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BEFORE THE
CALIFORNIA ENERGY COMMISSION

In Re:)
)
Palen Solar Electric)
Generating System Amendment) Docket No. 09-AFC-07C

COMMITTEE CONFERENCE ON THE
PRESIDING MEMBER'S PROPOSED DECISION

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A, 1516 NINTH STREET
SACRAMENTO, CALIFORNIA

TUESDAY, JANUARY 7, 2014
1:30 P.M.

Reported by:
Peter Petty

APPEARANCES

Commissioners Present

Karen Douglas, Presiding Member of Committee
Galen Lemei, Her Advisor
Eli Harland, Her Advisor
David Hochschild, Associate Member of Committee
Gabriel D. Taylor, His Advisor
Eileen Allen, Commissioner's Technical Advisor
for Facility Siting

Hearing Officer

Kenneth Celli

Staff Present: (* Via Telephone)

Christine Stora, Project Manager
Jennifer Martin-Gallardo, Staff Counsel
Roger Johnson, Deputy Director, Siting, Transmission,
and Environmental Protection Division
Alana Matthews, Public Advisor
Blake Roberts, Public Advisor's Office

Petitioner BrightSource Energy, Inc.

Scott Galati, Galati & Blek, LLC,
representing Palen Solar Holdings
Matt Stucky, representing Abengoa Solar-
Palen Solar Holdings

INTERVENORS:

Center for Biological Diversity (CBD)

*Lisa Belenky
*Ileene Anderson

Basin and Range Watch

*Kevin Emmerich

California River Indian River Tribes (CRIT)

*Sara Clark
*Douglas Bonamici

APPEARANCES (Contin.)

Interested Government Agencies: (*via telephone)

Office of the Solicitor

*Deborah Bardwick, representing U.S. Park Service

U.S. Fish and Wildlife Service

*Jody Fraser

*Joel Pagel

*Tom Dietsch

CA Dept. of Public Health

*Jason Wilken

*Jennifer McNary

County of Riverside

*Tiffany North

Public (* Via telephone)

Erin Niemela, Large Scale Solar Association (LSA)
V. John White, Center for Energy Efficiency and
Renewable Technologies (CEERT)

*Curtis Coombs

*Federico Ollarsaba

*Frank Wilkens, Director, Concentrating Solar
Power Alliance

*Jeff Aardhl, Defenders of Wildlife

*K. Kaufman

*Ken Waxlax

*Mark

*Nick Lancaster

*Ray

*Sarah Friedman, Sierra Club

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4. Closed Session (if necessary)	
<p>Committee closed session consideration of the following Item: PETITION TO AMEND THE CERTIFICATION FOR THE PALEN SOLAR ELECTRIC GENERATING SYSTEM. Deliberation by the Committee on any matters submitted for decision by the Committee including, but not limited to pending motions and scheduling. The Committee will adjourn to closed session in accordance with Government Code section 11126, subdivision (c)(3), which allows a state body, including a delegated committee, to hold a closed session to deliberate on a decision to be reached in a proceeding the state body was required by law to conduct.</p>	
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P R O C E E D I N G S

JANUARY 7, 2014 1:37 p.m.

COMMISSIONER DOUGLAS: Welcome to the Committee Conference on the PMPD for the Palen Solar Electric Generating System. I'll begin by introducing the members of the committee assigned to conduct these hearings.

I'm Commissioner Karen Douglas, I'm the Presiding Member of this Committee. To the left of the Hearing Officer is Commissioner David Hochschild, the Associate Member. Hearing Officer Ken Celli is on my left. Gabe Taylor, Advisor to Commissioner Hochschild is to the left of Commissioner Hochschild. To his left is Eileen Allen, she is the Technical Advisor for Siting on siting cases. And to my right is Eli Harland, my Advisor.

So with that, let me ask the Public Advisor if you could identify yourself. Great, so Alana Matthews is here from the Public Advisor's Office. Blake Roberts, I see, is also here.

Petitioner, BrightSource Energy, Inc., could you please introduce yourselves for the record?

1 MR. GALATI: This is Scott Galati
2 representing Palen Solar Holdings.

3 MR. STUCKY: And this is Matt Stucky with
4 Abengoa Solar, part of Palen Solar Holdings.

5 COMMISSIONER DOUGLAS: Thank you. Staff,
6 please.

7 MS. MARTIN: This is Jennifer Martin-
8 Gallardo representing staff.

9 MS. STORA: Christine Stora, the
10 Compliance Project Manager for staff.

11 COMMISSIONER DOUGLAS: Thank you.
12 Intervenor, Lisa Belenky, or Ileene Anderson,
13 Center for Biological Diversity?

14 MS. BELENKY: Yes, this is Lisa Belenky
15 for the Center for Biological Diversity,
16 Intervenors.

17 COMMISSIONER DOUGLAS: Thank you.
18 Intervenor, Kevin Emmerich or Laura Cunningham,
19 Basin and Range Watch?

20 MR. EMMERICH: Hi. This is Kevin
21 Emmerich, Basin and Range Watch.

22 COMMISSIONER DOUGLAS: Thank you.
23 Intervenor Alfredo Figueroa, are you here or on
24 the phone? Intervenor Tanya Gullessarian or
25 Elizabeth Klebaner? Intervenor Hidelberto

1 Sanchez or Eddie Simmons with LiUNA? Intervenor
2 Rebecca Loudbear or Winter King or Sara Clark
3 with the Colorado River Indian Tribes?

4 MS. CLARK: This is Sara Clark.

5 COMMISSIONER DOUGLAS: Thank you. All
6 right, public agencies. Are there any
7 representatives of Federal Government agencies in
8 the room or on the phone today?

9 MS. BARDWICK: Good afternoon. This is
10 Deborah Bardwick with the Office of the
11 Solicitor, representing the National Park
12 Service.

13 COMMISSIONER DOUGLAS: Thank you. Anyone
14 else?

15 MS. FRASER: Hi. This is Jody Fraser
16 with the U.S. Fish and Wildlife Service.

17 COMMISSIONER DOUGLAS: Thank you.

18 MR. PAGEL: Hello, this is Joel Pagel
19 from the U.S. Fish and Wildlife Service.

20 COMMISSIONER DOUGLAS: Thank you very
21 much. Anyone else from Federal Government
22 agencies? Is anyone here representing Native
23 American Tribes or Nations besides Colorado River
24 Indian Tribes?

25 MR. DIETSCH: Yes, this is Tom Dietsch.

1 I was muted, or self-muted. I'm with Migratory
2 Bird Division at U.S. Fish and Wildlife Service.

3 COMMISSIONER DOUGLAS: Great. Thank you.
4 All right, anyone representing Native American
5 Tribes aside from CRIT? Otherwise, let's go on
6 to State agencies.

7 MR. MILKEN: This is Jason Milken,
8 California Department of Public Health. Jennifer
9 McNary from California Department of Public
10 Health is also on the line.

11 COMMISSIONER DOUGLAS: Thank you. Anyone
12 else? All right, what about Riverside County or
13 other local jurisdictions?

14 MS. NORTH: This is Tiffany North with
15 the County of Riverside.

16 COMMISSIONER DOUGLAS: Thank you. Anyone
17 else? All right, then. We will turn this to the
18 Hearing Officer for some background.

19 HEARING OFFICER CELLI: Thank you,
20 Commissioner Douglas. I hope everyone can hear
21 us okay out there on the phone.

22 The Presiding Member's Proposed Decision
23 was published on December 13, 2013, and on that
24 date a Notice of Availability went out to the
25 Proof of Service list which noticed today's

1 conference. A separate notice will issue for the
2 Commission's Business Meeting when that date is
3 set, at which time the full Commission will
4 decide whether to adopt the PMPD and the Errata.

5 The Notice of Availability of the PMPD
6 indicated that the last date to submit comments
7 was January 16, 2014. The Committee asked the
8 parties to file written comments on January 6,
9 2014 in order to give the committee a chance to
10 see the comments before today's comments;
11 however, on December 23, 2013, Petitioner Palen
12 Solar Holdings filed a request for a delay in the
13 schedule. The motion stated its primary purpose
14 was to allow the Petitioner to gather the data
15 identified in the PMPD relating to the potential
16 impacts to avian species and to submit new data
17 regarding project benefits.

18 The motion sought to delay the schedule
19 until spring of 2014 and offered to submit
20 monthly status reports beginning January 2, 2014,
21 to keep the Committee apprised of Petitioner's
22 progress. The motion further sought to take the
23 Palen Solar Energy Generating System, or PSEGS,
24 off the Business Meeting calendar.

25 On December 23rd, the Committee granted

1 the request and posted a Memorandum to the
2 eFiling System relieving the parties from
3 submitting comments and extending the deadline to
4 file comments to an unspecified date in the
5 future.

6 The Committee kept today's hearing date
7 as set to hear the Petitioner present its plan
8 and allow the parties and the public to comment
9 on it.

10 Before we hear from the parties, though,
11 the Presiding Member wishes to make a statement
12 in response to Petitioner's Motion. Commissioner
13 Douglas.

14 COMMISSIONER DOUGLAS: Thank you, HEARING
15 OFFICER CELLI. And thank you to everyone who is
16 here today. I'm very much looking forward to
17 hearing from the parties and from the public
18 about the PMPD, but really more importantly about
19 how we move forward in light of the Petitioner's
20 motion to extend the record - extend the timeline
21 -- and to gather and provide additional
22 information that we requested in the PMPD.

23 As everyone here and listening already
24 knows, or probably already knows, the PMPD
25 proposes denying the Palen Amendment without

1 prejudice on the grounds that the factual record
2 developed in this proceeding does not justify the
3 overrides of adverse unmitigable environmental
4 impacts that we found would result from the
5 project; however, we left the door open for
6 Petitioner to do a number of things: build a
7 project that has already been permitted, propose
8 a different project on the site, or to ask the
9 Committee to reconsider our findings on this
10 project if and when Petitioner is able to provide
11 additional data that we requested in the PMPD,
12 particularly on Avian mortality from this and
13 other solar generating technologies.

