



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

<b>DOCKET</b>
<b>07-AFC-5</b>
DATE <u>MAR 11 2010</u>
RECD. <u>MAR 12 2010</u>

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

**DOCKET No. 07-AFC-5**

**NOTICE OF ADDITIONAL EVIDENTIARY HEARING,  
 REVISED BRIEFING SCHEDULE, AND RULING ON ENVIRONMENTAL  
 INTERVENORS’ MOTION TO COMPEL PREHEARING  
 CONFERENCE, SET BRIEFING SCHEDULE AND  
 CLARIFY OTHER PROCEDURAL MATTERS**

**PLEASE TAKE NOTICE** that the Committee designated by the Energy Commission to conduct proceedings on the Application for Certification (AFC) for the **IVANPAH SOLAR ELECTRIC GENERATING SYSTEM (ISEGS) PROJECT** has scheduled an additional Evidentiary Hearing as follows:

***An additional Evidentiary Hearing will be conducted on:***

***Monday, March 22, 2010  
 Beginning at 9:30 a.m.***

**California Energy Commission  
 Hearing Room A  
 1516 Ninth Street  
 Sacramento, CA 95814**

***Parties and the Public may attend the Evidentiary Hearing in person at the above location or by telephone and/or by computer via our “WebEx” web conferencing system. For details on how to participate by WebEx, please see the “Participation through WebEx” directions attached.***

During the Evidentiary Hearing, the Committee will take evidence, by pre-filed written testimony and direct or cross examination of witnesses, relevant to the reduced project footprint alternative described in the Applicant’s Biological Mitigation Proposal (“Mitigated Ivanpah 3”), hereby designated as Exhibit 88, served on February 11, 2010.

In addition, the Committee will consider any objections the parties wish to make to Applicant’s Exhibit 87 (plot of Scott Cashen survey lines), served on January 29, 2010. The evidentiary record will be reopened to the extent necessary to receive evidence that is relevant to the reduced footprint alternative.

To facilitate the efficient conduct of the hearing, the parties shall file and serve via email, **ON or BEFORE 12:00 noon on Tuesday, March 16, 2010**, any written testimony they propose to offer at the hearing and a statement identifying any witnesses they intend to have testify or cross-examine. The parties shall file and serve via email, **ON or BEFORE 3:00 p.m. on Thursday, March 18, 2010**, a statement identifying any additional witnesses they intend to offer in rebuttal or desire to cross-examine. Prior to **March 22, 2010**, the parties **shall deliver two copies** of the written testimony to the Hearing Officer for inclusion in the Exhibit files.

The **Briefing Schedule** ordered at the conclusion of the January 11 – 14, 2010 Evidentiary Hearings is revised as follows:

- Opening Briefs are **DUE at 5:00 p.m. on Wednesday, March 24, 2010**.
- Reply Briefs are **DUE at 5:00 p.m. on Monday, April 12, 2010**. In addition to responding to the opening briefs, the reply briefs may address any new issues raised by the evidence presented at the March 22, 2010 Evidentiary Hearing.

The Committee identified various topics of interest to it during the January 14, 2010, Evidentiary Hearing. See page 344 and following of the January 14 Reporter's Transcript. The parties are free to brief some or all of those topics and any additional topics they wish to call to our attention.

We invite Bureau of Land Management (BLM) representatives to attend the Evidentiary Hearing to facilitate coordination of BLM's process with this AFC process.

Local, state, and federal governmental agencies may participate at the Evidentiary Hearing, as necessary. (Cal. Code Regs., tit. 20, § 1714.5.) Elected officials and members of the public may present public comments at these events and/or submit written comments to the Energy Commission's Docket Unit. Please include "Docket No. 07-AFC-5" on any written comments.

### **Ruling on Environmental Intervenors' Motion to Compel Prehearing Conference, Set Briefing Schedule and Clarify Other Procedural Matters**

Following consideration of the Environmental Intervenors' Motion to Compel Prehearing Conference, Set Briefing Schedule and Clarify Other Procedural Matters ("Motion"), filed on March 3, 2010, and the Applicant's Opposition filed on March 4, 2010, the Committee **denies the Motion** for the following reasons.

1. The Commission is not required to schedule a Prehearing Conference in advance of every Evidentiary Hearing in a case. It is sufficient that a single Prehearing Conference is held and in this matter two were held, on November 18, 2009 and January 4, 2010. A key purpose of Prehearing Conferences is to identify the issues to be heard at the Evidentiary Hearings.

Here those issues—relating to the reduced footprint alternative—are sufficiently well defined that a further Prehearing Conference would serve no useful purpose.

2. The briefing schedule set forth above allows sufficient time to prepare the briefs. The parties have known since the June, 2009 scheduling order that opening briefs were expected 3 weeks after the close of evidentiary hearings. Precise confirmation of the exact deadline does not justify failing to begin work on the briefs. The briefing deadlines proposed by the Hearing Officer on March 2 have been extended to March 24 and April 12 for opening and reply briefs, respectively, from the former March 16 and April 5, to facilitate preparation for the March 22 Hearing. The deadlines are fair and reasonable.
3. The Applicant's additional, information provided in proposed Exhibit 88, adds depth to the parties' and Committee's understanding of a reduced footprint alternative that is previously contemplated by proposed Condition of Certification **BIO-18** and the discussion of such an alternative during the January 14, 2010 Evidentiary Hearing. Contrary to Intervenor's assertion, the addition of this information does not require the preparation and circulation of a revised Final Staff Assessment. The Energy Commission's siting process was determined to be a functional equivalent of the preparation of draft and final Environmental Impact Reports under the California Environmental Quality Act [Cal. Code Regs., tit. 14, § 15251(k)] and satisfies the requirement to prepare those EIR. The requirement to allow review and comment on the additional information is satisfied by providing an opportunity to file written and offer oral testimony as we direct above. Although that it is not required to do so, we understand that Commission staff will be providing written testimony in response to Exhibit 88, explaining, among other things, the extent to which Staff's testimony and conclusions are affected by the new information.

