the agreement expressly intended to settle all obligations of LSP VIII and LSP IX under the CEC Biological Conditions of Certification for SEGS VIII and IX, respectively.

**20 CCR 1769(a)(1)(B) - Necessity for the proposed modification.**

From the BLM's perspective, and that of other stakeholders interested in maintaining the long term viability of the marsh, the proposed project is necessary to maintain the long term viability of the Central and South Marsh lands habitat. In 1982 the California Desert District of the BLM issued a document entitled *Management Plan for Harper Dry Lake Area of Critical and Environmental Concern*. The plan recognized the marshlands as unique habitat needing protection to survive, and further recognized that a source of fresh water to the marshlands was of critical importance to their continued viability. The proposed project provides a long-term source of fresh water to the marshlands.

**20 CCR 1769(a)(1)(C) - For modification based on known information why issue was not raised at time of certification.**

The proposed modification is not based on information that was known at the time of preparation of the petition approved under CEC Order No. 00-0426-10. The availability of an alternative well water source of water was not known at the time of petition approval. Also unknown was the Bureau of Land Management's inability to accept state water rights.

**20 CCR 1769(a)(1)(D) - For modifications based on new information, why the change should be permitted.**

The proposed modification provides a long-term source of fresh water to the marshlands, which was the intent of the original conditions of certification. Further, it is clearly to the benefit of the marsh to have the influent water come from a fresh, ground water source rather than from any type of industrial discharge as originally approved, and subsequently amended under CEC Order No. 00-0426-10, but now determined to be unworkable based on the BLM solicitor's eventual determination that the agency is unable to accept state water rights.

**20 CCR 1769(a)(1)(E) - Environmental impacts analysis.**

There will be no negative environmental impacts as a result of the project. The proposed project should in fact have long term positive (beneficial) environmental impacts as compared to the original decision. Specifically, the proposed modification involves project owner allowing a portion of its base annual production to be used by the BLM for supplying water to the Harper Lake marsh.

**20 CCR 1769(a)(1)(F) - Impact of the modification on the facility's ability to comply with applicable laws, regulations, standards, and ordinances.**

The modification will have no adverse impact on the facility's ability to comply with applicable laws, regulations, standards, and ordinances.

**20 CCR 1769(a)(1)(G) How the modification affects the public.**

The proposed modification will have no negative impacts on the public.

**20 CCR 1769(a)(1)(H) - List of property owners potentially affected by the modification.**

The current SEGS VIII and IX interested party mailing list is included as Attachment C. This list includes potentially interested property owners. The proposed modification will have no negative impacts on nearby property owners.

**20 CCR 1769 (a)(1)(I) - Potential effect on nearby property owners, the public, and the parties in the application proceedings.**

The proposed modification will have no negative impacts on nearby property owners or the public. The proposed modification will have no negative impacts on any of the parties to the application proceedings.

**Closing**

FPL Energy appreciates the Commission's timely attention to this matter, and we will be happy to answer any questions you may have with regard to this petition for change. You can reach me directly at 760-762-5562x395, or Glen King at 760-762-3100x231. Thank you.

Sincerely,



Dan Brake  
Plant General Manager, SEGS VIII and IX  
Agent for Harper Lake Company VIII and IX

**Attachments**

Attachment A: *Harper Lake Water Agreement for Compliance with Wetland Maintenance Condition of Certification for Solar Electric Generating Station (SEGS) VIII and IX Projects at Harper Lake, California*

Attachment B: *Docket No. 88-AFC-1C & 89-AFC-1C / Order No. 00-0426-10 (April 2000)*

Attachment C: *PROPERTY OWNER AND INTERESTED PARTY LIST*

cc: Jan Hansen, FPL

## ATTACHMENT A

Harper Lake Water Agreement for  
Compliance with Wetland Maintenance  
Condition of Certification for Solar  
Electric Generating Station (SEGS) VIII  
and IX Projects at Harper Lake,  
California

**HARPER LAKE WATER AGREEMENT  
FOR COMPLIANCE WITH WETLAND MAINTENANCE CONDITION OF  
CERTIFICATION  
FOR SOLAR ELECTRIC GENERATING STATION (SEGS) VIII AND IX PROJECTS  
AT HARPER LAKE, CALIFORNIA**