14 The Committee appreciates Petitioner's
15 interest in extending the timeline in order to
16 provide this information on avian issues and on
17 project benefits, as was requested by the
18 Petitioner. We're looking forward to hearing
19 from the Petitioner, the other parties, and the
20 public about how we should move forward.

21 First though, I do want to say a few
22 words about the PMPD to help put it in context
23 and to give Petitioner, the parties, and
24 interested members of the public as much insight
25 as possible into why we came out where we did on

1 the facts before us and what additional
2 information would be most helpful to the
3 Committee.

4 First of all, the PMPD finds that the
5 proposed power tower project has greater impacts
6 than alternatives that we looked at using PV or
7 solar troughs in this location and that the
8 benefits of the proposed project do not justify
9 overriding those impacts. This is not a sweeping
10 statement about technologies, it's a specific
11 assessment of the potential impacts of the
12 proposed project and alternatives on the site
13 proposed and within the record that we developed
14 in this case.

15 The fact that the proposed power towers
16 have the potential for greater impacts than
17 projects using photovoltaic or potentially solar
18 thermal troughs creates a hurdle for Petitioner,
19 but it's not a hurdle that is impossible to
20 overcome. Specifically, Petitioner must
21 demonstrate that the benefits of the proposed
22 project justify the environmental consequences
23 and alternatives and provide the same benefits
24 are not feasible and, in view of the Committee,
25 that would require affirmative information put

1 into the record that the impacts of the proposed
2 project are in line with competing technologies,
3 or similar to, or that the benefits of the
4 project are substantially greater than those
5 provided by competing technologies, or both, and
6 this conclusion was not supported by the record
7 for us, but we are very open to reopening the
8 record and to considering in certain areas some
9 additional information that I'm going to talk
10 about specifically.

11 If the PSEGS project had been proposed
12 with energy storage like the Rice project which
13 the Energy Commission permitted in 2010, the
14 Petitioner would have a powerful argument that
15 their proposed project provided significant
16 benefits to the state and that the No Action
17 Alternative, which is solar troughs without
18 storage, and the PV Alternative do not. I don't
19 know if it's feasible for the Petitioner to
20 incorporate storage in the project or to
21 construct the project in such a way that storage
22 could be economically incorporated after the
23 fact, but either option would strengthen the
24 proposal greatly in terms of benefits.

25 I'm also aware that solar thermal

1 technologies may be less intermittent and may
2 provide greater system benefits than one of our
3 alternatives, the PV alternative; however, this
4 point is not clearly developed in the record that
5 we have for this proceeding. The operating
6 profile of the PSEGS project seems to be fairly
7 similar to that of a single access tracking
8 photovoltaic project in terms of the generation
9 curve. It seems to be less susceptible to
10 fluctuations in power produced throughout the
11 day. We don't, however, have specific
12 information about the magnitude of that
13 difference, or the significance of that
14 difference in terms of the system. And that kind
15 of specific information would be very helpful to
16 the Committee in terms of weighing the benefits
17 of the proposed project.

18 Of course, we invite the Petitioner to
19 provide any additional information on project
20 benefits that the Petitioner would like the
21 Committee to consider. In addition to
22 supplementing the record on project benefits, the
23 Petitioner may wish to consider supplementing the
24 record on the feasibility of the No Action and
25 the PV Alternatives. While the Committee did not

1 make a finding of the feasibility of the
2 Alternatives in the PMPD, I'll note that the
3 record is light in that area and the Petitioner
4 has the burden of proof in demonstrating
5 infeasibility of alternatives.

6 I'll now turn to cultural impacts and
7 related conditions and then go to avian impacts.
8 It's abundantly clear to the Committee that the
9 construction of the PSEGS project would be
10 visually intrusive compared to a PV or solar
11 trough project. As a result, the PSEGS project
12 would result in significant unmitigable cultural
13 impacts affecting Native Americans. We heard in
14 the proceeding, and are convinced, that the
15 approval of the project would be experienced as a
16 cultural loss by Native American tribes. That
17 consideration, along with some of the
18 insufficiencies in the record that I've already
19 discussed, and the avian issue I'll turn to next,
20 definitely factored into our decision. That
21 said, I will observe that other technologies also
22 seem to present significant unmitigable cultural
23 impacts, and the difference between technologies
24 may be a matter of degree. In fact, the PSEGS
25 project, while increasing visual impacts,

1 decreases cultural impacts during construction
2 relative to the No Project Alternative.

3 I will also note that the PSEGS project
4 is located in a BLM designated Solar Energy Zone
5 and it's in an area that is being considered a
6 development focus area in the Desert Renewable
7 Energy Conservation Plan. The proposed project
8 site has been analyzed twice now and more if we
9 count BLM's analyses of projects there. It's
10 generally well understood. And I think that it's
11 highly likely that sooner or later a project will
12 be built on the site, whether it is the No Action
13 Alternative, the proposed project that's before
14 us, or a different project that may be proposed
15 in the future.

16 The State of California is committed to
17 renewable energy as a key component of our
18 climate strategy. Renewable energy provides
19 jobs, it provides economic development, and it
20 helps us meet a broad suite of State goals.
21 Where renewable energy or other State policy
22 goals have the potential to conflict with Native
23 American cultural values, or other important
24 values, we have to honestly and respectfully
25 acknowledge that conflict, reduce or mitigate it

1 as best we can, and recognize our own limitations
2 in that regard. The Energy Commission greatly
3 values its relationship with Native American
4 tribes in California. We look forward to working
5 together in partnership wherever possible, and
6 with full respect and consideration of the values
7 and views brought to us by Native Americans.

8 The PMPD did not resolve the dispute over
9 staff's proposed cultural resource mitigation
10 CUL-1. Petitioner argues that CUL-1 would be
11 burdensome and open-ended and has insufficient
12 nexus to the impact. The Committee shares many
13 of these concerns, and I want to explain that
14 briefly.

15 As I see it, there are at least two
16 interests the Committee needs to consider when we
17 look at cultural resource impacts; one is the
18 generalized state interest in the conservation
19 and documentation and better understanding of the
20 many and varied cultural and historical resources
21 within the State of California. And the other is
22 a particularized set of interests and concerns of
23 Native Americans, in this case, which is
24 different in important respects from the State
25 interests in these same resources and landscapes.

1 CUL-1 seems too oriented towards the State
2 interests and not as well suited to the Native
3 American concerns that the Committee heard in
4 this proceeding.

5 In this proceeding, we heard from Native
6 Americans directly about their efforts to
7 preserve and perpetuate their culture and belief
8 systems. We heard that that culture and that
9 belief system is inextricably tied to the
10 landscape and that a visual impact from this, or
11 another project, has to them not just a visual
12 implication, but a cultural and a spiritual,
13 even, implication within the belief system and
14 the traditions, that they are working hard to
15 pass on to future generations. This is a
16 significant impact, it's a very difficult impact
17 to mitigate, and it's an impact that this
18 committee has to face directly in considering the
19 PSEGS proposal. However, it is the sort of
20 impact that some meaningful mitigation could be
21 devised to address. For example, mitigation
22 funding could be provided to help secure listing
23 of other significant landscapes on the National
24 Register of Historic Places. Funding could even
25 be used to acquire lands in order to protect

1 them, or also possibly as a resource to Native
2 Americans to help them perpetuate their culture
3 and belief systems.

4 The key point I want to make is not
5 whether either of those two ideas is the right
6 idea, but that the Committee would like the
7 tribes to have a significant voice in developing
8 the mitigation proposal for cultural resource
9 impacts. Ideally, CRIT and other interested
10 Native American tribes could take an opportunity
11 now to work with staff and Applicant to devise
12 such a mitigation approach. Alternatively, staff
13 and the Petitioner could think about framing the
14 condition in a way that is open to and responsive
15 to input from tribes that could be sought
16 potentially post-certification should this
17 project be approved.

18 The PMPD found that the PSEGS project
19 would have a disproportionate impact on Native
20 Americans, therefore, to the extent possible, we
21 think the mitigation should be devised to address
22 the impact of the project on Native Americans.
23 Of course, I don't necessarily mean that in an
24 exclusive sense, but I mean that in terms of the
25 orientation of what impact we are trying to

1 address: what is the nexus here between the
2 impact and mitigation?

3 I also think that it is important that
4 mitigation not be open-ended. Staff did propose
5 I think in the briefing process a cap on cultural
6 mitigation, I think the parties should talk about
7 that, as well.

8 So finally, I'll turn to avian impacts.
9 The Committee is obviously concerned about the
10 potential avian impacts of this project from
11 solar flux. The record shows the solar flux will
12 cause some extent of avian mortality over the
13 life of the project. That said, I want to be
14 clear that we have not come to a conclusion, and
15 the record does not support us coming to a
16 conclusion, about the magnitude of that impact.
17 I'll quote from the PMPD for a moment where we
18 said that "it's possible that the incremental
19 risk of harm to Avian species posed by the solar
20 power tower technology is relatively minor and
21 could be readily addressed through the Conditions
22 of Certification..." that we site and those
23 basically call for adaptive management and
24 monitoring. However, it's also foreseeable and
25 non-speculative that the facility could cause

1 serious population impacts to certain Avian
2 specifies.

3 In the record before us, no party
4 contested the fact the PSEGS project could have
5 significant unavoidable environmental impacts for
6 which no mitigation may exist. The staff
7 assessment put forward scenarios that appear
8 plausible regarding ways in which solar flux may
9 have very serious impacts on certain Avian
10 species and, while Petitioner has argued in its
11 briefs that some of these concerns may be
12 speculative, the record before us does not permit
13 us to draw this conclusion. We do acknowledge
14 significant uncertainty around this issue and in
15 the PMPD we granted Petitioner leave to
16 supplement the record with additional information
17 not only about the impacts of solar flux on Avian
18 species, but about how that impact compares to
19 other technologies.

