

**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  
TELEPHONE (916) 447-2166 FAX (916) 447-3512

ELIZABETH P. EWENS, OF COUNSEL  
BRIAN S. BIERING  
TERESA W. CHAN  
SHANE E. CONWAY  
KATHRYN C. COTTER  
JEDEDIAH J. GIBSON  
CHASE B. KAPPEL  
SAMANTHA G. POTTENGER

<b>DOCKET</b>	
<b>07-AFC-5</b>	
DATE	<u>MAR 18 2010</u>
RECD.	<u>MAR 22 2010</u>

March 18, 2010

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

Re: **Cross Examination Estimates; Identification of Rebuttal Witnesses**

Dear Commissioner Byron, Commissioner Boyd, and Hearing Officer Kramer:

Pursuant to the Committee’s Order dated March 11, 2010, Applicant hereby provides the following statement providing cross examination estimates and identifying any additional witnesses in rebuttal.

**CROSS EXAMINATION ESTIMATES**

Applicant continues to believe that all of the parties’ relevant testimony in this proceeding can be accepted by stipulation. As such, except for testimony that is outside the scope of the Committee’s March 11<sup>th</sup> Order reopening the hearing record, Applicant proposes to waive its right to cross examination if other parties agree to accept all testimony by stipulation.

If no other party has cross examination for these witnesses and their testimony is accepted by stipulation, Applicant will waive its right to cross examination of the following witnesses: (1) Basin and Range Watch, Laura Cunningham; (2) California Native Plant Society, Greg Suba, Tara Hansen, and Jim Andre; (3) Western Watersheds, Michael Connor; and (4) Center for Biological Diversity, Illeene Anderson and Mark Jorgensen. However, if any of these witnesses testify, Applicant requests 10 minutes for cross examination of each who testify.

For the CEC Staff witnesses, if no other party has cross examination for these witnesses and the CEC testimony is accepted by stipulation, Applicant will waive its right to cross

examination of the CEC Staff witnesses. However, if any CEC witness testifies, Applicant requests a total of 30 minutes for cross examination of the CEC witnesses who testify.

For the remaining Center for Biological Diversity witness, Mr. Powers, his testimony in its entirety is outside the scope of the Committee Order providing for limited re-opening of the hearing record. The Committee order provides, in pertinent part, “The evidentiary record will be reopened *to the extent necessary to receive evidence that is relevant to the reduced footprint alternative.*” (Order, p.1; emphasis added) Mr. Power’s proffered testimony is related to a conceptual plan located within the Imperial Irrigation District. His testimony is not “relevant to the reduced footprint alternative” specified in the Order and is clearly outside the scope of this limited hearing. If no other party has cross examination for this witness, Applicant will waive its right to cross examination of Mr. Powers. However, if Mr. Powers testifies, Applicant requests 20 minutes for cross examination of Mr. Powers.

For the Sierra Club’s witness, Mr. Cashen, if no other party has cross examination for this witness and his testimony is accepted by stipulation, Applicant will waive its right to cross examination of Mr. Cashen. However, if Mr. Cashen testifies, Applicant requests a total of 30 minutes for cross examination.

Further to the Sierra Club witness, a portion of his testimony is likewise outside the scope of the March 11<sup>th</sup> Committee Order providing for limited re-opening of the record on issues “relevant to the reduced footprint alternative.” (Order, p.1) Specifically this testimony, beginning on page 6 with the section titled “Feasibility of a Project Alternative that Promotes Long-term Population Viability” and ending with Figure 1 on page 7, does not focus on the reduced footprint alternative specified in the Order. However, if the Committee wishes to proceed with this portion of Mr. Cashen's testimony (notwithstanding that it is outside the scope of the Committee's order) and if other parties have questions for Mr. Cashen on this portion of his testimony, the Applicant requests time to cross examine Mr. Cashen on these matters within the 30 minute period requested above.

Finally, in the interest of completeness, if no other party has cross examination for Applicant’s witnesses and their testimony is accepted by stipulation, Applicant agrees to enter its testimony by stipulation.

### **REBUTTAL WITNESS IDENTIFICATION**

Applicant would like to add Arne Olson of E3 to its panel as a rebuttal witness to respond to Mr. Power’s testimony. Mr. Olson was previously sworn in this proceeding. If Mr. Power’s testimony is later not admitted into evidence, Mr. Olson will not testify in rebuttal.