**I. INTRODUCTION**

The U.S. Bureau of Land Management (BLM), California Energy Resources Conservation and Development Commission (CEC), LUZ Solar Partners Ltd., VIII (LSP VIII), and LUZ Solar Partners Ltd., IX (LSP IX); hereafter referred to as the "parties", hereby agree to support and/or implement to the greatest extent possible, all individual and collective actions necessary that will provide for full completion of the duties specified in this Agreement as they pertain to the Solar Electric Generating System (SEGS) Units VIII and IX facilities located in San Bernardino County, California. This agreement implements the requirements of SEGS IX Biological Resources Condition of Certification No. 11. k. to provide water and physical conveyance of water to the Harper Lake Wetlands. Compliance with the terms of this agreement will satisfy all obligations required in the modified SEGS IX Biological Resources Condition of Certification No. 11. k. This Agreement does not affect transmission line or solar plant maintenance or reconstruction activities, nor does it apply to other right-of-way applications pending by Harper Lake Company. This Agreement, and all duties assigned herein, is contingent upon approval of an implementing amendment to the SEGS IX CEC Decision.

**II. RECITALS**

- A.** The CEC certified the SEGS VIII project in its Decision issued in March 1989 (Docket No. 88-AFC-1C). The CEC certified the SEGS IX project in its Decision issued in February 1990 (Docket No. 89-AFC-1C). The applicant for certification of both projects was LUZ Development and Finance Corporation (LUZ), 924 Westwood Blvd., Suite 1000, Los Angeles, California, 90024, on behalf of LSP VIII and LSP IX. The current holders of the CEC Certifications, and the owners of the SEGS VIII and SEGS IX facilities, are LSP VIII and LSP IX, respectively, 700 Universe Blvd., Juno Beach, Florida, 33408-2683.
- B.** Harper Lake Company (HLC) VIII and HLC IX Company are the managing general partners of LSP VIII and LSP IX, respectively, and are authorized to act on behalf of LSP VIII and LSP IX.
- C.** Harper Lake Company holds leases from LUZ in this county effective May 31, 1989 with respect to premises and October 3, 1989 with respect to water rights.
- D.** The Federal party to this Agreement is the BLM. The State party to this Agreement is the CEC. The private parties to this Agreement are LSP VIII and LSP IX. The United States Department of the Interior, through the BLM, and the State of California, through the

**HARPER LAKE WATER AGREEMENT  
FOR COMPLIANCE WITH WETLAND MAINTENANCE CONDITION OF  
CERTIFICATION  
FOR SOLAR ELECTRIC GENERATING STATION (SEGS) VIII AND IX PROJECTS  
AT HARPER LAKE, CALIFORNIA**

**I. INTRODUCTION**

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**II. RECITALS**

- A.** The CEC certified the SEGS VIII project in its Decision issued in March 1989 (Docket No. 88-AFC-1C). The CEC certified the SEGS IX project in its Decision issued in February 1990 (Docket No. 89-AFC-1C). The applicant for certification of both projects was LUZ Development and Finance Corporation (LUZ), 924 Westwood Blvd., Suite 1000, Los Angeles, California, 90024, on behalf of LSP VIII and LSP IX. The current holders of the CEC Certifications, and the owners of the SEGS VIII and SEGS IX facilities, are LSP VIII and LSP IX, respectively, 700 Universe Blvd., Juno Beach, Florida, 33408-2683.
- B.** Harper Lake Company (HLC) VIII and HLC IX Company are the managing general partners of LSP VIII and LSP IX, respectively, and are authorized to act on behalf of LSP VIII and LSP IX.
- C.** Harper Lake Company holds leases from LUZ in this county effective May 31, 1989 with respect to premises and October 3, 1989 with respect to water rights.
- D.** The Federal party to this Agreement is the BLM. The State party to this Agreement is the CEC. The private parties to this Agreement are LSP VIII and LSP IX. The United States Department of the Interior, through the BLM, and the State of California, through the

CEC, have exclusive jurisdiction over the SEGS VIII and SEGS IX facilities and transmission line, which are owned by LSP VIII and LSP IX.