20 One issue that is certain to come up
21 today is the question of how much additional data
22 the Committee would like to see, over what
23 timeframe it should be collected, and how that
24 information will be used. My interest is in
25 having at a minimum a frame of reference that

1 will help orient me in terms of this technology,
2 this location, and how it compares to other
3 technologies in other locations. I'm not looking
4 for the final perfect analysis, I'm not looking
5 for the elimination of uncertainty, but I'm
6 looking for some orientation as to the issues
7 that we currently do not have in our record.

8 Based on that, I am open to moving
9 forward on the timeframe posed by the Petitioner.
10 I know we'll hear objections from that and we'll
11 get to that when we get to the parties. But I do
12 want to note that there is a tradeoff between
13 taking more time to improve our knowledge and
14 acting with more certainty versus taking less
15 time; improving our knowledge, we can act in the
16 face of uncertainty. We have mechanisms in place
17 to help us manage uncertainty and manage risk and
18 some of those mechanisms include performance
19 standards, some of those mechanisms include the
20 possibility of reopeners under certain
21 conditions, these are all tools that are
22 available to us to help mitigate risk and to help
23 apportion risk in a fair way so that we can move
24 forward in the face of less than perfect
25 information, but better information.

1 So the Committee has asked for more
2 information, we'd like to get more information,
3 we'd like the parties to work together in order
4 to think about how else remaining questions --
5 because there will be remaining questions --
6 might be addressed in a reasonable way that
7 balances the needs of the Energy Commission for
8 additional information and also recognizes the
9 importance of renewable energy and the importance
10 of being able to reach a final decision in this
11 matter.

12 In conclusion, I want to take a moment to
13 thank the Petitioner for bringing this project to
14 the Commission and for playing a critical role in
15 helping the state meet its renewable energy and
16 climate goals. Your willingness to think big, to
17 pull together the technical expertise and
18 financing needed for these projects, and to
19 endure the frustrations, costs, and indignities
20 of the permitting process, among all of the other
21 challenges that you also face, is critical to the
22 State of California in meeting its goals. I
23 think the PMPD was correctly decided based on the
24 record before us and, at this point, I've now
25 given you the best guidance I can regarding what

1 issues I think need to be addressed in order for
2 me to be able to revisit the decision that we put
3 forward. Of course, you may decide to bring
4 forward this project, you may decide to bring it
5 forward this spring, you may decide to take more
6 time, you may decide to bring forward a project
7 later that may be a different technology, it may
8 have storage, you know, we are open to hearing
9 from you, from the Petitioner, what course of
10 action you would most like to pursue at this
11 point.

12 I think I'll make just one final comment
13 and then turn this over to Commissioner
14 Hochschild for his comments. I've outlined areas
15 where in my view the Committee would like to see
16 some supplementation of the record. I think that
17 in areas that I have not listed the record is
18 quite thorough and completely developed, and I do
19 not see the need for other areas of the record to
20 be reopened. The Committee will of course
21 entertain motions from any party that would like
22 to make one as to whether there are other areas
23 that we should also consider, but, as I said, at
24 the moment I've listed the ones that are foremost
25 in my mind. Therefore, in my view the PMPD

1 stands as written in every section where we do
2 not explicitly decide to supplement the record,
3 or offer the parties an opportunity to supplement
4 the record in order to provide us with additional
5 information that would be helpful to our decision
6 making.

7 With that, Commissioner Hochschild.

8 COMMISSIONER HOCHSCHILD: Thank you. So
9 I concur with the Presiding Member's comments,
10 very little to add. The only point I would make
11 is that I would ask the parties not to mistake
12 the PMPD for anything more than what it says, and
13 that the Committee and, I think, the Public
14 Policy community in general really does recognize
15 the benefits of technology diversity in our clean
16 energy portfolio. And with respect to solar
17 thermal in particular, I have visited three solar
18 thermal projects since I began on the Commission
19 in March, the SEGS project, Genesis in Ivanpah,
20 as I've sought to educate myself about the
21 benefits and the innovation and the impacts of
22 the technology, and I'm convinced solar thermal
23 has a role to play as we grow our clean energy
24 portfolio. So I look forward to continuing to
25 work with all the stakeholders as this process

1 plays out.

2 HEARING OFFICER CELLI: Thank you,
3 Commissioner Douglas and Commissioner Hochschild.
4 This is Kenneth Celli, the Hearing Advisor again.
5 The way I'd like to proceed today is I'm going
6 to, as usual, proceed first by asking the parties
7 to comment. I'd like to hear from the
8 Petitioner, followed by staff, then I'll ask CBD,
9 Basin and Range Watch, CARE if they show up,
10 CRIT, and if CURE or LiUNA show up, then I would
11 ask for their comments specifically about the
12 motion that was brought by the Petitioner, and
13 then we will later open it up for public comment,
14 so those of you who are on the telephone who wish
15 to make a public, we're going to hear from the
16 parties first; after we hear from the parties and
17 we finish our discussion, then we would usually
18 take comment from other agencies, and then we
19 open up to public comment first from people who
20 are in the room, followed by people who are on
21 the telephone. So if you're on the telephone,
22 hang in there and we will get to you. But let's
23 hear first from the Petitioner in the case, Mr.
24 Galati, go ahead.

25 MR. GALATI: First of all, thank you for

1 granting the motion, thank you for holding the
2 hearing, and thank you very much for the comments
3 that we just heard, both Commissioner Hochschild
4 and Commissioner Douglas. I know that it is
5 difficult at some point and you're probably going
6 to take some hits right now for everything that
7 you said from the bench, but everything that
8 you've said has been very instructive. I am
9 processing this, we will process it, and I can
10 tell you that I think we can answer every
11 question that you asked. I think we need to
12 develop some additional data and I think that we
13 can provide that data, and then you can consider
14 it.

15 So rather than put an artificial timeline
16 on when that will be, as you saw in our motion
17 we'll update you on a monthly basis. We're going
18 to go back together with our technical people
19 with what we've heard here today and see how
20 quickly we can develop data and information that
21 actually answers the questions. So we cannot
22 thank you enough for giving us the guidance that
23 you just did because now we have a roadmap. So I
24 don't think there's anything else that we'd like
25 to add, other than, again, thank you.

1 HEARING OFFICER CELLI: Thank you. At
2 some point we're going to have to address
3 procedures because at some point we're going to
4 need to know when, if anything, is going to be
5 coming from the Petitioners that we can alert the
6 parties and we can have some sort of mechanism
7 for exchange and disclosure of evidence, and
8 alert the public about when the comment period,
9 you know, I mean, we're sort of in limbo here, so
10 we will need to get some direction on that and
11 we'll talk about that probably later.

12 But let me hear from staff first
13 regarding this motion, or the PMPD staff. And
14 Roger Johnson is here, the record should reflect.
15 Go ahead.

16 MR. JOHNSON: Committee, thank you very
17 much. My name is Roger Johnson. I'm Deputy
18 Director for Siting, Transmission and
19 Environmental Protection Division. And I
20 appreciate the Committee's comments this
21 afternoon. And I would like to advise the
22 Committee that staff is ready and willing to work
23 with the Petitioner on whatever they would like
24 us to do as far as cultural resources, one, or
25 Avian mortality.

1 Just to advise the Committee, though, we
2 are looking to some recent information that's
3 coming out of the Ivanpah project as far as the
4 avian mortality monitoring that's begun on that
5 project. The four REET agencies have identified
6 representatives for the Technical Advisory
7 Committee and we are preparing to try to get a
8 meeting together of that group later this month,
9 maybe as late as early February, to begin
10 implementing the study and looking at what
11 additional monitoring is going to be necessary to
12 really determine what the impacts are of this
13 type of technology. So that's something that the
14 TAC will be looking into with the project owner
15 and trying to determine what additional
16 monitoring would be helpful to really understand
17 the impacts of the project.

18 COMMISSIONER DOUGLAS: Thank you, Roger,
19 that's really helpful. One request I do have is
20 that, as we work with the other REET agencies,
21 staff also work to put together some of the
22 comparative information that we've asked about
23 because we've asked not only about what can we
24 learn from solar flux from the ISEGS experience,
25 recognizing that the monitoring program is just

1 beginning, and recognizing that really we have a
2 lot to learn, but also what do we know, or what
3 could we know about other technologies, other
4 projects, this location, the Genesis project is
5 really right next to the proposed PSEGS project,
6 and other projects, really so that when we come
7 back to this issue -- and that when is not
8 determined at this point -- but that the
9 Committee and staff has the best possible
10 grounding in being able to assess level of
11 impact.

12 I also said, and I appreciate your
13 willingness to work both on the Avian and the
14 cultural issues, one of the issues that concerned
15 me when I looked at the bio conditions was the --
16 I strongly support adaptive management and
17 monitoring, I think that's exactly the right way
18 to approach these projects, but I do think that
19 where there are questions and where there's
20 information that we need, we want to think about
21 performance standards, we want to think about
22 other approaches that might help mitigate risk
23 and might give us a way of addressing some of the
24 scenarios or some of the concerns that staff
25 raised in its assessment. So I'll look forward

1 to seeing what staff is able to think of and come
2 up with, as well.

3 MR. JOHNSON: Okay, thank you.

4 HEARING OFFICER CELLI: Thank you.

5 Anything further from staff?

6 MS. STORA: Not at this time.

7 HEARING OFFICER CELLI: Thank you. Lisa
8 Belenky from CBD and also I'm going to have to
9 unmute Ileene Anderson in case she wanted to make
10 a statement.

11 MS. BELENKY: Thank you. Thanks to the
12 Committee for having this discussion. We were
13 actually quite surprised that the request was
14 granted without even any ability for other
15 parties to weigh in at all, but now that the
16 delay has been put in place, we have several
17 specific issues we did want to raise.

