

# ELLISON, SCHNEIDER & HARRIS L.L.P.

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## **Our Powerplant Siting Team**

### **Powerplant Siting: A Proven Record Of Success**

Ellison, Schneider & Harris specializes in addressing energy, water, land use and environmental matters. Since its founding in 1990, the firm has sought to provide clients the attentive and detailed service they expect from a smaller law firm with the breadth of experience and expertise often attributed to the larger firms.

Ellison, Schneider & Harris is a full-service energy and water firm. We have significant expertise in representation before energy, water and environmental administrative agencies, project permitting, environmental compliance, business transactions, contracts, client counseling, negotiation, legislative advocacy, arbitration, mediation, and litigation.

In addition to our well-rounded energy and water practice, Ellison, Schneider & Harris has a proven record of success in siting powerplants. California law provides that all powerplants fifty megawatts or greater are subject to the "exclusive" siting jurisdiction of the California Energy Commission (CEC). The CEC certification is issued in lieu of any permit, certificate, or similar approvals required by any state, local or regional agency, or federal agency to the extent permitted by federal law. In addition to this exclusive siting authority, the CEC has separate authority for overriding inconsistencies with laws, ordinances, regulations and standards ("LORS").

As set forth in our Facility Status Chart, Ellison, Schneider & Harris has helped its clients secure and optimize over 11,793 megawatts of new entitlements in California at 23 different project locations. That record of success is unparalleled in the industry by any law firm of any size anywhere.

Commercial operation is the ultimate and one true measure of success for permitting. Ellison, Schneider & Harris has been lead CEC siting counsel for more than 6,397 megawatts of the new 16,539 MW of capacity that has come on-line in California since 1999. That means our firm has licensed approximately thirty-nine percent (39%) of all of the projects that have successfully moved from project concept to commercial operation. No other firm can match those numbers.

In terms of successful licensing proceedings, Ellison, Schneider & Harris has licensed 11,708 megawatts of the total 33,715 megawatts licensed by the CEC since 1999, or approximately 35% of all new capacity in the state of California. We have also secured approval for 1,624 megawatts that is currently awaiting construction and another 2,600 megawatts of projects that have been approved but are not yet under construction. We are currently acting as siting counsel for a total of 85 megawatts of projects currently before the CEC for review.

Taking into consideration all projects for which we have acted as lead counsel for siting, compliance, or post-certification advice and counsel, we have been involved in 13,928 megawatts of new California capacity since 1999. No other law firm of any size can match our firm's success on behalf of our clients.

Unlike competing law firms, Ellison, Schneider & Harris has always been successful in obtaining licenses for all of our clients' projects. We have never had a project seeking final approval denied. Our competitors have been denied. We have always been successful in obtaining extensions of licenses for clients who seek additional time beyond the initial five year commencement of construction term. Again, our competitors have been denied.

Considering these two factors, we are the only law firm in the State of California to have been successful 100% of the time for our clients. None of our competitors have this track record of success.

### **Former CEC Staff Attorneys and Our Rising Stars**

Ellison, Schneider & Harris draws on the strengths and expertise of all of its attorneys in siting powerplants. Our three attorneys who make up our core powerplant siting team are all former CEC Staff Attorneys who have developed the expertise and maintained the relationships that give our clients strategic advantages in navigating through the CEC's regulatory maze. Ellison, Schneider & Harris has several young energy and water attorneys who we feel are the rising stars of the industry.

#### **Chris Ellison**

Chris Ellison, a partner at Ellison, Schneider & Harris, has specialized in energy matters, concentrating on transactional, regulatory and arbitration work on behalf of energy suppliers, customers, trade associations and regional reliability organizations since admission to the California State Bar in 1977.

Prior to entering private practice, Chris served as Special Adviser to the Chairman and former Apollo Astronaut Rusty Schweikert. In that capacity, Chris advised the Chairman and Commissioners regarding licensing of new powerplants, the application of local, state and

federal restrictions on land development, California planning and zoning laws, and the Coastal Act. In addition, Chris advised the Chairman and Commissioners on diverse energy matters, including forecasting future statewide energy production and demand, energy research and development, and setting statewide energy efficiency standards for new buildings and appliances.

Before being elevated to work for the Chairman, Chris acted as Staff Counsel, representing the CEC and its staff in proceedings before the CEC, other federal and state agencies, including the Nuclear Regulatory Commission and the California Public Utilities Commission. He was the lead attorney in major adjudicatory powerplant licensing proceedings and in the U.S. Nuclear Regulatory Commission inquiry into the safety of the Rancho Seco nuclear powerplant after the accident at Three Mile Island.

### **Jeff Harris**

Jeff Harris is also a partner at Ellison, Schneider & Harris. Since joining the firm, Jeff has been involved in more than a dozen powerplant siting cases on behalf of both merchant and publicly-owned powerplant applicants. Jeff's practice in recent years has focused on powerplant siting and environmental issues related to the California Environmental Quality Act ("CEQA"). Jeff has helped clients develop and implement complex permitting strategies. Jeff and his colleagues successfully licensed the high-profile Metcalf Energy Center. Jeff has extensive experience in administrative proceedings, representing clients in public proceedings, including, applications for licenses and permits, public agency rulemakings, and responses to requests for proposals.

In addition to powerplant siting issues, Jeff and the Ellison, Schneider & Harris team has also worked on the siting of both onshore and offshore liquefied natural gas (LNG) terminals. Onshore, Jeff has advised two clients seeking to build onshore LNG terminals, one in northern California and another in northern Oregon. Offshore, Jeff and the Ellison, Schneider & Harris team are actively involved in the complex federal, state and local permitting processes for a project to be located offshore in Southern California.