The marsh related conditions of certification pertain only to the CEC decisions for the SEGS VIII and IX facilities. CEC, in early compliance negotiations, identified the BLM as an agency that could complete marsh restoration activities. The BLM, which currently manages a wetland "Area of Critical Environmental Concern" (ACEC) and Watchable Wildlife Area in the Harper Dry Lake vicinity, accepted this role pursuant to BLM participation in condition development, and project adherence to applicable State and Federal laws. Subsequently, the BLM determined that it could not legally accept and hold rights to state waters that were to be transferred from LSP VIII and LSP IX. To assist in the overall restoration effort, Friends of Harper Lake (FHL), a 501(3)(c) Nonprofit Corporation (#C2385228L) had agreed to accept and hold up to 75 acre feet of water rights annually for the benefit of BLM. In addition, FHL agreed to assist in providing a well and water conveyance system.

Water rights have not been transferred to FHL.

A well and water conveyance system has been installed at the ACEC and Watchable Wildlife Area under terms and conditions of Assistance Agreement No. BAA020014. This action was accomplished through a lump sum transfer of sixty thousand dollars (\$60,000.00) from LSP VIII and LSP IX to FHL. The BLM's Barstow Field Office will pay for all electrical costs and charges associated with running the water conveyance system.

The parties to this Agreement expressly intend herein to settle finally all obligations of LSP VIII and LSP IX under the CEC Certification for SEGS IX, Biological Resources Condition of Certification No. 11. k. (Permit Requirements).

- E. The Federal and State parties to this Agreement possess the specific authority to execute this Agreement. The signatory representatives warrant and confirm they possess the necessary authorities and delegations to bind and commit their respective agencies.
- F. The private parties to this Agreement possess the specific authority to execute this Agreement. The signatory representatives for LSP VIII and LSP IX respectively warrant and confirm that they individually possess the necessary authorities and delegations to bind and commit their respective entities.
- G. This Agreement is binding upon the signatory parties and their successors, assignees, or delegates, if any.
- H. Except for Assistance Agreement No. BAA020014 between FHL and BLM, this Agreement supercedes and nullifies all previous agreements jointly made among or between the parties herein on this same topic.

### III. AGREEMENT

Implementation of this Agreement and subsequent approval of implementing amendment vote of the CEC, fulfills all obligations of LSP IX as specified in the SEGS Biological Resources



Condition of Certification No. 11.k.. Implementation of this Agreement requires LSP VIII and LSP IX to annually allow BLM to pump up to 75 acre-feet of water from the well constructed under Assistance Agreement No. BAA020014 between FHL and BLM. This quantity of water will be added to HLC's verified annual production as it pertains to HLC's allowable base annual production.

#### **A. Consideration**

All parties to this Agreement are aware of, understand, and agree to the following:

1. On January 10, 1996, the Harper Lake Company was awarded a free production allowance in Riverside Superior Court Case No. 208568 ("Action"). Such award was stated in the Judgment After Trial in the Action ("Judgment"). The beginning base annual production was identified as 1,433 acre feet,
2. On June 1, 1998, the Court of Appeal issued an opinion upholding the judgment as to some of the parties and reversing the judgment as to others ("Appealed Action"). On August 26, 1998, the California Supreme Court granted a petition for review and subsequently rendered a decision on August 21, 2000 whereby it affirmed in part and reversed in part the Court of Appeals June 1, 1998 opinion. On August 6 and 16, 2002, the appellants granted the reversals and the stipulating parties reached settlement as to the water rights of the former.
3. The Judgment names the Mojave Water Agency ("MWA") as the acting Watermaster for the geographic areas referenced herein.
4. The MWA has approved a change in the name of the party who holds the water right adjudicated from Harper Lake Company to "Harper Lake Company VIII," Harper Lake Company VIII may desire to change the name of the right holder in the future (either by transfer or otherwise).
5. The Judgment allows the MWA to promulgate rules and regulations regarding water transfers in the area affected by the Judgment. Among such rules and regulations are restrictions on transfers outside the "Centro Subarea," as that term is defined in the Judgment.
6. The MWA has the right, subject to the terms of the Judgment, to approve or deny transfers of water in the area affected by the Judgment.
7. LSP VIII and LSP IX are required to charge against their base annual production allowance up to 75 acre-feet of water per year, pumped by the BLM for use in the Harper Lake Watchable Wildlife area within the "Centro Subarea". This will continue for the duration of the LSP VIII and/or LSP IX power plants. The duration of the power plants is defined as the condition where either one or both of the SEGS VIII and SEGS IX power plants remain certified by the CEC to operate. LSP VIII and LSP IX propose to comply with this requirement by reporting to the MWA, acting as Watermaster, the volume of water pumped by the BLM each year.