18 First of all, just as a purely procedural
19 matter, and this may be a little too legalistic
20 and geeky for most people out there, but I do
21 feel like it's important to say, that all of the
22 parties should be treated similarly, and that in
23 the many -- well, I guess there have been about
24 seven matters that I've worked on before the CEC,
25 I have never seen at the PMPD stage that any

1 other party was ever given a chance to provide
2 additional information if the record was
3 insufficient on a point on which they had the
4 burden. So clearly, the Petitioner is being
5 treated differently, and I just think that we
6 need to acknowledge that, and that this is a
7 problem with the CEC structure and the way these
8 hearings and these matters are run. I just
9 wanted to acknowledge that at the beginning.

10 On the question of the delay and how it
11 should be -- how it should go forward and what
12 would be the rule, etc., it appears that the
13 Committee is asking the Petitioner to provide
14 additional data, but during this time all parties
15 should have the same right to provide additional
16 data on these issues that are reopened, and all
17 of the parties should have an ability to review
18 the data and rebut it, and we will need to have
19 some sort of prehearing conference again and most
20 likely new evidentiary hearing. So that should
21 be specifically expressed in any order, that we
22 feel like that's extremely important.

23 As to the specifics of the avian issues,
24 I certainly agree with Commissioner Douglas that
25 it can't just be adaptive management going

1 forward in some future way that we don't know, we
2 need to have performance standards. And that is
3 something that the Center very clearly stated in
4 our briefing.

5 We feel pretty strongly that there is one
6 very large experiment right now starting in the
7 California Desert with these power towers, and we
8 will learn a lot about what are the effects on
9 the avian species, and what measures, if any, can
10 be taken to limit those effects. And the Center,
11 I think, was quite clear also in our briefing, as
12 well as in earlier statements, that what we would
13 like to see on the Avian issues is, at minimum,
14 one year of operation at the ISEGS project and
15 then that that information can be used going
16 forward to help inform what may or may not happen
17 at this project site. And we do not feel like
18 the amount of information currently available is
19 significantly different than what was already put
20 in the record, that it should change anything
21 about the way the Committee views the Avian
22 issues.

23 The last piece I wanted to mention is
24 this question of the feasibility, feasibility of
25 alternatives, and you have invited the Petitioner

1 to provide more information on that, as well.
2 And it is really unclear what information they
3 would be providing on either benefits or
4 feasibility, technical feasibility, benefits of
5 this versus different technologies. But again,
6 in that area, they certainly had the information
7 before, they had an opportunity to put it in,
8 they didn't choose to put it in. If we are going
9 forward and that area is going to be reopened,
10 again, all of the parties have an equal chance to
11 put in additional information on those issues and
12 we believe we would have to reopen evidentiary
13 hearings on those issues, as well.

14 So I think those were the main points
15 that we wanted to make on this. Lastly, however,
16 I must -- I can't stop without saying that, you
17 know, for the Center and other parties, this
18 process was -- we felt that it was driven to be
19 very very fast because the Petitioner insisted
20 that they had certain deadlines that had to be
21 met, and now it's being slowed down again at the
22 Petitioner's request, but also it's completely
23 open-ended when new decisions may be made, when
24 data may be provided. So, again, I think given
25 that scenario, we would like to see a minimum of

1 a one-year delay for additional data to be
2 collected. Thank you.

3 COMMISSIONER DOUGLAS: Thank you, Ms.
4 Belenky. This is Commissioner Douglas. I just
5 wanted to say a few things in response to your
6 comments. I will take responsibility for the
7 Petitioner's request being granted as quickly as
8 it was. In my view, we had explicitly left the
9 door open for Petitioner to request to supplement
10 the record in this proceeding; in the words of
11 the PMPD, it was December 23rd, and I did not want
12 to subject you and other parties to having to
13 write objections, or write support, or even find
14 each other and talk about what you thought over
15 the holidays, nor did I want to read them when,
16 in my view, we had granted that essentially in
17 the text of the PMPD. But I understand that that
18 might have rubbed people wrong, and so that's why
19 I wanted to explicitly acknowledge that on the
20 record and I appreciate you bringing it up.

21 I agree with you completely in terms of
22 the issues on which we reopen the record; we will
23 of course allow other parties to submit other
24 relevant information and we will allow the
25 opportunity for rebuttal, and so that gets to the

1 questions of process that the Hearing Officer was
2 raising, and I think we'll bracket that for now
3 and go on, but I appreciate your comments.

4 HEARING OFFICER CELLI: Thank you.

5 Anything further from CBD?

6 MS. BELENKY: Not at this time. Thanks.

7 HEARING OFFICER CELLI: Thank you. I
8 also -- I just wanted to also say, Ms. Belenky,
9 that in terms of the timing I had sent out a
10 memorandum telling the parties that I wanted
11 their comments early on the 6th, and so we wanted
12 to make sure that you didn't have to write
13 comments over Christmas and New Year's, as well,
14 so at this point, usually the Intervenors are
15 happy with more time, and so in this case we
16 have, as you say, an open-ended opportunity to
17 hear what the Petitioner is going to bring
18 forward, and so we don't have hard times yet, we
19 don't have a schedule per se, we don't really
20 what the time limits are that we're dealing with
21 yet, so I'm hoping that today we'll have a better
22 idea of that. Let's hear from Mr. Emmerich from
23 Basin and Range Watch. All right, I might have
24 him muted, so let me see where he is. Kevin
25 Emmerich? He may have left, or I may have lost

1 him here. Kevin Emmerich or Laura Cunningham?
2 Okay, if they come back, we'll give them a chance
3 to say what they need to. Is Mr. Figueroa on the
4 phone, or anyone from Californians for Renewable
5 Energy? Okay, hearing none, let's go to Sara
6 Clark for CRIT.

7 MS. CLARK: Thank you. Can you hear me
8 okay?

9 HEARING OFFICER CELLI: Very well. Go
10 ahead.

11 MS. CLARK: Great. I wanted to thank the
12 Committee for the opportunity to participate in
13 both the proceedings and then in this meeting
14 here today. And in particular, we appreciate the
15 acknowledgement from Commissioner Douglas about
16 the cultural loss that will occur if this project
17 or other projects in the area are built. It is
18 somewhat frustrating, I think, for us and I don't
19 want to speak for everyone, but I would
20 anticipate from other tribes, to hear -- and this
21 is reading in between the lines a little bit of
22 what you said, but that cultural resource impacts
23 in and of themselves don't appear to be
24 sufficient to justify a denial of this project.

25 As noted, there were significant tribal

1 participation in this proceeding, a significant
2 effort was made on behalf of various tribes to
3 put forth what I felt was compelling testimony
4 regarding the harm that this will cause, and to
5 have an acknowledgement of that, but nonetheless
6 a statement that the projects are critical for
7 California's energy policy, that the Solar Energy
8 Zones and the Development Focus Areas require
9 projects to be here, that we will get some
10 project of some sort in this area, is just
11 disheartening to hear.

12 I would note that, with respect to the
13 Solar Energy Zone, that is something that the
14 area tribes have objected to throughout the
15 process, and even though it ultimately was
16 designated here, that's not to say that tribes
17 thought this was a good area for projects to
18 occur in. And so as a result of that, the CRIT
19 strongly supports the results from the Presiding
20 Member's Proposed Decision and the ultimate
21 conclusion that the benefits don't outweigh the
22 significant costs. Just in terms of balancing,
23 we would say that the cultural resource impacts
24 are particularly strong here.

25 And then to address the questions related

1 to CUL-1, as noted in the PMPD, it is extremely
2 difficult to figure out a way to mitigate the
3 loss of an entire cultural landscape, and CRIT
4 welcomes the opportunity to work on a CUL-1 that
5 is more oriented toward Native American concerns,
6 however, I just question whether or not we will
7 be able to reach any sort of mitigation measures
8 that even come close to addressing the loss that
9 is recognized in the PMPD.

10 And then finally, as a procedural matter,
11 I would just add that we support the request for
12 rebuttal testimony, it sounds like the Committee
13 is moving forward with that; but to the extent
14 that the Petitioners are now asking to add data
15 that they could have added already, it's even
16 more of a reason to support having all parties be
17 able to provide that. Thank you.

18 COMMISSIONER DOUGLAS: Thank you, Ms.
19 Clark. This is Commissioner Douglas again. I
20 wanted to just briefly acknowledge your comments,
21 as well, and briefly respond to them. I don't
22 want you to interpret my comments as saying that
23 cultural resource concerns could not ever under
24 any circumstances be sufficient to support the
25 denial of a project, that question is not before

1 us. So you've made a strong record on cultural
2 issues, we considered that record in light of the
3 entire record in reaching the decision in the
4 PMPD, and we're going to have to go back and
5 revisit that record in its entirety once it is,
6 again, complete and we've reached the end of this
7 process. I don't want to pre-judge that. I do
8 want to note that many projects and many
9 technologies present at one level or another
10 significant unmitigable cultural issues, and we
11 have to acknowledge that issue as we consider the
12 renewable energy goals of the state. I don't
13 think they are irreconcilable in every instance,
14 but I think there are times when the conflict is
15 greater or lesser and it's our role as the
16 Commission ultimately to make those decisions on
17 a case-by-case basis.

18 I want to note briefly, I mentioned the
19 SEZ in the DFA -- I don't even want to say
20 "status" -- the SEZ is the status and DFA is a
21 proposal --

22 MS. CLARK: "Idea"?

23 COMMISSIONER DOUGLAS: "Idea," thank you.
24 They do not have legal significance or legal
25 effect in this process because where the Energy

1 Commission -- the BLM SEZ does not have a legal
2 effect in our process, the Desert Renewable
3 Conservation Plan is a soon to be draft that will
4 go out for public comment, and so I don't want to
5 say anything today about what will or what will
6 not be a DFA -- but I just wanted to note that
7 one of our tools in trying to address the extent
8 of cultural resource impacts is to move to a more
9 planning framework so that these impacts are not
10 necessarily felt everywhere, but they're felt in
11 some places that we play for and bring
12 infrastructure to, and so on. And this is all
13 well beyond and outside of the record and the
14 considerations for this case, but I brought it
15 up, and then you brought it up, so I thought I'd
16 just say, you know, it's outside of the record
17 for this case. But I just want to make it clear
18 that it has no legal significance in this
19 proceeding before us.