Applicant’s panel will sponsor the attached rebuttal exhibit. This exhibit is a map showing the relationship between (1) the Sierra Club’s Supplemental Testimony Figure 1 identifying lands closer to I-15, (2) the Ivanpah Solar Project site, and (3) the transects walked by the Sierra Club’s witness, Scott Cashen. If that portion of Mr. Cashen’s testimony referenced

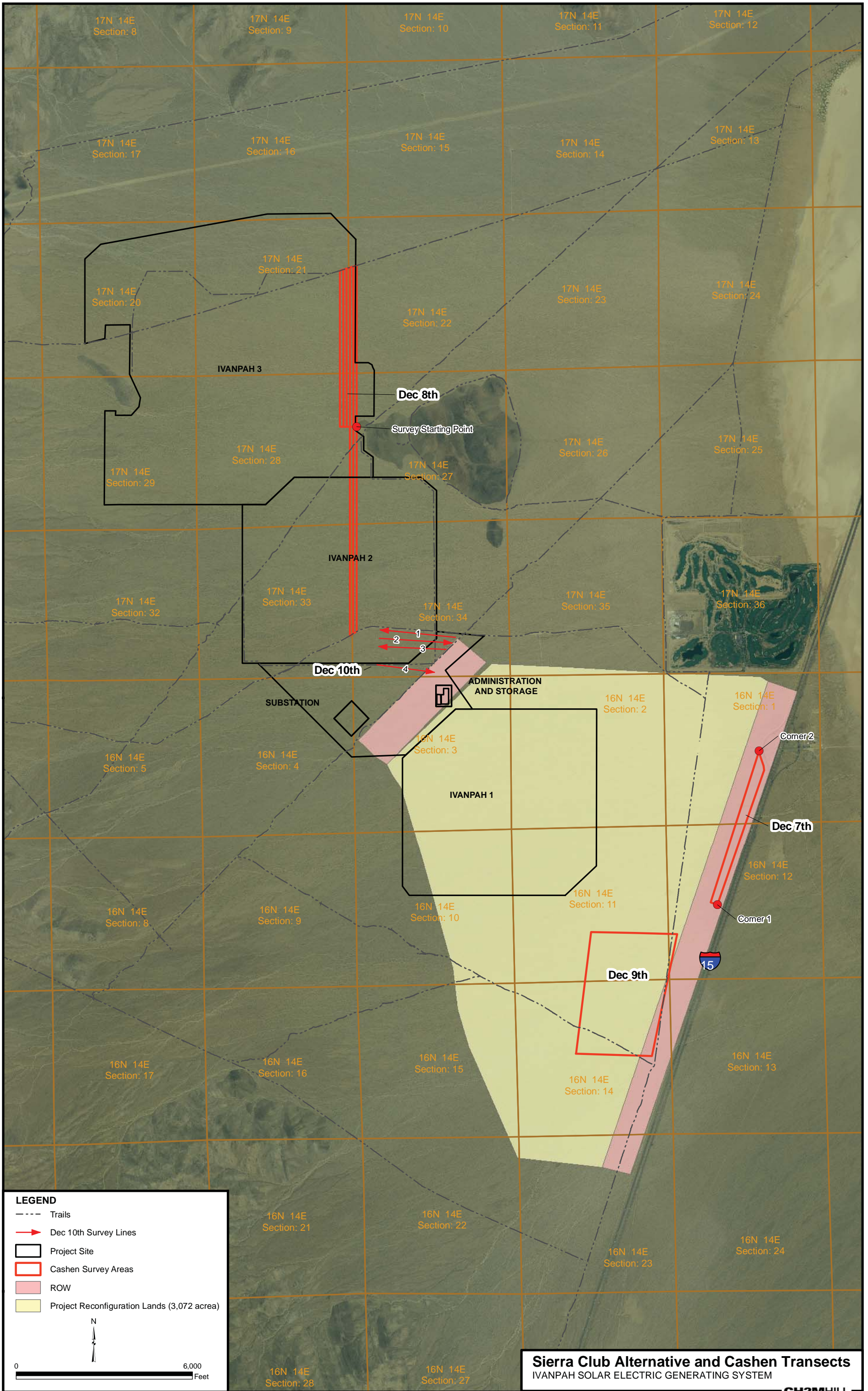
above is not received into evidence, Applicant will not offer the attached rebuttal exhibit into evidence.

