

# ELLISON, SCHNEIDER & HARRIS L.L.P.

CHRISTOPHER T. ELLISON  
ANNE J. SCHNEIDER  
JEFFERY D. HARRIS  
DOUGLAS K. KERNER  
ROBERT E. DONLAN  
ANDREW B. BROWN  
GREGGORY L. WHEATLAND  
CHRISTOPHER M. SANDERS  
LYNN M. HAUG  
PETER J. KIEL

ATTORNEYS AT LAW  
2600 CAPITOL AVENUE, SUITE 400  
SACRAMENTO, CALIFORNIA 95816-5905  
TELEPHONE (916) 447-2166 FAX (916) 447-3512

ELIZABETH P. EWENS, OF COUNSEL  
BRIAN S. BIERING  
TERESA W. CHAN  
SHANE E. CONWAY  
JEDEDIAH J. GIBSON  
JEREMY D. GOLDBERG  
CHASE B. KAPPEL

April 27, 2009

Commissioner Jeffrey Byron, Presiding Member  
Commissioner James Boyd, Associate Member  
Paul Kramer, Hearing Officer  
Ivanpah Solar Project (07-AFC-5)  
California Energy Commission  
1516 Ninth Street  
Sacramento, CA 95814

<b>DOCKET</b>	
<b>07-AFC-5</b>	
DATE	April 27 2009
RECD.	April 27 2009

Re: Applicant's Summary of Reasons for Requesting a Scheduling Conference  
Ivanpah Solar Project (07-AFC-5)

Dear Commissioners Byron and Boyd and Hearing Officer Kramer:

On Wednesday, April, 22, 2009, the Applicant requested a scheduling conference via electronic mail petition. On that same day, the Hearing Officer granted the request and asked for a "brief summary" of the Applicant's reasons for requesting a Scheduling Conference. This letter sets forth the requested brief summary.

As you are aware, the Commission accepted the Ivanpah Solar Project's Application as data adequate on October 31, 2007. The Revised Committee Schedule (released 10-17-08) posited the issuance of a Final Commission Decision in August-September 2009, almost two years after the Application was deemed data adequate. However, the Staff's Status Report #8 (dated 4-16-09) proposes a revised schedule that would delay a Final Decision to 2010. In addition, a record of conversation posted April 21, 2009<sup>1</sup>, indicates that the Staff is now recommending yet a further delay in the Commission's Final Decision beyond the timeframe set forth in Status Report #8.

The Applicant requests a Scheduling Conference at the earliest available date because the threatened delays in the processing of this Application require the Committee's immediate attention. Any further delay in the timely review of this Application poses significant risks and costs.

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<sup>1</sup> The record of conversation describes a meeting to discuss the schedule of this proceeding that took place on April 21, 2009 between the Hearing Officer, the CEC Staff and BLM. Although the schedule is a matter of significant controversy, the Applicant was not invited to participate in this meeting.

Significantly, the Staff's proposed delays in the processing of this Application raises a substantial risk that the Ivanpah Solar Project may not begin construction in time to qualify for incentives under the American Recovery and Reinvestment Act of 2009 (the "ARRA" or the "Stimulus Legislation"). In order to qualify for incentives to spur renewable energy development found in the ARRA, the Ivanpah Solar Project must begin construction in 2010. To begin construction in calendar year 2010, a Final Decision in this proceeding is required in late 2009 or very early in 2010.

Delay brings with it significant costs. We have seen in the regular procurement process administered by the CPUC how permitting delays have led to increased project costs. Permitting delays also defer projects' benefits. In terms of economic "stimulus", California needs the jobs associated with construction of renewable resources today, not years into the future. Of equal significance, the Staff's proposed delays could have a negative impact on California's ability to ensure a reliable supply of energy.<sup>2</sup>

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<sup>2</sup> In a recent filing with the CPUC, PG&E stated that delays in the Commission's licensing process was one of the most significant permitting risks facing proposed energy projects in California:

"The California Energy Resources Conservation and Development Commission (CEC) is California's lead agency for siting and permitting thermal power plants over 50 megawatts (MW). Under statute, the CEC is required to process a generator's Application for Certification (AFC) within twelve months after the application has been accepted by the CEC. However, because of the state requirement that all Load Serving Entities meet 20 percent of their load with renewable energy by 2010, and the need for new capacity to replace aging facilities and to back up intermittent generation as well as meet load growth, the CEC has been unable to consistently meet the 12-month standard for processing generator applications.

"Another factor contributing to the delay of processing applications at the CEC is that many projects are seeking permits relating to new technologies for which the Siting Division does not have extensive experience in reviewing, such as reciprocating engines and new solar technologies. It is expected that almost 12 different solar projects will file at the CEC within a year.

"Because of the amount of cases before the CEC, the Siting Division staff has routinely asked for, and received, additional time from the Commissioners in analyzing cases. For projects in northern California, the CEC permitting process has taken an average of 14 to 15 months to complete recently, and in some cases it has stretched out as long as 20 months." (PG&E, Tesla Generating Station Project, Prepared Testimony, Public Version, dated July 18, 2008, p. 302, Lines 3-26.)

Similarly, a recent CEC Staff Draft Paper states: If new gas-fired power plants cannot be licensed in the Los Angeles Basin because air emission credits from the SCAQMD priority reserve are unavailable and other rules favorable to power plant development are disallowed, system reliability will require continued and ongoing operation of aging, less efficient, higher emission power plants to maintain planning reserve margins between 15-17 percent. Although the SWRCB could consider delaying the forced retirement of OTC power plants, it is unclear how long such a delay can continue and remain consistent with the U.S. Environmental Protection Agency's (U.S. EPA) enforcement of Clean Water Act provisions. This shortage of emission credits could have a negative impact on Southern California's ability to meet the California Independent System Operator's (California ISO) summer peak and local capacity requirements as early as 2011. ("Potential Impacts Of The South Coast Air Quality Management District Air Credit Limitations And Once-Through Cooling Mitigation On Southern California's Electricity System," Staff Draft Paper, February 2009.)