20 Finally, I appreciate your willingness to
21 work with staff and the Applicant on revising
22 CUL-1 so that it's more oriented to the impacts
23 that were identified in the record on Native
24 Americans. I recognize that it is unlikely,
25 maybe not completely impossible, but probably

1 quite unlikely that you would get to the point
2 where you would be able to say that those impacts
3 were fully mitigated. But I think that any
4 guidance that you could provide us in thinking
5 about how to tailor the condition well toward the
6 impact that has been identified would be
7 valuable, in spite of the possibility that it
8 would not fully mitigate the possible impact. So
9 I appreciate your willingness to do that. That's
10 all.

11 MS. CLARK: Thank you.

12 HEARING OFFICER CELLI: Thank you, Ms.
13 Clark, and thank you, Commissioner Douglas. And
14 Ms. Clark, I just want to remind all of us and
15 everybody that this was a Petition to Amend, this
16 was not an Application for Certification. This
17 was an amendment of a certified project. And in
18 our system here, what happens is, once a project
19 is certified, then there seems to be a steady
20 stream of amendments that seem to come through
21 Compliance almost immediately because a certified
22 project is obligated to inform the Commission of
23 any changes that they seek to make, however
24 minor. And in this case, this one is a rather
25 major change. But I just wanted to make that

1 distinction because this is unlike an Application
2 for Certification, this is a certified project,
3 so they have further options.

4 I wanted to ask if Basin and Range Watch,
5 did anyone come back on the phone from Basin and
6 Range Watch, Kevin Emmerich or Laura Cunningham?

7 MR. EMMERICH: Hello. Can you hear me
8 now?

9 HEARING OFFICER CELLI: Yes, I can, Mr.
10 Emmerich. Go ahead, you have the floor.

11 MR. EMMERICH: Oh, okay. All right, I'm
12 sorry about all of that, I had to get an old
13 phone here. I'm going to try to reorganize these
14 comments, so bear with me. These won't take too
15 long.

16 HEARING OFFICER CELLI: No problem. I
17 just want you to know that this is a marked
18 improvement, I can hear you just great now
19 compared to the other phone.

20 MR. EMMERICH: Okay. Old technology is
21 better, I guess. I guess I'd like to say first
22 off that we support the staff and Committee PMPD
23 Decision to deny the Petition to Amend the Palen
24 Solar Project. And I want to add in, before I
25 forget, that we concur with the other comments,

1 that if there is new Avian data, there should be
2 a prehearing conference and another evidentiary
3 hearing.

4 We are a little bit surprised as well
5 that the Petitioner would like to wait simply
6 because we kept hearing about financing deadlines
7 and we need a decision by this time in order for
8 everything to work out for them. So it does
9 baffle us a little that we can now wait until
10 March to do this.

11 We do agree that this project will have
12 unmitigable impacts on visual, cultural is a very
13 big one, of course, biological, and air quality
14 resources. We think there will be cumulative
15 impacts, as well, with other projects. We even
16 believe that this is really not an appropriate
17 site for alternative technologies. And we are
18 disappointed that the Energy Commission won't
19 consider an alternative outside of the Chuckwalla
20 Valley just because, if they're going to export
21 energy to, you know, Los Angeles Area, we don't
22 see why it can't go from the Central Valley, as
23 well.

24 To the Avian issues, that's what we
25 really want to comment about here, we do agree

1 that those impacts can't be mitigated. We're
2 really glad that that was a good reason that you
3 didn't want to deny that Petition. We don't
4 think you had to extend this decision because
5 spring is not really a long time and I don't see
6 how much data you're going to find out within
7 that period of time, so we would agree with the
8 other comments that a lot of the data should be
9 studied for at least a year at the Ivanpah
10 project, and there should be a lot of stuff going
11 on, but you should study this data probably even
12 for longer than that. I mean, to really get an
13 idea of what's happening, the solar power towers
14 are just new, new to Avian fauna, they don't
15 really know what's going on, we don't know what's
16 going on, and we're going to need a long time to
17 really figure out what the impacts of that
18 Ivanpah project are.

19 I'm going to give some examples of
20 studies. These are just examples that you could
21 be looking at things like --

22 HEARING OFFICER CELLI: More Emmerich,
23 you just went away from your phone receiver, I
24 think. We're not hearing you as well. Oh, boy.
25 One moment. Everybody, here we go, it just hung

1 up, it's calling in, hang on the phone. Our
2 connection just went away and came back, so, Mr.
3 Emmerich, what happened is you were on the phone,
4 you sort of -- your sound went away, we needed
5 you to come back and repeat that.

6 MR. EMMERICH: Okay, well, look, I'll
7 just sum up what I was saying. I think you could
8 have a variety of different avian studies and
9 those could go on for three years in both the
10 Chuckwalla Valley and the Ivanpah Valley before
11 you can really safely permit another one of
12 these, in regards to conservation of avian fauna.
13 Furthermore, without the solar flux, you still
14 have the polarized lake effect of mirror solar
15 panels. I know Shawn Smallwood, for one of the
16 Intervenors on the Blythe project, came up with
17 some pretty good numbers of what he estimated of
18 what kind of numbers of birds would get killed
19 just colliding with solar panels on that project,
20 and I think it was over 2,000 a year.

21 Finally, we would like to recommend that
22 perhaps you can come up with a draft curtailment
23 mitigation schedule; in other words, we asked for
24 this before, to find out like seasonal data for
25 different bird migrations and come up with a

1 curtailment schedule that could be reviewed by
2 intervenors, agencies, and the public.

3 Anyway, we believe it's a step in the
4 right direction to deny the application, but if
5 you're going to extend this, extend it for a very
6 long time. So I guess that would be my comment.
7 I hope that came out okay.

8 HEARING OFFICER CELLI: We got all that
9 very clearly. Thank you, Mr. Emmerich. Now,
10 we've heard from CBD and Basin and Range Watch
11 and CRIT, is there anyone on the telephone from
12 Californians for Renewable Energy, including Mr.
13 Alfredo Figueroa? Is there anyone from
14 California Unions for Reliable Energy? Okay, how
15 about anyone from the LiUNA, the Laborers
16 International Union of North America?

17 Okay, we have heard from all of the
18 parties. I just want to throw one more thing out
19 to the parties, which is that clearly we're going
20 to have to have some process for this, we're
21 going to need advance notice and I suspect that's
22 what these status reports will be from the
23 Petitioner to say how you're doing and how you
24 intend to proceed.

25 And then at some point the Committee is

1 going to have to make a determination whether
2 it's worth reopening or not because let's just
3 say that the Committee says, "You know, we're
4 satisfied with the PMPD as is and think it should
5 go to the full Commission without further
6 evidentiary hearing." When would the Committee
7 know to do that? Mr. Galati, would you speak to
8 that, please?

9 MR. GALATI: First of all, to address
10 what all the Intervenors said, we envision a
11 process where everybody is allowed to review
12 everybody else's testimony, submit rebuttal
13 testimony, and have another evidentiary hearing.
14 We support that process. We wouldn't believe
15 that it would be fair to not do that. Second of
16 all, I would point out that the Committee, the
17 Presiding Member specifically, has the ability to
18 take a process and say, "I want more
19 information," and therefore provide that;
20 sometimes it happens before the PMPD, sometimes
21 it happens after the PMPD, such as what's
22 happening here. So I don't think there's
23 anything unique or illegal that the Committee is
24 doing by asking questions. As a matter of fact,
25 the only one who should be asking questions is

1 the Committee, they're the ones making the
2 decisions.

3 Lastly, I'd like to say, here's how I
4 envision it happening: we would file a status
5 report letting the Committee and the parties know
6 how we're doing and what our plan is, and then at
7 some point in time, we would file a specific
8 motion to reopen the record that would include
9 our testimony and the additional information in
10 it so that the committee had at least an idea of
11 what we planned to come to hearing to actually
12 expand upon. We would use that as testimony and
13 invite the parties to write rebuttal testimony to
14 that testimony, either both in exchange to say
15 "this is not enough to open the record," or, "if
16 you do open the record, we think they're wrong
17 because of this," or, "here's additional
18 information you should consider in rebuttal to
19 that." Then you would take that information, set
20 an evidentiary hearing, and let us come. The
21 only thing I would request is the informal
22 hearing process kind of hinders what we can do.
23 Some of these questions I think I'd like to be
24 able to help ask questions, to get the data to
25 you as witnesses are waiting for a question to be

1 asked in order to provide that information. So
2 that's how I see it happening. And the Committee
3 then could hear all the evidence at evidentiary
4 hearing, and then decide from that point on what
5 additional briefing or what it would need and
6 whether or not we met the burden to fill the gaps
7 in the record. So I think it will be fair, I
8 think it will be open, and I think that all the
9 parties will have an opportunity to say whether
10 they think the record should be open, whether
11 there's enough information, and whether the
12 information tells the story that we're trying to
13 tell.

14 So I really appreciate the guidance and I
15 think the best way to go forward is for us to
16 move forward. We are going to do our best to try
17 to move quickly, but we need to regroup as a team
18 after what we've heard today to determine how we
19 get the information available and how best to get
20 it to the Committee.

21 HEARING OFFICER CELLI: Staff, anything?

22 MS. STORA: We have nothing further.

23 HEARING OFFICER CELLI: CBD, anything
24 further?

25 MS. BELENKY: Yes. We have two other

1 points, one just in response to what Mr. Galati
2 said. It sounds like the Petitioner will decide
3 when they're going to submit the new data that
4 they are compiling; but we, from the Intervenor's
5 point of view, we need to have sufficient time to
6 review that to see what other evidence we may
7 need to rebut it and to find experts if we need
8 them, if there are going to be new hearings. So
9 what we don't want to see is the Petitioner now
10 asking for a delay, in three months filing
11 something and saying again, "Now we really have
12 to rush because we're in a rush." And I really
13 want to just express that, now, this will take
14 time for the other parties as well and it would
15 be unfair to now let the Petitioner again, you
16 know, always be the one deciding the timing.
17 That just feels like a very unclear process. And
18 so I want to say that, now, if they are going to
19 provide data, we need a sufficient amount of time
20 which may be 60 or 90 days at the minimum to look
21 at the data, find rebuttal testimony if we need
22 it, and find experts who will be able to provide
23 testimony and be available on the dates that
24 they're needed.