### **Public Participation and Public Adviser**

Members of the public are welcome to attend and offer comments at the Prehearing Conference and the Evidentiary Hearing. It is not necessary to be an Intervenor to participate in the public process.

The Energy Commission Public Adviser's Office is available to assist the public in participating in the application review process. For those individuals who require general information on how to participate, please contact the Public Adviser's Office at (916) 654-4489 or (800) 822-6228 or e-mail: [[publicadviser@energy.state.ca.us](mailto:publicadviser@energy.state.ca.us)].

If you have a disability and need assistance to participate in this event, contact Lourdes Quiroz at (916) 654-5146 or e-mail: [[lquiroz@energy.state.ca.us](mailto:lquiroz@energy.state.ca.us)].

## Information

Questions of a legal or procedural nature should be directed to Paul Kramer, the Hearing Officer, at (916) 654-5103 or e-mail: [\[pkramer@energy.state.ca.us\]](mailto:pkramer@energy.state.ca.us).

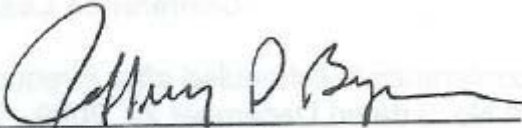
Technical questions concerning the project should be addressed to John Kessler, the Staff Project Manager, at (916) 654-4679, or e-mail at: [\[jkessler@energy.state.ca.us\]](mailto:jkessler@energy.state.ca.us).

Technical questions concerning the BLM permitting process should be addressed to Tom Hurshman, Project Manager at (970) 240-5345, or e-mail: [\[tom\\_hurshman@blm.gov\]](mailto:tom_hurshman@blm.gov).

Media inquiries should be directed to the Office of Media and Public Communications at (916) 654-4989 or e-mail at: [\[mediaoffice@energy.state.ca.us\]](mailto:mediaoffice@energy.state.ca.us).

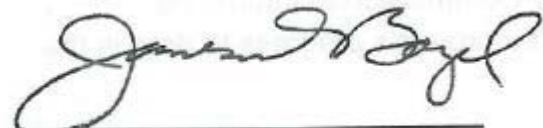
Information concerning the status of the project, as well as notices and other relevant documents, may be viewed on the Energy Commission's Internet web page at: [\[www.energy.ca.gov/sitingcases/ivanpah\]](http://www.energy.ca.gov/sitingcases/ivanpah).

Dated: March 11, 2010, at Sacramento, California.



JEFFREY D. BYRON

Commissioner and Presiding Member  
Ivanpah AFC Committee



JAMES D. BOYD

Vice Chair and Associate Member  
Ivanpah AFC Committee

PARTICIPATION IN THE EVIDENTIARY HEARING THROUGH WEBEX  
THE ENERGY COMMISSION'S ON-LINE MEETING SERVICE

1. COMPUTER LOG-ON WITH A DIRECT PHONE NUMBER:

- Please go to <https://energy.webex.com> and enter the meeting number: 923 483 710
- When prompted, enter your information and the meeting password: ivanpah@eh6

After you login, a prompt will appear on-screen for you to provide your phone number. In the Number box, type your area code and phone number and click OK. You will receive a call back on your phone for the audio portion of the meeting. International callers can use the "Country/Region" button to help make their connection.

2. COMPUTER LOG-ON FOR CALLERS WITH AN EXTENSION PHONE NUMBER, ETC:

- Please go to <https://energy.webex.com> and enter the meeting number: 923 483 710
- When prompted, enter your information and the meeting password: ivanpah@eh6
- After you login, a prompt will ask for your phone number. Click "CANCEL."  
Instead call 1-866-469-3239 (toll-free in the U.S. and Canada). When prompted, enter the meeting number above and your unique Attendee ID number (meeting number) which is listed in the top left area of your screen after you login.

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3. TELEPHONE ONLY (NO COMPUTER ACCESS):

- Call 1-866-469-3239 (toll-free in the U.S. and Canada) and when prompted enter the meeting number: 923 483 710

If you have difficulty joining the meeting, please call the WebEx Technical Support number at 1-866-229-3239. To see if your computer is compatible, visit [<http://support.webex.com/support/system-requirements.html>].

\*Please be aware that the meeting's WebEx audio and on-screen activity may be recorded.



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

DOCKET No. 07-AFC-5  
PROOF OF SERVICE  
(Revised 3/11/10)

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\*indicates change

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DECLARATION OF SERVICE

I, RoseMary Avalos, declare that on March 11, 2010, I served and filed copies of the attached, COMMITTEE ORDER ADOPTING FILING and ELECTRONIC DOCUMENTS DRECTIVES dated, March 11, 2010. 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 documents have 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:

- sent electronically to all email addresses on the Proof of Service list;  
 by personal delivery;  
 by delivering on this date, for mailing with the United States Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses NOT marked "email preferred."

**AND**

FOR FILING WITH THE ENERGY COMMISSION:

- 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  
Attn: Docket No. 07-AFC-5  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512  
[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

I declare under penalty of perjury that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

Original Signed By:  
ROSEMARY AVALOS