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BEFORE THE
CALIFORNIA ENERGY COMMISSION

In Re: Palen Solar Electric Generating System Amendment

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
  Jennifer Nelson, 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
Galen Lemei, Legal

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
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 Aardahl, Defenders of Wildlife
*K. Kaufman
*Ken Waxlax
*Mark
*Nick Lancaster
*Ray
*Sarah Friedman, Sierra Club
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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?
MR. GALATI: This is Scott Galati representing Palen Solar Holdings.

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

COMMISSIONER DOUGLAS: Thank you. Staff, please.

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

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

COMMISSIONER DOUGLAS: Thank you.

Intervenor, Lisa Belenky, or Ileene Anderson, Center for Biological Diversity?

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

COMMISSIONER DOUGLAS: Thank you.

Intervenor, Kevin Emmerich or Laura Cunningham, Basin and Range Watch?

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

COMMISSIONER DOUGLAS: Thank you.

Intervenor Alfredo Figueroa, are you here or on the phone? Intervenor Tanya Gullessarian or Elizabeth Klebaner? Intervenor Hidelberto
Sanchez or Eddie Simmons with LiUNA? Intervenor Rebecca Loudbear or Winter King or Sara Clark with the Colorado River Indian Tribes?

MS. CLARK: This is Sara Clark.

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

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

COMMISSIONER DOUGLAS: Thank you. Anyone else?

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

COMMISSIONER DOUGLAS: Thank you.

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

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

MR. DIETSCH: Yes, this is Tom Dietsch.
I was muted, or self-muted. I’m with Migratory Bird Division at U.S. Fish and Wildlife Service.

COMMISSIONER DOUGLAS: Great. Thank you.

All right, anyone representing Native American Tribes aside from CRIT? Otherwise, let’s go on to State agencies.

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

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

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

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

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

The Presiding Member’s Proposed Decision was published on December 13, 2013, and on that date a Notice of Availability went out to the Proof of Service list which noticed today’s
conference. A separate notice will issue for the Commission’s Business Meeting when that date is set, at which time the full Commission will decide whether to adopt the PMPD and the Errata.

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

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

On December 23rd, the Committee granted
the request and posted a Memorandum to the
eFiling System relieving the parties from
submitting comments and extending the deadline to
file comments to an unspecified date in the
future.

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

Before we hear from the parties, though,
the Presiding Member wishes to make a statement
in response to Petitioner’s Motion. Commissioner
Douglas.

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

As everyone here and listening already
knows, or probably already knows, the PMPD
proposes denying the Palen Amendment without
prejudice on the grounds that the factual record
developed in this proceeding does not justify the
overrides of adverse unmitigable environmental
impacts that we found would result from the
project; however, we left the door open for
Petitioner to do a number of things: build a
project that has already been permitted, propose
a different project on the site, or to ask the
Committee to reconsider our findings on this
project if and when Petitioner is able to provide
additional data that we requested in the PMPD,
particularly on Avian mortality from this and
other solar generating technologies.

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

First though, I do want to say a few
words about the PMPD to help put it in context
and to give Petitioner, the parties, and
interested members of the public as much insight
as possible into why we came out where we did on
the facts before us and what additional information would be most helpful to the Committee.

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

The fact that the proposed power towers have the potential for greater impacts than projects using photovoltaic or potentially solar thermal troughs creates a hurdle for Petitioner, but it’s not a hurdle that is impossible to overcome. Specifically, Petitioner must demonstrate that the benefits of the proposed project justify the environmental consequences and alternatives and provide the same benefits are not feasible and, in view of the Committee, that would require affirmative information put
into the record that the impacts of the proposed project are in line with competing technologies, or similar to, or that the benefits of the project are substantially greater than those provided by competing technologies, or both, and this conclusion was not supported by the record for us, but we are very open to reopening the record and to considering in certain areas some additional information that I’m going to talk about specifically.

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

I’m also aware that solar thermal
technologies may be less intermittent and may
provide greater system benefits than one of our
alternatives, the PV alternative; however, this
point is not clearly developed in the record that
we have for this proceeding. The operating
profile of the PSEGS project seems to be fairly
similar to that of a single access tracking
photovoltaic project in terms of the generation
curve. It seems to be less susceptible to
fluctuations in power produced throughout the
day. We don’t, however, have specific
information about the magnitude of that
difference, or the significance of that
difference in terms of the system. And that kind
of specific information would be very helpful to
the Committee in terms of weighing the benefits
of the proposed project.