25 The second piece is that, because this is

1 actually being delayed and taking longer, and it
2 may take three months, it make take six months,
3 it make take several years, you know, new things
4 are happening out in the world and there may be
5 other new data that the other parties want to
6 submit, and we feel that we should have the right
7 to submit that at any time.

8 And then lastly, because there is now
9 more time, there are several sets of surveys that
10 were not done initially that we asked for, and I
11 believe Kevin Emmerich at Basin and Range Watch
12 was going to talk some about some of those, as
13 well when he was discussing things, and we were
14 told before there just wasn't time to do them,
15 but things like the migratory bird studies for
16 different seasons in this area, surveys of Golden
17 Eagle use of the area, additional surveys on
18 other species, as well, so we have been asking
19 for those throughout the time and we feel like
20 now that there is more time, there is no reason
21 that those aren't done, so perhaps what I guess
22 I'm asking for is the ability to put in
23 additional data requests at this stage.

24 HEARING OFFICER CELLI: I think -- so I
25 hear you very loudly and clearly, Ms. Belenky,

1 and I want to just acknowledge that the
2 Petitioner sought a Decision by December. They
3 got their Decision by December. This is a new
4 regime at this point, we're into a whole new
5 thing here. I really don't know what to expect
6 or what we're going to get from the Petitioner in
7 the way of their data, etc. but what I would say,
8 and what the Committee has already made clear to
9 me, is that the Intervenors will be given ample
10 time, plenty of time to get experts, respond, and
11 be able to fairly and adequately respond to
12 whatever the Petitioner puts forth. So that is
13 the intention of the Committee.

14 COMMISSIONER DOUGLAS: I'll just add --
15 this is Commissioner Douglas again -- I think it
16 would be very helpful if the Petitioner, as you
17 do your status reports, as soon as you have a
18 sense of the timeframe in which you'll be
19 bringing forward the motion to reopen the record
20 and prepare for hearings, that you let us and the
21 other parties know so that we can begin planning
22 just simple workload, the other parties can get
23 their information together, they can look for
24 their witnesses, so that we can really handle --
25 everyone can handle all the logistics needed on

1 the front end, and then we won't have to build as
2 much time in between getting the motion and
3 actually having hearings. So I think it will
4 expedite things, as well, just the sooner you can
5 provide clarity, the better.

6 MR. GALATI: We will certainly work to do
7 that. First of all, the information that we're
8 providing is not a secret, you just told -- the
9 Committee told all the parties the topic areas
10 that we're going to be talking about, so nothing
11 stops a party today from going and gathering
12 information and arguments on those, as well. We
13 recognize when it comes to avian data, for
14 example, there might be some new data. But one
15 thing we'd like and we'd be interested to do
16 right now is have staff set a workshop to start
17 talking about the cultural conditions and even to
18 talk about possibly the bio conditions with what
19 we've heard today, we can start that now. So
20 there's many things we can accomplish together
21 through workshops, that it isn't just submit a
22 report, wait for people to comment on 90 days,
23 and then think about it. I just wanted to make
24 sure -- that's not how I envision it working. If
25 there is a lot of data that is submitted, we

1 understand people need time to take a look at it
2 and we'll accommodate as best we can.

3 COMMISSIONER DOUGLAS: That's great, and
4 that will be very helpful.

5 HEARING OFFICER CELLI: And just the
6 point that was made by Ileene Anderson that,
7 spring being a pivotal time for Avian surveys, we
8 thought we would allow you to speak to what you
9 would envision in terms of what's coming up in
10 the way of surveys for spring for PSEGS.

11 MR. GALATI: You know, I'm not sure I can
12 answer that today. I know that what we were
13 envisioning from a spring perspective was
14 compliance with a condition, and the condition
15 required certain spring level -- I'm not sure
16 that, you know, we'll have to come back with a
17 proposal to you whether spring data is critical
18 to being able to do what Commissioner Douglas has
19 asked us to do. I do need to sit down with our
20 biologist now that we've heard what we've heard,
21 and I think we'll come back to you and you'll
22 hear from us in our February and March status
23 reports on where our plan is.

24 HEARING OFFICER CELLI: Thank you. CBD,
25 we just heard from. Anything further from CRIT?

1 MS. CLARK: No further comments, thank
2 you.

3 HEARING OFFICER CELLI: Thank you. Or
4 Basin and Range Watch?

5 MR. EMMERICH: No, we don't really have
6 anything further other than I would just want to
7 throw in that a spring Avian survey is a good
8 thing, but if it is a dry year, it might not be
9 as good as the next year, and that's why I even
10 caution about a one-year study. That would be my
11 comment. Thanks.

12 HEARING OFFICER CELLI: Thank you. Okay,
13 thank you. Then if the parties have no further
14 comments regarding the PMPD, I'm going to ask the
15 Public Advisor, Ms. Matthews, whether there's
16 anybody here in the room who is a member of the
17 public who wanted to make a comment. We have one
18 has raised his hand, there's another, so usually
19 what we ask the people who want to make a comment
20 to do is fill out a little blue card and - there
21 you go. Alana Matthews, who is our Public
22 Advisor along with Dr. Blake Roberts is -- they
23 are passing out the blue cards so people can
24 address the Committee. For those of you who are
25 in the room, I'm going to ask that you come up to

1 the podium and speak clearly so you can address
2 the Committee, so that they can hear you, and you
3 need to be on the microphone so the Court
4 Reporter can get your information down and so the
5 people on the telephone can hear you.

6 So first we have Erin -- I'm sorry if I
7 mispronounce your name -- Niemela?

8 MS. NIEMELA: That's correct.

9 HEARING OFFICER CELLI: Okay, go ahead
10 please.

11 MS. NIEMELA: Good afternoon and thank
12 you for allowing me this opportunity. Erin
13 Niemela. I'm speaking today on behalf of the
14 Large-Scale Solar Association, which is a trade
15 association representing California's leading
16 solar developers. Combined, LSA's members are
17 developing approximately 10,000 megawatts of
18 solar in the state.

19 First, I'd like to thank the CEC's
20 action, or thank the CEC for the action to grant
21 the delay to help address the avian issues. And
22 second, I'd like to thank the Commission's
23 recognition that the project is in the Solar Zone
24 and look forward to the next steps to help
25 recognize the streamlining benefits provided by

1 that status.

2 Our testimony today is a bit unique. LSA
3 does not take project specific positions and we
4 are not taking one in the case of the Palen
5 project; however, given the precedent setting
6 nature of this case, particularly as it relates
7 to avian issues, we thought we would weigh in
8 here for several reasons.

9 Obviously, the December PMPD points to a
10 concern about the PSEGS's potential impacts on
11 avian species. Solar projects throughout the
12 state, including PV and thermal trough, are in
13 the process of addressing various levels of avian
14 issues. As with any application with a new
15 technology at Large-Scale, we're in the early
16 stages of learning about how solar projects
17 impact species. To date, there has been no
18 baseline avian analysis conducted in the state to
19 determine where, how, and to what extent avian
20 mortality has historically occurred in the areas
21 where solar projects are located, thus when it
22 comes to avian mortality near projects, there's
23 very little known data regarding whether or not
24 avian mortality is being caused by the project,
25 or is based on other preexisting factors. This

1 is something we've encountered with every type of
2 solar technology, not just tower technology.

3 So obviously it's crucial that the
4 Commission approach these issues thoughtfully and
5 be able to base decisions on sound science.
6 Again, the precedential nature of the CEC's
7 decision on this project with regard to avian
8 impacts can't be overstated. The implications
9 reach beyond the Palen project and, again, our
10 view is that they could impact the interpretation
11 for other solar projects. We appreciate the
12 acknowledgement today that solar thermal provides
13 for unique operational flexibility and
14 dispatchability, and it probably goes without
15 saying the importance of flexible resources will
16 only increase with time and it's in the best
17 interest of the state to encourage rather than
18 discourage deployment of solar technologies that
19 provide dispatchable power.

20 As we look beyond 2020, it's clear the
21 Grid needs as much flexible low carbon power as
22 possible. Solar thermal technologies and any
23 solar technologies with storage can provide an
24 important bridge between where we are today and
25 where we need to be in the future. And we really

1 appreciate the time and thought you've given to
2 this issue. Thank you.

3 HEARING OFFICER CELLI: Thank you. V.
4 John White. Please come forward.

5 MR. WHITE: Madam Chair, Commissioner
6 Hochschild, I'm John White with the Center for
7 Energy Efficiency and Renewable Technologies.

8 MR. COOMBS: We don't normally
9 participate in siting cases and have been
10 following this one and are actually surprised at
11 the outcome and, I guess, wish that we had
12 participated given some of the statements made
13 and some of the findings of fact.

14 Siting cases can be very narrowly focused
15 on the evidence that's presented by the parties
16 and the Interveners, and I think some context
17 here is in order. This is a site that, as you
18 know, has already been approved for solar thermal
19 technology, it's a change in technology much like
20 there has been change in other technologies
21 involving PV from solar thermal.

22 We share the concern that this decision
23 is not only precedential, but will basically shut
24 the door on solar thermal development in
25 California. And I don't think that's what you

1 intend, I take Commissioner Hochschild's words
2 very seriously, I know of his interest in solar
3 thermal, but you can't take away the context in
4 which this decision is happening and the risks on
5 the financial side that are being borne and the
6 fact that the window of Federal support for
7 large-scale solar projects is closing.

