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| DOCKET | |
| 07-AFC-5 | |
| DATE | NOV 19 2009 |
| RECD. | NOV 19 2009 |

November 19, 2009

Commissioner Jeffery D. Byron, Presiding Member
Commissioner James D. Boyd, Associate Member
Ivanpah Solar Electric Generating System (07-AFC-5)
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Re: Ivanpah Solar Electric Generating System (07-AFC-5): Notice Pursuant to 20
CCR 1716(f): Data Requests of Basin and Range Watch 1 through 10

Dear Commissioners Byron and Boyd:

Solar Partners I, LLC, Solar Partners II, LLC, Solar Partners IV, LLC and Solar Partners VIII, LLC (the "Applicant") hereby files this notice as required by Section 1716(f) of the Commission's regulations¹ regarding the basis for objections to Data Requests 1-10 promulgated by Basin and Range Watch on the Applicant on October 30, 2009.

Pursuant to Section 1716(e)², "[a]ll requests for information shall be submitted no later than 180 days from the date the commission determines an application is complete, unless the committee allows requests for information at a later time for good cause shown." The Ivanpah Solar Electric Generating System Application for Certification was deemed data adequate on October 31, 2007. Therefore, the deadline for submitting data requests, without good cause shown, was April 28, 2008.

On June 18, 2009, Basin and Range Watch filed a Petition to Intervene in this proceeding. On July 2, 2009, the Committee granted the Petition to Intervene. The Order Granting the Petition states that "[t]he deadlines for conducting discovery and other matters shall not be extended by the granting of the Petition."³ At that time, discovery had been closed for 431 days. Basin and Range Watch then waited another 120 days after being granted intervenor status before submitting their data requests.

¹ Cal. Code of Regs., Tit. 20, section 1716(f)

² Cal. Code of Regs., Tit. 20, section 1716(e)

³ Committee Order Granting Petition to Intervene, July 2, 2009, p. 2

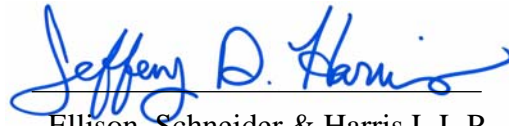
Further, Section 1712 of the Commission's Regulations states that "[n]o person who becomes a party shall be permitted to reopen matters or reopen discovery dealt with in the proceeding prior to the time when such person became a party, without a showing of good cause."⁴ Good cause requires a showing that a diligent effort has been made to complete discovery within the prescribed time frames and that failure to do so was caused by obstacles which could not reasonably have been avoided.⁵ Basin and Range Watch has not shown good cause to reopen the discovery period.

Based on the foregoing, Applicant objects to Basin and Range Watch Data Requests 1 through 10 as untimely.

Notwithstanding these objections and without waiving any of its rights related to these objections, the Applicant reserves the right, in its sole and absolute discretion, to respond to any of Basin and Range Watch's Data Requests. Moreover, Applicant commits to a telephonic "meet and confer" with Basin and Range Watch, if Basin and Range Watch is agreeable, to discuss where the information requested may be available in the existing record, to the extent that the requested information is reasonably available, relevant and reasonably necessary for the Commission to reach a decision in the proceeding.

Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Jeffery D. Harris". The signature is written in a cursive style with a horizontal line underneath the name.

Ellison, Schneider & Harris L.L.P.
Jeffery D. Harris
Greggory L. Wheatland
Attorneys for the Applicant

⁴ Cal. Code of Regs., Tit. 20, section 1712(a)

⁵ *Committee Order Denying CURE's Motion to Compel Production of Information*, Beacon Solar Project, Docket No. 08-AFC-2, April 15, 2009 at p. 5.

STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

Application for Certification for the IVANPAH)
SOLAR ELECTRIC GENERATING SYSTEM) Docket No. 07-AFC-5
)
)
_____)

PROOF OF SERVICE

I, Deric J. Wittenborn, declare that on November 19, 2009, I served the attached *Notice Pursuant to 20 CCR 1716(f): Data Requests of Basin and Range Watch 1 through 10*, via electronic mail and U.S. mail to all parties on the attached service list.

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



Deric J. Wittenborn
Deric J. Wittenborn



**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 7/20/09)

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