Thank you.

A handwritten signature in blue ink that reads "Jeffery D. Harris". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Jeffery D. Harris

Attorneys for the Ivanpah Solar Project



**LEGEND**

- Trails
- Dec 10th Survey Lines
- ▭ Project Site
- ▭ Cashen Survey Areas
- ▭ ROW
- ▭ Project Reconfiguration Lands (3,072 acrea)

N

0 6,000 Feet

**Sierra Club Alternative and Cashen Transects**  
 IVANPAH SOLAR ELECTRIC GENERATING SYSTEM  
 CH2MHILL

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 March 18, 2010, I served the attached *Applicant's Cross-Examination Estimates and Identification of Rebuttal Witnesses* 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.



\_\_\_\_\_  
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 3/11/10)

**APPLICANT**

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

Todd A. Stewart, Project Manager  
Ivanpah SEGS  
[sdeyoung@brightsourceenergy.com](mailto:sdeyoung@brightsourceenergy.com)  
**E-mail Preferred**

Steve De Young, Project Manager  
Ivanpah SEGS.  
1999 Harrison Street, Ste. 2150  
Oakland, CA 94612  
[tstewart@brightsourceenergy.com](mailto:tstewart@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)

Raymond C. Lee, Field Manager  
Bureau of Land Management  
1303 South U.S. Highway 95  
Needles, CA 92363  
[Raymond\\_Lee@ca.blm.gov](mailto:Raymond_Lee@ca.blm.gov)

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

**INTERVENORS**

California Unions for Reliable Energy ("CURE")  
c/o: 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)

Western Watersheds Project  
Michael J. Connor, Ph.D.  
P.O. Box 2364  
Reseda, CA 91337-2364  
[mjconnor@westernwatersheds.org](mailto:mjconnor@westernwatersheds.org)

Gloria Smith, Joanne Spalding  
Sidney Silliman, Devorah Ancel  
Sierra Club  
85 Second Street, 2<sup>nd</sup> Fl.  
San Francisco, CA 94105  
**E-mail Service Preferred**  
[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)  
[devorah.ancel@sierraclub.org](mailto:devorah.ancel@sierraclub.org)

\*indicates change

**INTERVENORS CONT.**

Joshua Basofin, CA Rep.  
Defenders of Wildlife  
1303 J Street, Ste. 270  
Sacramento, CA 95814

**E-mail Service Preferred**  
[jbasofin@defenders.org](mailto:jbasofin@defenders.org).

Basin and Range Watch  
Laura Cunningham  
Kevin Emmerich  
P.O. Box 70  
Beatty, NV 89003  
[atmictoadranch@netzero.net](mailto:atmictoadranch@netzero.net)

Center for Biological Diversity  
Lisa T. Belenky, Sr. Attorney  
Ileene Anderson, Public Lands Desert Director  
351 California Street, Ste. 600  
San Francisco, CA 94104  
**E-mail Service Preferred**  
[lbelenky@biologicaldiversity.org](mailto:lbelenky@biologicaldiversity.org)  
[ianderson@biologicaldiversity.org](mailto:ianderson@biologicaldiversity.org)

California Native Plant Society  
Greg Suba, Tara Hansen & Jim Andre  
2707 K Street, Suite 1  
Sacramento, California, 95816-5113  
**E-mail Service Preferred**  
[gsuba@cnps.org](mailto:gsuba@cnps.org)  
[thansen@cnps.org](mailto:thansen@cnps.org)  
[granites@telis.org](mailto:granites@telis.org)

County of San Bernardino  
Bart W. Brizzee, Deputy Co. Counsel  
385 N. Arrowhead Avenue, 4<sup>th</sup> Fl.  
San Bernardino, California, 92415  
[bbrizzee@cc.sbcounty.gov](mailto:bbrizzee@cc.sbcounty.gov)

**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)

Jennifer Jennings  
Public Adviser  
[publicadviser@energy.state.ca.us](mailto:publicadviser@energy.state.ca.us)