8 And I think, while there is a lot of
9 concern and evidence that's being gathered
10 regarding avian effects on all the solar
11 projects, I happened to be down in the desert
12 this last week and spent some time around the
13 desert center, I'm familiar with the landscape
14 and I know there's a lot of other interests and
15 concerns in that area, but I was struck by the
16 fact that this is an area where the transmission
17 line has gone right overhead, it is a Solar
18 Energy Zone where we have been encouraged to push
19 people and take people, match up the
20 transmission, this is at the core of the DRECP
21 that we're struggling to make work; precious
22 little land has been preserved for large solar
23 projects in the desert. I know there is
24 opposition to projects that arise in site
25 specific situations, but the fact remains that we

1 have dedicated far more land in our planning
2 process for off-road vehicles, and mining, and
3 environmental protection, and tribal protection,
4 than we have for solar, okay? So there aren't
5 that many sites that are left that are not --
6 have some issues with them. So I think this is a
7 very important moment, so I'm very grateful to
8 the Chair for her thoughtful guidance to the
9 parties and we are seeking to find what anecdotal
10 information there is that can be understood, but
11 I would just caution the Committee and the
12 Commission from over-weighting certain anecdotal
13 observations when, in fact, we have very very
14 little data here upon which to base such a
15 momentous decision. And I think you have to
16 carefully weigh the risks, as I know you are, of
17 being wrong one way or the other, and the
18 consequences it will have for our ability to
19 build out a balanced renewable portfolio. So we
20 are here to express support for the process and
21 for the engagement of the parties, but also to
22 let you know we think the stakes couldn't be
23 higher and that this is a project that its fate
24 will be examined not just here, but around the
25 world, and so it's a very consequential decision

1 and I commend you to your deliberations. Thank
2 you.

3 COMMISSIONER DOUGLAS: Thank you, Mr.
4 White. I appreciate you being here very much and
5 I appreciate the observations that you have to
6 make on context. The Committee can consider
7 factors like that and you may wish to have CEERT
8 make a statement at an evidentiary hearing, or
9 even as public comment because these are the
10 sorts of things that we can consider. We also,
11 of course, we have to make decisions based on the
12 record that's before us, and so one of the things
13 that is important for me to state and stress and
14 stress again is that, if there are issues that
15 you or others want the Committee to have before
16 us and what the Committee to consider, then find
17 a way to help us by getting that into the record
18 so that we can consider it because we ultimately,
19 as a decision making body and an adjudicative
20 process, are constrained to keep our findings of
21 fact within the record that's before us, and yet
22 we don't want to be blind to a broader context,
23 we want to be empowered to and we want to be able
24 to consider it. You've raised some helpful
25 points, so thank you.

1 HEARING OFFICER CELLI: Thank you, Mr.
2 White. Now, Ms. Matthews, Public Advisor, is
3 there anyone else here who would like to make a
4 public comment? Okay, she has indicated no. So
5 the way I'd like to proceed now with the people
6 on the telephone is I'm going to first call the
7 names of people who have identified themselves as
8 being associated with a Federal or State agency
9 for comment, and then when I get through the
10 people who are here with Governmental agencies,
11 then I'm going to open it up for public comments.
12 So with that, I'm going to ask everybody, until
13 it's time for you to speak, if you could, I'm
14 going to unmute everybody, and so what that means
15 is that if your dog is barking in the background,
16 then I'm going to need you to mute your own
17 phone, please. Mark, I'm going to have to mute
18 Mark, there you go.

19 Okay, so Deborah Bardwick from USFWS, are
20 you still on the phone?

21 MS. BARDWICK: Actually, I'm from the
22 Office of the Solicitor.

23 HEARING OFFICER: Oh, I'm sorry, that's
24 right.

25 MS. BARDWICK: No, that's okay, quite all

1 right.

2 (Whereupon someone on the phone
3 unintentionally audible)

4 HEARING OFFICER CELLI: Lancaster, I just
5 had to mute you. He was a witness, I believe,
6 for staff. So, Ms. Bardwick, you have the floor.
7 Go ahead.

8 MS. BARDWICK: Mr. Celli, I have no
9 comment. The National Park Service has submitted
10 a letter, which is now docketed as of today.
11 Thank you.

12 HEARING OFFICER CELLI: Thank you for
13 your comment. Is Jody Fraser still here? Did
14 she wish to make a comment? She is from USFWS.

15 MS. FRASIER: That's right, I am. I am
16 still here. I would like to make a quick
17 comment. I think we agree and would like to echo
18 some of the comments that Commissioner Douglas
19 made. The magnitude of the facts on avian
20 resources has yet to be determined. I think we
21 recognize that there will be an impact from solar
22 flux, but we don't know the magnitude of that.
23 And given the cumulative effects scenario in the
24 I-10 Corridor, I think we welcome the timeframe
25 to collect additional data, whether it be through

1 the ISEGS program in the Ivanpah Valley, or
2 additional surveys in the Chuckwalla Valley.

3 I think it's very important to recognize,
4 too, that as LSA brought up, the implications
5 reach far beyond the Palen project and well
6 beyond avian issues as we've seen with respect to
7 cultural and visual resources. So I think the
8 delay is welcome to obtain more information. As
9 far as the process, Scott Galati mentioned that I
10 think it still needs to be ironed out, but we'd
11 like to be very involved, of course, and as far
12 as the identification of any studies, designs, or
13 questions that we think should be answered, we
14 would appreciate working closely with Palen
15 Solar, as well as the other REET agencies to help
16 flesh that out. So I think that's all I had.
17 The stakes are high, you know, not only for solar
18 developers, but for natural resources as well,
19 and there are enough lands being dedicated to
20 solar development through the recent, well, the
21 Energy Act of 2005 identifying 10,000 megawatts
22 requirement on Federal lands and the recent
23 Executive Orders, etc. So we do look forward to
24 staying engaged and working with all of the
25 agencies, as well as the developers.

1 HEARING OFFICER CELLI: Thank you, Ms.
2 Fraser. I also have Joel -- is it Bagel -- from
3 U.S. Fish and Wildlife Service?

4 MR. PAGEL: No, it's Pagel, P-a-g-e-l.

5 HEARING OFFICER CELLI: Oh, sorry about
6 that. Go ahead, sir. You have the floor.

7 MR. PAGEL: I just wanted to echo Jody's
8 comments. She stated most of the things that I
9 wanted to stay. The data needs that we believe
10 are in front of us are going to be very
11 complicated and, again, to echo Jody's comments,
12 we wish to work collaboratively with the REET
13 agencies and with the project proponent and all
14 others involved with the effort.

15 HEARING OFFICER CELLI: Thank you, Mr.
16 Pagel. And Tom Dietsch.

17 MR. DIETSCH: Yeah, this is Tom Dietsch.
18 I have nothing further to add, but, you know, the
19 Migratory Bird Division, we'll be working with
20 all the parties on the Ivanpah project and the
21 Palen project as these processes move forward.
22 So we're available and willing to provide
23 whatever technical assistance is necessary.

24 HEARING OFFICER CELLI: Thank you very
25 much and appreciate the participation of the

1 United States Fish and Wildlife Service and
2 National Park Service.

3 According to my notes, I have no further
4 Federal agency people who wanted to comment, but
5 I have Jason Hulkin (*sic*) from the California
6 Department of Health.

7 MR. WILKEN: Wilken, W-i-l-k-e-n.

8 HEARING OFFICER CELLI: Sorry.

9 MR. WILKEN: I don't have any comments
10 though.

11 HEARING OFFICER CELLI: Okay, thank you
12 very much. There was another person from the
13 Department of Health, I didn't get the name down.
14 Is there someone on the phone from the Department
15 of Health who wishes to make a comment at this
16 time?

17 MS. MCNARY: This is Jennifer McNary and
18 I have no comment today. Thank you.

19 HEARING OFFICER CELLI: Thank you.
20 Tiffany North from the County of Riverside.

21 MS. NORTH: I have no comments. Thank
22 you.

23 HEARING OFFICER CELLI: Thank you. I
24 don't have any other notes of any other
25 interested -- are there any other people who

1 would like to make public comment on the phones
2 who are associated with a Federal, State, or
3 County agency? Okay, hearing none, then I'm
4 going to go ahead and the way I'm going to
5 proceed, ladies and gentlemen on the phone, is
6 that people have either identified themselves and
7 I can call you by name, or else you have just
8 called in by telephone in which case you show up
9 according to my register here as call-in user
10 number one through, let's say, number 30, and
11 you're not identified. So I'm going to go
12 through the identified people first and then I'm
13 going to open it up for people who just are on
14 the phoned who didn't use their computer and just
15 called in.

16 So I have an Anne - she appears to be on
17 a computer only - Barbara Boyle, did you wish to
18 make a comment? Barbara Boyle? Okay. I have
19 c.b., small "c", small "b". Just some of these
20 people may be staff people or people associated
21 with the Applicant or the Petitioner, in this
22 case, such as Charles Trolinsky. Charles Coombs,
23 did you wish to make a comment, Curtis Coombs?

24 MR. COOMBS: No, I don't.

25 HEARING OFFICER CELLI: Okay, thank you.

1 And Douglas Bonamici, I'm going to unmute you.

2 You are with CRIT. Douglas Bonamici.

3 MR. BONAMICI: Thank you, Mr. Celli and
4 Commissioners. I appreciate you taking the time
5 to hear us all. I would only make one more
6 reiteration of CRIT's concern about the SEZ and
7 the burden that is falling specifically in the
8 Riverside, it's 147,000 acres as compared to all
9 other SEZs combined of about 152,000 or 154,000.
10 It's the largest by far, it's almost half of all
11 the SEZ lands that have been identified in the
12 DRECP. So most of the major projects that are
13 close to -- that are under construction or being
14 built are here, and are going to be here, that
15 directly impact us in a way that is different.

16 HEARING OFFICER CELLI: Excuse me, Mr.
17 Bonamici, let me just ask, Mr. Petty, are you
18 getting this clearly? Can you hear him? It's a
19 little hard to hear you, Mr. Bonamici, if there's
20 anything you can do on your end to make your
21 transmission a little clearer?