8. The water which is to be pumped by BLM will be of the free production allowance granted to the Harper Lake Company VIII in the Judgment and will continue on an annual basis until the year 2086 and beyond if Harper Lake Company VIII or its successor has its water right extended by LUZ. The water pumped by BLM is to be used solely for maintenance of the Harper Lake wetlands in accordance with the Condition of Certification **Bio-11.k**. All parties agree to accept any allocation changes that result from the Judgment being modified by the court. There will be no further obligation beyond the annual charges against HLC's base annual production, of any kind to provide additional water BLM, and the CEC Permit Requirements for annually providing water pumping rights will have been satisfied for each year upon MWA receiving a report from HLC of the volume pumped by BLM. CEC hereby represents and warrants that it has the authority to verify compliance with such Permit Requirements.
9. The parties recognize that the free production allowance granted to Harper Lake Company VIII in the Judgment, and subsequently pumped by BLM in this Agreement, may be altered by the Mojave Basin Area Watermaster related to administering the limited resources of water as stated in the Judgment.
10. Though LSP VIII and LSP IX have the primary responsibility for reporting annual production volumes to MWA acting as Watermaster, BLM's assistance in the process may be necessary. BLM agrees and understands that this may entail (but is not limited to); (a) one or more BLM representatives attending MWA hearings to support the pumping of water from HLC's annual production; (b) BLM signing documents required by MWA to verify the volumes pumped by the BLM well; (c) agreeing to the Watermaster's reductions in annual production as it pertains to HLC's base annual production on a straight percentage basis.
11. Neither LSP VIII or LSP IX, nor any of their partners, affiliated entities, attorneys, agents, or employees make any warranties or representations regarding the water which is the subject of pumping by BLM, other than the water to be pumped is subject to the Judgment and subsequent court actions in every respect.
12. Upon execution of this agreement, BLM will, subject to completion of all required procedures in procurement and/or contracting, provide for long-term water delivery system operation, maintenance, and all utility costs.
13. Annually, after pumping, BLM will pay administrative and biological mitigation fees to the MWA for the pumped water, and any other associated fees MWA acting as Watermaster requires. Though these fees are currently fixed at a certain amount per acre-foot of water annually, BLM understands and agrees that BLM is solely responsible for these payments, no matter how they may change over time. In addition, the BLM will be responsible for metering and reporting quarterly to HLC and the MWA, acting as Watermaster, all water production associated with the water specified in this Agreement and used for the Watchable Wildlife Area.

**B. Duties**

1. Upon a vote of the CEC approving the amendment implementing this Agreement:
  - a. LSP VIII and LSP IX, their partners, affiliates, and subsidiaries, will have no duty or obligation to implement, manage, monitor, or supervise any form of wetland (marsh) maintenance associated with the SEGS IX Biological Resources Condition of Certification **No. 11.k**.
  - b. LSP VIII and LSP IX, their partners, affiliates, and subsidiaries, will have no responsibility for the actions of Federal or State personnel, or persons acting under their direction, related to the design, installation, construction, maintenance, and repair of any water delivery system designed and constructed as the result of this Agreement.
  - c. Having had 1) the design and construction of a water delivery system capable of delivering up to 75 acre-feet of water annually, to Harper Dry Lake completed; 2) actively participated in the selection of the vendor, installation, and initial operation of the system; 3) provided task orders to FHL for the installation of the well and water transfer system; and, 4) arranged for an electrical power connection capable of powering the subject water delivery system, the BLM through the Barstow Field Office shall also be responsible for utility costs associated with powering the subject water delivery system, adjudicated administrative costs, and long-term maintenance of the subject water delivery system. The BLM has provided copies to the CEC CPM of invoices from FHL against the \$60,000 transferred from LSP VIII and LSP IX to FHL to show where the monies were allotted and spent. No further verification is required.
  - d. The BLM will be solely responsible for securing, and maintaining, compliance with any local permits or authorizations which maybe required because of the acquisition, construction and maintenance of property and structures.
  - e. The Federal and State parties will take such actions as may be necessary to conform or amend applicable permits, authorizations, approvals and certificates, consistent with this Agreement.