After being admitted to the California State Bar, Jeff worked for the United States House of Representatives. He was Associate Staff to the House Appropriations Subcommittee on Energy and Water Development and served as Legislative Counsel to Congressman Vic Fazio. As Staff to the Appropriation Subcommittee, Jeff help established budgetary priorities and direct project-specific funding for the Department of Energy, the Federal Energy Regulatory Commission ("FERC"), the Power Marketing Administrations ("PMAs"), including Western Area Power Administration ("WAPA"), the Bureau of Reclamation, and the U.S. Army Corps of Engineers, among other agencies. He also drafted statutory provisions and report language for the Energy and Water Appropriations legislation.

Prior to entering private practice, Jeff worked as the law clerk for the Office of Chief Counsel for the CEC. In addition to his other duties, Jeff acted as primary research assistant and contributing writer for appellate litigation defining the scope of the CEC's jurisdiction over powerplant siting cases.

### **Gregg Wheatland**

Gregg Wheatland is a partner with Ellison, Schneider & Harris and has been with the firm since 2001. Gregg joined Ellison, Schneider & Harris expressly to take on lead counsel responsibilities in the siting of CEC-jurisdictional powerplants. Gregg's extensive experience and his professionalism have put him in the "first chair" on many complex and high-profile powerplant siting cases.

A 1976 graduate of the School of Law at the University of California, Davis, Gregg has specialized in energy, utility and municipal law. Gregg served as Staff Counsel to the CEC from 1977 to 1986. During his tenure at the CEC, Gregg served as Senior Staff Counsel. In his managerial capacity, Gregg supervised Staff Counsel in CEC proceedings involving siting, licensing and environmental review of new powerplants. Gregg also represented the CEC before Congress and the California Legislature as the Acting Chief of Governmental Affairs, 1981-82. Gregg also served briefly as an Associate Public Adviser, charged with helping members of the public participate in CEC's proceedings.

After leaving the CEC, Gregg served as Assistant Chief Administrative Law Judge at the California Public Utilities Commission ("CPUC"). In addition to supervising a staff of 40 (judges, professional and clerical employees), Gregg also presided over complex and controversial proceedings involving ratemaking, mergers and spin-offs and coordinated policy development in a wide range of industries. The former Mayor and a City Council Member for Orinda, California, Gregg also served for ten years as a member of the Contra Costa County Transportation Authority and the Contra Costa Solid Waste Authority.

### **Samantha Pottenger**

Samantha Pottenger is an associate with the law firm of Ellison, Schneider & Harris L.L.P. Her practice specializes in energy and natural resources law, with an emphasis in power plant siting and power purchase agreements. Samantha joined the firm in 2008 as a law clerk while attending the University of Pacific, McGeorge School of Law, where she earned her J.D. While at the McGeorge School of Law, Samantha served on the Board of Editors for the Pacific McGeorge Global Business & Development Law Journal, and published an article discussing the role of international law in conservation and development efforts in China and Southeast Asia. Samantha graduated with a B.A. in Political Science, with a concentration in International Relations, and a B.A. in Chinese Studies from the University of California San Diego.

### **Brian Biering**

Brian Biering is an associate with Ellison, Schneider & Harris specializing in California energy issues. Brian's practice focuses on the California Environmental Quality Act ("CEQA"), and he assists clients in addressing greenhouse gas ("GHG") emissions under CEQA. Brian participates in public agency rulemakings on behalf of the firm's clients in the areas of GHG regulation and California's Renewable Portfolio Standard ("RPS"). Brian earned his J.D. from the University of Oregon School of Law. While at the University of Oregon, Brian was an editor on the Journal of Environmental Law and Litigation and published an article on GHG regulation. Before coming to the firm, Brian was a judicial extern for the U.S. District Court, District of Oregon. Brian has also worked at the California Resources Agency and the California Energy Commission as an Executive Fellow. Brian graduated from U.C. Davis with a Bachelor's of Science in Managerial Economics.

### **Chase Kappel**

Chase Kappel is an associate with the law firm of Ellison, Schneider & Harris. Her practice focuses on energy law and regulatory compliance. Before coming to the firm, Chase practiced personal injury litigation in Los Angeles. Prior to earning her J.D., Ms. Kappel worked as a consulting economist at Exeter Associates, a consulting firm that provides economic and financial services to government agencies and large consumers in the areas of energy and telecommunications. She earned her J.D. from the University of Richmond School of Law in Richmond, Virginia and graduated with a B.S. in Economics and a B.A. in English from James Madison University in Harrisonburg, Virginia.

### **Shane Conway**

Shane Conway is an associate with the law firm of Ellison, Schneider & Harris. Her practice focuses on the Clean Water Act and the Endangered Species Act. She assists clients in California water rights law, water quality, wetlands regulation, and endangered species issues. Shane worked at the firm as a legal clerk before joining as an associate. She also worked as a legal clerk at Shute, Mihaly & Weinberger and the National Wildlife Federation through the University of Michigan environmental law clinic. Prior to earning her J.D., Shane worked as a paralegal at Natural Heritage Institute and at Drinker, Biddle & Reath in San Francisco, and interned at the U.S. Fish and Wildlife Service Headquarters. Shane earned her J.D. at the University of Michigan Law School and graduated with a Bachelor of Arts in Government, with minors in Environmental Studies and Spanish, from Georgetown University.

You can find more information on our firm and our attorneys at our website:  
[www.eslawfirm.com](http://www.eslawfirm.com).