22 MR. BONAMICI: Okay. I'll try and speak
23 more clearly.

24 HEARING OFFICER CELLI: That's better.

25 MR. BONAMICI: Okay. I just want all

1 parties, all of those concerned, including those
2 that are here on behalf of developers, that this
3 area is a target and we're going to have to push
4 back on that for the benefit of pride here, and
5 if we can work things out we will, but it happens
6 (inaudible), yes. Just keep that in mind. Thank
7 you.

8 HEARING OFFICER CELLI: Thank you for
9 your comments, Mr. Bonamici. Eric Knight is with
10 staff. Eric Veerkamp -- isn't he with staff?
11 Yes, he is. Okay, Federico Ollarsaba, are you on
12 the phone?

13 MR. OLLARSABA: Yeah, no comment.

14 HEARING OFFICER CELLI: Thank you. Did
15 we hear from Frank Wilkens? Did you wish to make
16 a comment?

17 MR. WILKINS: I would.

18 HEARING OFFICER CELLI: Please, go ahead.

19 MR. WILKINS: Yes, thank you. I
20 appreciate the opportunity for talking to the
21 Committee. I'm the Director of the Concentrating
22 Solar Power Alliance, which includes a number of
23 CSP companies including both Rice Source and
24 Abengoa. Prior to that, I've worked at the
25 Department of Energy in Washington and I was

1 responsible for the CSP program for about 11
2 years. I'd like to echo the importance of what
3 you're talking about here with regard to Palen
4 and I appreciate the Commissioner Douglas's
5 comments on what she felt is the importance of
6 solar thermal, particularly with storage. And
7 indeed, the solar resource is by far the largest
8 renewable resource in the United States or in the
9 world, but there's a problem with it and that is
10 it's intermittent and CSP technologies that have
11 storage have the ability pretty much to do away
12 with that problem because you can store the
13 energy and then provide the power whenever it's
14 needed. It essentially acts just like a natural
15 gas plant or a coal plant without the need for
16 fossil fuels. Now, I can provide ancillary
17 services, it has very high quality grid power,
18 and it can displace firming or peaking generation
19 that is usually carbon-based. These are all the
20 positives. But there is a negative, and the
21 negative is that it's more expensive than wind or
22 PV, so therefore usually it comes out on the
23 lower end of the selection process when it comes
24 to picking projects.

25 Now, one of the problems is that, except

1 for the five projects, the large five CPS
2 projects that are now either being built or have
3 just come on line, there's only been one other
4 CSP project built in the United States since the
5 early 1990's, and that means that the CSP
6 industry in the United States has not had very
7 much experience in building projects. And if you
8 look at the other technologies like wind and PV,
9 essentially CSP is where PV was six or seven
10 years ago, and wind was 12 or 14 years ago.
11 Those two technologies, wind and PV, were able to
12 come down the learning curve and reduce their
13 costs significantly because other countries like
14 Germany, Japan, and states like California
15 instituted policies that enabled projects to be
16 built. Well, California is probably the best
17 location in the United States for CSP because of
18 the solar resource and the closeness to major
19 population centers. And Palen, outside of Rice,
20 which was mentioned earlier, another CSP project,
21 these are the only two projects that I'm aware
22 of, of utility scale for CSP that are on the
23 books that have a potential for being built. So
24 it's important that these projects get built so
25 the industry can learn how to reduce the cost.

1 The other thing is that the Palen project
2 is a tower and the Department of Energy, National
3 Renewable Energy Laboratory, the Sandia National
4 Laboratories, we've all done studies that showed
5 that when you compare the ultimate cost for power
6 from CSP technologies, towers are likely to be
7 the lowest cost. So it's important that industry
8 gets a chance to build these projects. If these
9 projects aren't getting built, there's good
10 possibilities that the technology is going to
11 leave the country and go overseas.

12 So I guess, summarizing this, I guess I
13 think Palen will enable the industry to lower the
14 cost, which will decrease its biggest impediment,
15 it will keep a strong U.S. industry, but most
16 importantly, it will provide California with a
17 renewable technology that increases grid
18 reliability, stability and utilization. So
19 again, thanks for giving me the opportunity to
20 speak to the Committee.

21 HEARING OFFICER CELLI: And thank you
22 very much for your comments, Mr. Wilkens. Ileene
23 Anderson, did you wish to make a comment?

24 MS. ANDERSON: No, not at this time.
25 Thank you very much.

1 HEARING OFFICER CELLI: Thank you. We
2 heard from Jason Wilken already, he was with the
3 Department of Health. Jeff Aardhl?

4 MR. AARDHL: Yes, this is Jeff and thanks
5 for the opportunity to listen today. I just
6 wanted to acknowledge that I represent Defenders
7 of Wildlife and we have submitted comments for
8 the record and they have been docketed. Thank
9 you very much.

10 HEARING OFFICER CELLI: Thank you and
11 thank you for submitting your comments. Jennifer
12 McNary. Jennifer McNary, did you wish to
13 comment?

14 MS. MCNARY: Not at this time. Thank
15 you.

16 HEARING OFFICER CELLI: Thank you. I
17 have a Jody, no further information. Did you
18 wish to make a comment, Jody? And then I have
19 "Just listening," and that says it all. I have
20 K. Kaufman. I'm going to unmute her. Ms.
21 Kaufman, did you wish to make a comment?

22 MR. KAUFMAN: No comment.

23 HEARING OFFICER CELLI: Thank you. Ken
24 Waxlax. Ken Waxlax, did you wish to make a
25 comment?

1 MR. WAXLAX: No comment this time, but
2 that certainly was an informative meeting.
3 Thanks to the Commissioners.

4 HEAIRNG OFFICER CELLI: Thank you. Is
5 Marie Fleming with the staff or Applicant? She's
6 with Applicant. Let's see, Mark -- Mark, did you
7 wish to make a comment, Mark without a last name?

8 MARK: No, thank you.

9 HEARING OFFICER CELLI: Thank you. Matt
10 Leighton is with staff. Mavis Scanlon, she's
11 with, I think, the Press. Ms. Scanlon, did you
12 wish to make a comment? She appears to be on the
13 headphones only. Nick Lancaster was a witness
14 for staff. Nick Lancaster, did you wish to make
15 a comment?

16 MR. LANCASTER: Yes.

17 HEARING OFFICER CELLI: Go ahead. Mr.
18 Lancaster, this is Ken Celli from --

19 MR. LANCASTER: Yeah, yeah, this -- I
20 will have to find the most recent version of the
21 --

22 HEARING OFFICER CELLI: Okay, Mr.
23 Lancaster, you can submit a written comment if
24 you need to. Peter Petty, Ray, without a last
25 name, did you wish to make a comment?

1 RAY: No comment.

2 HEARING OFFICER CELLI: Thank you. Ryan
3 -- I have Ryan and he appears to only be on
4 headset, but Ryan without a last name, did you
5 wish to make a comment? Okay, Sarah Friedman -
6 Sarah Clark is with CRIT. So Sarah Friedman, did
7 you wish to make a comment?

8 MS. FRIEDMAN: Yeah, hi. I'm with Sierra
9 Club and I really appreciate the opportunity to
10 participate in this process and be involved, and
11 we've submitted comments to the record supporting
12 the proposed decision. I would also note, I
13 think there's been some conversation at this
14 meeting about the project's location within the
15 Solar Energy Zone, but it's my understanding that
16 the project is not subject to the BLM Solar
17 Energy Program.

18 COMMISSIONER DOUGLAS: If that was a
19 question, this is Commissioner Douglas, that's
20 correct, we had some discussion -

21 MS. FRIEDMAN: Yes.

22 COMMISSIONER DOUGLAS: -- that a BLM land
23 use designation does not have legal significance
24 in the Energy Commission process.

25 MS. FRIEDMAN: Okay, great. And also

1 this particular project is grandfathered in.

2 HEARING OFFICER CELLI: Anything further,
3 Ms. Friedman?

4 MS. FRIEDMAN: No, that's all.

5 HEARING OFFICER CELLI: Thank you very
6 much. Shannon Eddy appears to have hung up.
7 Sparky appears to have hung up. Suzanne no last
8 name, did you wish to make a comment? Suzanne?
9 Oh, she went away it appears. Tiffany North is
10 with Riverside. Tom Dietsch, we heard from
11 USFWS. Is there anyone else on the telephone at
12 this time who would like to make a public
13 comment? Please speak up. I just need the first
14 caller, the person as the most aggressive
15 commenter gets to make a comment, so let's hear.
16 Is there anyone on the phone now who would like
17 to make a comment at all, our lines are open?
18 Any callers? I have call-in user 11 through it
19 looks like number 30. Do any of you wish to make
20 a comment at this time? Going once, going twice,
21 we've heard no further comment.

22 Okay, then. At this time, I'm going to
23 hand the conference back to Commissioner Douglas.

24 COMMISSIONER DOUGLAS: Okay, and I'm
25 going to thank all the parties for a productive

1 conference and we'll look forward to getting the
2 status reports from Petitioner. And with that,
3 we're adjourned.

4 (Whereupon, at 3:17 p.m. the
5 Conference was adjourned.)

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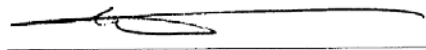
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REPORTER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of January, 2014.



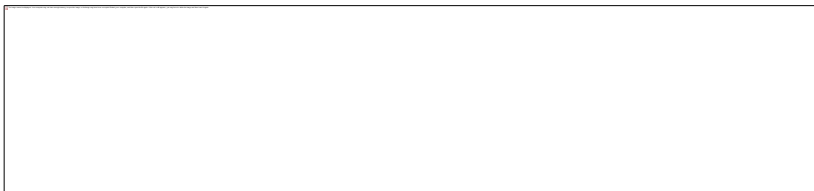
PETER PETTY
CER**D-493
Notary Public

TRANSCRIBER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of January, 2014.



Karen Cutler
Certified Transcriber
AAERT No. CET**D-723