**C. Assurances**

1. **Private Parties:** For and in consideration of this agreement allowing BLM to pump water from HLC's base annual production, and recognizing that the transfer of funds from LSP VIII & LSP IX to FHL for construction of a water well and water conveyance system on public lands within the Harper Lake Watchable Wildlife Area has taken place as specified herein:
  - a. LSP VIII and LSP IX shall have no duty or obligation to secure easements for, construct, operate or maintain, any water delivery system designed to

fulfill SEGS IX Biological Condition of Certification No. 11.k., upon a vote of the CEC approving an implementing amendment that incorporates this agreement; and,

2. **Federal:** For and in consideration of acceptance of the tasks specified herein:
  - a. The BLM will operate and maintain the water delivery system that has been built to be capable of providing up to 75 acre-feet of adjudicated water annually to a public land portion of the lakebed at Harper Dry Lake, as specified in Paragraph III.B.1.c.
3. **State:** For and in consideration of the HLC allowing annual pumping of up to 75 acre-feet of its adjudicated water rights, funding and having completed tasks specified herein which together were designed and developed to ensure the construction of a water delivery system capable of providing up to 75 acre-feet of water annually to Harper Dry Lake, and other good and valuable consideration; the CEC, upon approval of a conforming amendment, for themselves and their employees and agents, hereby agree to annually confirm compliance with terms of this agreement and whereby upon finding full compliance release, acquit, and forever discharge LSP VIII and LSP IX, their partners, their partners' affiliates, their affiliates, their operating companies, subsidiaries, officers, directors, and/or agents, of and from any and all claims and obligations, past or future, regarding:
  - a. Performance exceeding the terms of SEGS IX Biological Condition of Certification No.11.k.; and,
  - b. Construction, operation; or maintenance of any water delivery system designed to fulfill the intent of (a) above.

#### IV. NON-SIGNATORY PARTY ACTIONS

No party to this Agreement shall initiate, participate in, or encourage actions by non-signatory parties regarding the validity of this Agreement.

#### V. SEVERABILITY

If any one provision, paragraph, clause, or combination of the same contained in this Agreement shall be declared invalid for any reason, this declaration or ruling shall not affect the validity of the remainder of the provisions, paragraphs, clauses, or combinations of the same. The remainder of the provisions, paragraphs, clauses, or combinations of the same shall remain in effect as if the provisions, paragraphs, clauses, or combinations of the same had been executed without the invalid provisions, paragraphs, clauses, or combinations of the same, The parties hereby declare that they intend that the remaining provisions, paragraphs, clauses, or combinations of the same to be effective without any provisions, paragraphs, clauses, or combinations of the same which have been declared invalid.

## **VI. MODIFICATION**

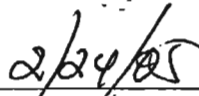
This Agreement may be modified at any time by mutual written consent of all the signatories to carry out the intent of this Agreement. Notwithstanding agreed to changes to this agreement, an amendment to the Conditions of Certification for the SEGS VIII and the SEGS IX & X Decisions may be required.

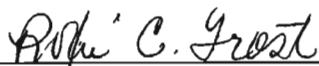
## **VII. BINDING EFFECT**

This Agreement is binding on parties' successors and assigns to the extent provided by law. This Agreement contains the entire agreement of the parties and there are no oral promises or other representations or understandings inducing its execution or qualifying its terms, not set forth or herein provided.

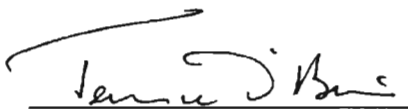
**VII. APPROVAL SIGNATURES**

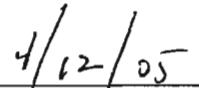
  
\_\_\_\_\_  
BRYAN J. FENNELL  
Authorized Officer  
LUZ Solar Partners Ltd., VIII and IX

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
ROXIE C. TROST  
Field Manager, Barstow Field Office  
Bureau of Land Management  
U.S. Department of the Interior

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
TERRENCE O'BRIEN  
Systems Assessment & Facilities Siting Division  
California Energy Commission  
State of California

  
\_\_\_\_\_  
Date

## ATTACHMENT B

Docket No. 88-AFC-1C & 89-AFC-1C /  
Order No. 00-0426-10 (April 2000)

## CALIFORNIA ENERGY COMMISSION

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

STATE OF CALIFORNIA  
 State Energy Resources  
 Conservation and Development Commission

In the Matter of:	)	Docket No. 88-AFC-1C & 89-AFC-1C
	)	Order No.
Harper Lake Company VIII and HLC IX	)	
Company's	)	ORDER APPROVING a Petition
SEGS IX PROJECT	)	to Amend Biological Resources
_____	)	Condition BIO-11.k.

