CALIFORNIA ENERGY COMMISSION
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**STATE OF CALIFORNIA**
**ENERGY RESOURCES CONSERVATION**
**AND DEVELOPMENT COMMISSION**

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| **In the Matter of:** | |
| **IVANPAH SOLAR ELECTRIC GENERATING SYSTEM** | **Docket No. 07-AFC-5C** |
| | **Order No.** 13-0213-7 |
| **SOLAR PARTNERS, LLC** | **ORDER APPROVING a Petition to Modify BIO-20 Condition of Certification** |

On November 26, 2012, the project owners, Solar Partners, LLC, filed a Petition to Amend the California Energy Commission's (Energy Commission) Decision for the Ivanpah Solar Electric Generating System (ISEGS) project. The Petition to Amend modified one (1) Biological Condition of Certification (COC). The modification proposed in the petition would amend Condition of Certification **BIO-20** (which requires measures to avoid, minimize and mitigate for impacts to ephemeral drainages) to allow the owner to pay advanced mitigation fees to the California Department of Fish and Wildlife (CDFW) for acquisition and/or restoration of habitat under CDFW's Advanced Mitigation Land Acquisition Grants (AMLAG) program.

## STAFF RECOMMENDATION

Energy Commission staff reviewed the petition and found that it complied with the requirements of title 20, section 1769(a) of the California Code of Regulations and recommended approval of Solar Partners, LLC's petition to modify the ISEGS Project and amend the above mentioned Condition of Certification.

## ENERGY COMMISSION FINDINGS

Based on staff's analysis, the Energy Commission concludes that the proposed changes will not result in any significant impact to environmental or public health and safety. The Energy Commission finds that:

- The petition meets all the filing criteria of title 20, section 1769(a) of the California Code of Regulations concerning post-certification project modifications;
- The modification will not change the findings in the Energy Commission's Final Decision;

- The project will remain in compliance with all applicable laws, ordinances, regulations, and standards, subject to the provisions of Public Resources Code section 25525;
- The proposed modifications to the Biological Condition of Certification will result in a beneficial change by providing needed mitigation options for the ISEGS project; and
- The change is based on information that was not available to the parties prior to Energy Commission certification.

## CONCLUSION AND ORDER

The Energy Commission hereby adopts Staff's recommendation and approves the following changes to the Energy Commission Decision for the Ivanpah Solar Electric Generating System project. New language is shown as **bold and underlined**, and deleted language is shown in ~~strikeout~~.

## CONDITION OF CERTIFICATION

**BIO-20** The project owner shall implement the following measures to avoid, minimize and mitigate for impacts to ephemeral drainages:

1. Acquire Off-Site Desert Wash: The project owner shall acquire, in fee or in easement, a parcel or parcels of land that includes ephemeral washes with at least 175 acres of state jurisdictional waters. The terms and conditions of this acquisition or easement shall be as described in Condition of Certification BIO-17 with the additional criteria that the desert wash mitigation lands: 1) include at least 175 acres of state jurisdictional waters; 2) be characterized by similar soil permeability, hydrological and biological functions as the impacted drainages; and 3) be **located** within the **California Desert Renewable Energy Conservation Plan planning area**~~same watershed as the impacted wash~~. The desert wash mitigation lands may be included with the desert tortoise mitigation lands ONLY if the above ~~three~~ criteria are met.

   **The Project owner may choose to satisfy its mitigation obligations identified in this Decision by participating in an advanced mitigation program such as that established by CDFG, pursuant to Fish and Game Code sections 2069 and 2099.**

The verification would not be altered in any way, and so reads as follows:

**Verification**: No less than 90 days prior to acquisition of the parcel (s) containing 175 acres of waters of the state, the project owner, or a third-party approved by the CPM, in consultation with CDFG, shall submit a formal acquisition proposal to the CPM and CDFG describing the parcel(s) intended for purchase.

Draft agreements to delegate land acquisition to CDFG or an approved third party and agreements to manage compensation lands shall be submitted to Energy

Commission staff for review and approval (in consultation with CDFG) prior to land acquisition. Such agreements shall be mutually approved and executed at least 60 days prior to start of any project-related ground disturbance activities. The project owner shall provide written verification to the CPM that the compensation lands have been acquired and recorded in favor of the approved recipient(s). Alternatively, before beginning project ground-disturbing activities, the project owner shall provide Security in accordance with this condition. Within 90 days after the land purchase, as determined by the date on the title, the project owner shall provide the CPM with a management plan for review and approval, in consultation with CDFG, for the compensation lands and associated funds.

No fewer than 30 days prior to the start of work potentially affecting waters of the state, the project owner shall provide written verification (i.e., through incorporation into the BRMIMP) to the CPM that the above best management practices will be implemented and provide a discussion of work in waters of the state in Compliance Reports for the duration of the project.

**IT IS SO ORDERED.**

*CERTIFICATION*

*The undersigned Secretariat to the Commission does hereby certify that the foregoing is a full, true, and correct copy of an Order duly and regularly adopted at a meeting of the Energy Commission held on February 13, 2013.*

*AYE: Weisenmiller, Douglas, McAllister*
*NAY: None*
*ABSENT: None*
*ABSTAIN: None*

Harriet Kallemeyn

*Harriet Kallemeyn,*
*Secretariat*