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Not only does California forego the benefits of renewable power when projects are delayed, the global environment suffers the detriment of the increased emissions that are not displaced as older, less effective, non-renewable resources continue to operate while projects sit in the permitting queue.

The Ivanpah Solar Project has a power purchase agreement. This is the first large scale solar project in the State, and it sits poised to make the first major contribution to California's Renewable Portfolio Standard and Greenhouse Gas objectives.

The schedule in this proceeding is very much in controversy. There are clearly misunderstandings and misconceptions that cloud the discussions that need to be addressed in a forum where all interested parties are present and in which the Committee can make an informed decision regarding the future schedule of this proceeding.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink that reads "Jeffery D. Harris". The signature is written in a cursive style and is positioned above a horizontal line.

Ellison, Schneider & Harris L.L.P.  
Jeffery D. Harris

Attorneys for the Applicant

cc: Service List (07-AFC-5)  
All CEC Commissioners

STATE OF CALIFORNIA

Energy Resources Conservation  
and Development Commission

Application for Certification for the IVANPAH )  
SOLAR ELECTRIC GENERATING SYSTEM ) Docket No. 07-AFC-5  
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**PROOF OF SERVICE**

I, Karen A. Mitchell, declare that on April 27, 2009, I served the attached *Ivanpah Letter regarding Applicant's Scheduling Conference Request* via electronic mail and United States Mail to all parties on the attached service list.

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



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Karen A. Mitchell



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA  
1516 NINTH STREET, SACRAMENTO, CA 95814  
1-800-822-6228 – WWW.ENERGY.CA.GOV**

APPLICATION FOR CERTIFICATION  
FOR THE *IVANPAH SOLAR ELECTRIC  
GENERATING SYSTEM*

DOCKET No. 07-AFC-5

PROOF OF SERVICE  
(Revised 4/16/09)

**APPLICANT**

Solar Partners, LLC  
John Woolard,  
Chief Executive Officer  
1999 Harrison Street, Suite #500  
Oakland, CA 94612

Steve De Young, Director  
Project Manager  
Ivanpah SEGS  
Environmental, Safety  
and Health  
1999 Harrison Street, Ste. 2150  
Oakland, CA 94612  
[sdeyoung@brightsourceenergy.com](mailto:sdeyoung@brightsourceenergy.com)

**APPLICANT'S CONSULTANTS**

John L. Carrier, J. D.  
2485 Natomas Park Dr. #600  
Sacramento, CA 95833-2937  
[jcarrier@ch2m.com](mailto:jcarrier@ch2m.com)

**COUNSEL FOR APPLICANT**

Jeffery D. Harris  
Ellison, Schneider  
& Harris L.L.P.  
2600 Capitol Avenue, Ste. 400  
Sacramento, CA 95816-5905  
[jdh@eslawfirm.com](mailto:jdh@eslawfirm.com)

**INTERESTED AGENCIES**

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

Tom Hurshman,  
Project Manager  
Bureau of Land Management  
2465 South Townsend Ave.  
Montrose, CO 81401  
[tom\\_hurshman@blm.gov](mailto:tom_hurshman@blm.gov)

Sterling White, Field Manager  
Bureau of Land Management  
1303 South Highway 95  
Needles, CA 92363  
[sterling\\_white@blm.gov](mailto:sterling_white@blm.gov)

Becky Jones  
California Department of  
Fish & Game  
36431 41st Street East  
Palmdale, CA 93552  
[dfgpalm@adelphia.net](mailto:dfgpalm@adelphia.net)

**INTERVENORS**

California Unions for Reliable  
Energy ("CURE")  
Tanya A. Gulesserian  
Marc D. Joseph  
Adams Broadwell Joseph &  
Cardozo  
601 Gateway Boulevard, Ste 1000  
South San Francisco, CA 94080  
[tgulesserian@adamsbroadwell.com](mailto:tgulesserian@adamsbroadwell.com)

\*Gloria Smith, Joanne Spalding  
Sidney Silliman, Sierra Club  
85 Second Street, 2<sup>nd</sup> Fl.  
San Francisco, CA 94105  
[gloria.smith@sierraclub.org](mailto:gloria.smith@sierraclub.org)  
[joanne.spalding@sierraclub.org](mailto:joanne.spalding@sierraclub.org)  
[gssilliman@csupomona.edu](mailto:gssilliman@csupomona.edu)  
**E-mail Preferred**

Joshua Basofin, CA Rep.  
Defenders of Wildlife  
1303 J Street, Ste. 270  
Sacramento, CA 95814  
[jbasofin@defenders.org](mailto:jbasofin@defenders.org)

**ENERGY COMMISSION**

JEFFREY D. BYRON  
Commissioner and Presiding  
Member  
[jbyron@energy.state.ca.us](mailto:jbyron@energy.state.ca.us)

JAMES D. BOYD  
Vice Chairman and  
Associate Member  
[jboyd@energy.state.ca.us](mailto:jboyd@energy.state.ca.us)

Paul Kramer  
Hearing Officer  
[pkramer@energy.state.ca.us](mailto:pkramer@energy.state.ca.us)

John Kessler  
Project Manager  
[jkessler@energy.state.ca.us](mailto:jkessler@energy.state.ca.us)

Dick Ratliff  
Staff Counsel  
[dratliff@energy.state.ca.us](mailto:dratliff@energy.state.ca.us)

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

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