Of course, we invite the Petitioner to
provide any additional information on project
benefits that the Petitioner would like the
Committee to consider. In addition to
supplementing the record on project benefits, the
Petitioner may wish to consider supplementing the
record on the feasibility of the No Action and
the PV Alternatives. While the Committee did not
make a finding of the feasibility of the
Alternatives in the PMPD, I’ll note that the
record is light in that area and the Petitioner
has the burden of proof in demonstrating
infeasibility of alternatives.

I’ll now turn to cultural impacts and
related conditions and then go to avian impacts.
It’s abundantly clear to the Committee that the
construction of the PSEGS project would be
visually intrusive compared to a PV or solar
trough project. As a result, the PSEGS project
would result in significant unmitigable cultural
impacts affecting Native Americans. We heard in
the proceeding, and are convinced, that the
approval of the project would be experienced as a
cultural loss by Native American tribes. That
consideration, along with some of the
insufficiencies in the record that I’ve already
discussed, and the avian issue I’ll turn to next,
definitely factored into our decision. That
said, I will observe that other technologies also
seem to present significant unmitigable cultural
impacts, and the difference between technologies
may be a matter of degree. In fact, the PSEGS
project, while increasing visual impacts,
decreases cultural impacts during construction relative to the No Project Alternative. 

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

The State of California is committed to renewable energy as a key component of our climate strategy. Renewable energy provides jobs, it provides economic development, and it helps us meet a broad suite of State goals. Where renewable energy or other State policy goals have the potential to conflict with Native American cultural values, or other important values, we have to honestly and respectfully acknowledge that conflict, reduce or mitigate it
as best we can, and recognize our own limitations in that regard. The Energy Commission greatly values its relationship with Native American tribes in California. We look forward to working together in partnership wherever possible, and with full respect and consideration of the values and views brought to us by Native Americans.

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

As I see it, there are at least two interests the Committee needs to consider when we look at cultural resource impacts; one is the generalized state interest in the conservation and documentation and better understanding of the many and varied cultural and historical resources within the State of California. And the other is a particularized set of interests and concerns of Native Americans, in this case, which is different in important respects from the State interests in these same resources and landscapes.
CUL-1 seems too oriented towards the State interests and not as well suited to the Native American concerns that the Committee heard in this proceeding.

In this proceeding, we heard from Native Americans directly about their efforts to preserve and perpetuate their culture and belief systems. We heard that that culture and that belief system is inextricably tied to the landscape and that a visual impact from this, or another project, has to them not just a visual implication, but a cultural and a spiritual, even, implication within the belief system and the traditions, that they are working hard to pass on to future generations. This is a significant impact, it’s a very difficult impact to mitigate, and it’s an impact that this committee has to face directly in considering the PSEGS proposal. However, it is the sort of impact that some meaningful mitigation could be devised to address. For example, mitigation funding could be provided to help secure listing of other significant landscapes on the National Register of Historic Places. Funding could even be used to acquire lands in order to protect
them, or also possibly as a resource to Native Americans to help them perpetuate their culture and belief systems.

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

The PMPD found that the PSEGS project would have a disproportionate impact on Native Americans, therefore, to the extent possible, we think the mitigation should be devised to address the impact of the project on Native Americans.

Of course, I don’t necessarily mean that in an exclusive sense, but I mean that in terms of the orientation of what impact we are trying to
address: what is the nexus here between the
impact and mitigation?

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

So finally, I’ll turn to avian impacts.
The Committee is obviously concerned about the
potential avian impacts of this project from
solar flux. The record shows the solar flux will
cause some extent of avian mortality over the
life of the project. That said, I want to be
clear that we have not come to a conclusion, and
the record does not support us coming to a
conclusion, about the magnitude of that impact.
I’ll quote from the PMPD for a moment where we
said that “it’s possible that the incremental
risk of harm to Avian species posed by the solar
power tower technology is relatively minor and
could be readily addressed through the Conditions
of Certification…” that we site and those
basically call for adaptive management and
monitoring. However, it’s also foreseeable and
non-speculative that the facility could cause
serious population impacts to certain Avian Species.

