

DOCKET

07-AFC-5

DATE DEC 29 2009

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STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

In the Matter of

The Application for Certification for the
Ivanpah Solar Energy Generating Station

Docket No. 07-AFC-5

**INTERVENOR DEFENDERS OF WILDLIFE'S FINAL PREHEARING CONFERENCE
STATEMENT**

December 29, 2009

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**INTERVENOR DEFENDERS OF WILDLIFE'S FINAL PREHEARING
CONFERENCE STATEMENT**

Pursuant to the Committee's revised scheduling order dated November 23, 2009, Defenders of Wildlife ("Defenders") submits the following Final Prehearing Conference Statement for the Ivanpah Solar Electric Generating System ("ISEGS") evidentiary hearings scheduled for January, 2010.

1. The topic areas that are complete and ready to proceed to evidentiary hearing.

The topics listed as disputed in Defenders' First Prehearing Conference Statement are not yet complete nor ready to proceed to evidentiary hearing. Staff, the Applicant and the Intervenors have engaged in lengthy and substantive discussions concerning several topic areas during recent Staff Workshops. During these discussions, the parties labored to resolve disputed issues. The Applicant stated its intent to submit additional mitigation plans for the Biological Resources topic area. While Defenders welcomes these discussions between the parties, their occurrence this late in the proceedings indicates that several topic areas, particularly Biological Resources, are not complete and not ready to proceed to an evidentiary hearing.

Notwithstanding the continuing substantive discussions regarding disputed topic areas, Defenders is prepared to move forward with evidentiary hearings.

2. The topic areas that are not complete and not yet ready to proceed to evidentiary hearing, and the reasons therefore.

Defenders reserves the right to address each topic area at the evidentiary hearing. Defenders considers the disputed topic areas listed below to also be incomplete in terms of the information and analysis contained in the FSA.

3. The topic areas that remain disputed and require adjudication, and the precise nature of the dispute for each topic.

Biological Resources: Defenders disputes the sections of the FSA and Applicant testimony concerning direct, indirect and cumulative impacts on desert tortoise, special status wildlife, and rare plants. Defenders disputes the proposed mitigation measures for desert tortoise, special status wildlife, and rare plants.

Alternatives: Defenders disputes the sections of the FSA and Applicant testimony concerning the reasonableness of the range of alternatives.

Cumulative Impacts: Defenders disputes the sections of the FSA and Applicant testimony concerning the adequacy of mitigation measures to address cumulative impacts.

Water Resources: Defenders disputes the sections of the FSA and Applicant testimony concerning impacts to groundwater basins and the potential for stormwater scouring of the solar thermal units.

4. The identity of each witness sponsored by each party.

Defenders will sponsor the testimony of Dr. Ronald Marlow, Professor of Biology, University of Nevada – Reno.

Dr. Marlow completed his Doctoral degree in the field of desert tortoise biology. Dr. Marlow will testify regarding the impacts of the ISEGS project on desert tortoise populations, habitat, and recovery efforts in the Ivanpah Valley. Defenders hereby requests 45 -60 minutes to present Dr. Marlow's direct testimony.

Defenders will submit Dr. Marlow's written testimony on January 4th.

5. Topic areas upon which a party desires to cross-examine witnesses, a summary of the scope of such cross-examination, and the time desired for such cross-examination.

Defenders requests time to cross-examine each of the Applicant's and Staff's witnesses presenting testimony in the following areas: Biological Resources, Cumulative Impacts, Alternatives and Water Resources. Defenders reserves the right to cross-examine witnesses in any of the other disputed topic areas as well.

6. A list of identifying exhibits and declarations that each party intends to offer into evidence and the technical topics to which they apply.

No.	Date	Exhibit
700	1/31/2008	Defenders of Wildlife Comments on the ISEGS Preliminary Staff Assessment
701	5/21/2009	Defenders of Wildlife Comments on the Draft Desert Tortoise Relocation Plan for the Ivanpah Solar Electric Generating System (07-AFC-5)
702	8/31/2009	Defenders of Wildlife Additional Comments on Draft Environmental Assessment for Desert Tortoise Translocation
703	7/29/2009	Defenders of Wildlife comments on the Proposed Ivanpah Solar Electric Generating System (07-AFC-5): Cumulative Impact Analysis
704	9/9/2009	Map identifying private lands suitable for renewable energy development
705	11/2/2009	USGS Report: Modeling Habitat of the Desert Tortoise (<i>Gopherus agassizii</i>) in the Mojave and Parts of the Sonoran Deserts of California, Nevada, Utah, and Arizona
706	2/11/2008	Relevant portions of the USFWS 1994 Desert Tortoise Recovery Plan
707	5/9/2008	BLM Manual 1745
708	12/17/2009	Press release: Senators Feinstein and Merkley Introduce Measure to Spur Renewable Energy Development

- 709 10/27/2009 DFG Comments on the Preliminary Staff Assessment and Recommendations for the Final Staff Assessment for the Ivanpah Solar Electric Generating System
- 710 10/11/2008 Newspaper article: Army grants a stay to desert tortoise (Los Angeles Times)
- 711 3/26/2004 Newspaper article: "Federal Officials Set Aside Worries Over Desert Tortoise, Rare Plant (Los Angeles Times)"
- 712 8/31/2009 Western Watershed Project's comments on the Environmental Assessment for the Translocation of Desert Tortoises onto Bureau of Land Management and Other Federal Lands in the Superior-Cronese Desert Wildlife Management Area, San Bernardino County, California Bureau of Land Management: Environmental Assessment CA-680-2009-0058

7. Proposals for briefing deadlines, vacation schedules, and other scheduling matters.

Notwithstanding the continuing substantive discussions regarding disputed topic areas, Defenders is prepared to move forward with evidentiary hearings.

Defenders requests that the briefing schedule allow at least three weeks between the close of evidentiary hearings and the deadline for submittal of opening briefs.

8. Proposed Conditions of Certification listed in the Final Staff Assessment.

Defenders does not currently have suggestions for modifications to the Proposed Conditions of Certification. However, after the parties have submitted rebuttal evidence, or during the evidentiary hearing, Defenders may wish to formally submit modifications to the Conditions of Certification.

Defenders is also aware that staff and the applicant continue to engage in substantive discussions regarding Conditions of Certification. Therefore, should staff issue modifications or amendments to the FSA, Defenders reserves the right to respond with rebuttal evidence.

DECLARATION OF SERVICE

I, Joshua Basofin, declare that on December 29, 2009, I served and filed copies of the Attached Final Prehearing Conference Statement. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at:

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

(Check all that Apply)

FOR SERVICE TO ALL OTHER PARTIES:

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

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

AND

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

OR

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

CALIFORNIA ENERGY COMMISSION

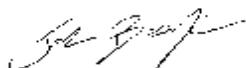
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I declare under penalty of perjury that the foregoing is true and correct.





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

DOCKET No. 07-AFC-5
PROOF OF SERVICE
(Revised 11/23/09)

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