Harper Lake Company VIII and HLC IX Company (HLC), owners of the SEGS VIII and SEGS IX Projects near Hinkley, California, request modification of Biological Resources Condition of Certification BIO-11.k. of the SEGS IX Commission Decision. The modification will require HLC to allow the Bureau of Land Management (BLM) pumping rights of up to 75 acre feet of ground water a year out of its base annual production for maintenance of the Harper Lake wetlands. This will be done using a water well and water conveyance system constructed for this purpose through an assistance agreement between Friends of Harper Lake (FHL), a 501(c)(3) nonprofit entity and the U. S. Bureau of Land Management. HLC has already provided the required \$60,000 for construction of the water well and water conveyance system, and the system is in operation. The Energy Commission approves this proposed amendment and the proposed modifications to condition of certification BIO-11.k. of the SEGS IX Commission Decision in accordance with Title 20, Section 1769(a)(3) of the California Code of Regulations.

## ENERGY COMMISSION FINDINGS

Based on staff's analysis, the Energy Commission concludes that the proposed changes will not result in any significant impact to public health and safety, or the environment. The Energy Commission finds that:

1. The Bureau of Land Management (BLM) determined that it is unable to legally accept rights to State waters.
2. There will be no new or additional unmitigated significant environmental impacts associated with the proposed changes.
3. The facility will remain in compliance with all applicable laws, ordinances, regulations, and standards, subject to the provisions of the Public Resources Code section 25525.



4. The change will be beneficial to the public, applicant, or interveners. In this case, the amendment will be beneficial because it will provide long-term water to maintain the Harper Lake wetlands for the benefit of wildlife and the public.
5. There has been a substantial change in circumstances since the Energy Commission certification amendment under Order No. 00-0426010 resulting in information that was not available to the parties prior to the Energy Commission approval of this order. Specifically, the Bureau of Land Management (BLM) has entered into an agreement with HLC to pump water assigned to HLC's base annual production and operate a water well to transport ground water to the Harper Lake wetlands.

## CONCLUSION AND ORDER

The California Energy Commission hereby adopts the following changes to condition BIO-11-k. of the SEGS IX Commission Decision (Deletions shown as ~~strikeout~~, additions shown as underlined):

### SEGS IX Project

- BIO-11.k.** The project owner shall, in cooperation with the SEGS VIII project owner, allow transfer water rights to 75 acre feet of water per year, from a producer or producers of water in the Harper Lake Basin to the Bureau of Land Management (BLM) to pump up to 75 acre feet of water per year, as described in the Harper Lake Water Agreement (Agreement) included as Appendix A of this Order. The water will be used for maintenance of the Harper Lake wetlands. The project owner has ~~shall~~ also provided \$60,000 to the BLM to construct a water well and water conveyance system as specified in the Agreement. ~~The required \$60,000 shall be paid by the date specified in the Agreement. The water rights transfer must also be completed and approved by the Mojave Water Agency by the date specified in the Agreement.~~

Verification: ~~Within 10 days of payment of the required \$60,000 to the BLM, the project owner shall submit to the CPM a copy of the financial transfer check or instrument. Within 30 days of the transfer of required water rights to the BLM, the project owner shall submit a copy of the water rights transfer document to the CPM. The CPM shall, upon written confirmation from the BLM that the water rights have been transferred and that the required \$60,000 has been received, send a letter notifying the project owner that this condition has been permanently satisfied. Upon notification that the BLM has completed its obligation under the Agreement, The project owner shall sign and return a release and acknowledgement to the BLM and the CPM discharging the BLM and the State from any claims regarding this condition. Within 35 days of the approval of this order, the project owner shall provide photo-documentation of the BLM well along with its latitude and longitude. The project owner shall also provide the well number as assigned by the Watermaster's local designation and state well number designation and submit this~~

information in writing to the CPM. The project owner shall submit to the CPM the annual record of water pumped by BLM.

**IT IS SO ORDERED.**

Date:

ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

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JACKALYNE PFANNENSTIEL  
Vice Chair

# ATTACHMENT C

## Property Owner and Interested Party List

SEGS VIII & IX Mailing List  
August 10, 2005

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SEGS VIII & IX Mailing List  
August 10, 2005

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