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

One issue that is certain to come up today is the question of how much additional data the Committee would like to see, over what timeframe it should be collected, and how that information will be used. My interest is in having at a minimum a frame of reference that
will help orient me in terms of this technology, this location, and how it compares to other technologies in other locations. I’m not looking for the final perfect analysis, I’m not looking for the elimination of uncertainty, but I’m looking for some orientation as to the issues that we currently do not have in our record.

Based on that, I am open to moving forward on the timeframe posed by the Petitioner. I know we’ll hear objections from that and we’ll get to that when we get to the parties. But I do want to note that there is a tradeoff between taking more time to improve our knowledge and acting with more certainty versus taking less time; improving our knowledge, we can act in the face of uncertainty. We have mechanisms in place to help us manage uncertainty and manage risk and some of those mechanisms include performance standards, some of those mechanisms include the possibility of reopeners under certain conditions, these are all tools that are available to us to help mitigate risk and to help apportion risk in a fair way so that we can move forward in the face of less than perfect information, but better information.
So the Committee has asked for more information, we’d like to get more information, we’d like the parties to work together in order to think about how else remaining questions -- because there will be remaining questions -- might be addressed in a reasonable way that balances the needs of the Energy Commission for additional information and also recognizes the importance of renewable energy and the importance of being able to reach a final decision in this matter.

In conclusion, I want to take a moment to thank the Petitioner for bringing this project to the Commission and for playing a critical role in helping the state meet its renewable energy and climate goals. Your willingness to think big, to pull together the technical expertise and financing needed for these projects, and to endure the frustrations, costs, and indignities of the permitting process, among all of the other challenges that you also face, is critical to the State of California in meeting its goals. I think the PMPD was correctly decided based on the record before us and, at this point, I’ve now given you the best guidance I can regarding what
issues I think need to be addressed in order for me to be able to revisit the decision that we put forward. Of course, you may decide to bring forward this project, you may decide to bring it forward this spring, you may decide to take more time, you may decide to bring forward a project later that may be a different technology, it may have storage, you know, we are open to hearing from you, from the Petitioner, what course of action you would most like to pursue at this point.

I think I’ll make just one final comment and then turn this over to Commissioner Hochschild for his comments. I’ve outlined areas where in my view the Committee would like to see some supplementation of the record. I think that in areas that I have not listed the record is quite thorough and completely developed, and I do not see the need for other areas of the record to be reopened. The Committee will of course entertain motions from any party that would like to make one as to whether there are other areas that we should also consider, but, as I said, at the moment I’ve listed the ones that are foremost in my mind. Therefore, in my view the PMPD
stands as written in every section where we do not explicitly decide to supplement the record, or offer the parties an opportunity to supplement the record in order to provide us with additional information that would be helpful to our decision making.

With that, Commissioner Hochschild.

COMMISSIONER HOCHSCHILD: Thank you. So I concur with the Presiding Member’s comments, very little to add. The only point I would make is that I would ask the parties not to mistake the PMPD for anything more than what it says, and that the Committee and, I think, the Public Policy community in general really does recognize the benefits of technology diversity in our clean energy portfolio. And with respect to solar thermal in particular, I have visited three solar thermal projects since I began on the Commission in March, the SEGS project, Genesis in Ivanpah, as I’ve sought to educate myself about the benefits and the innovation and the impacts of the technology, and I’m convinced solar thermal has a role to play as we grow our clean energy portfolio. So I look forward to continuing to work with all the stakeholders as this process
HEARING OFFICER CELLI: Thank you, Commissioner Douglas and Commissioner Hochschild. This is Kenneth Celli, the Hearing Advisor again. The way I’d like to proceed today is I’m going to, as usual, proceed first by asking the parties to comment. I’d like to hear from the Petitioner, followed by staff, then I’ll ask CBD, Basin and Range Watch, CARE if they show up, CRIT, and if CURE or LiUNA show up, then I would ask for their comments specifically about the motion that was brought by the Petitioner, and then we will later open it up for public comment, so those of you who are on the telephone who wish to make a public, we’re going to hear from the parties first; after we hear from the parties and we finish our discussion, then we would usually take comment from other agencies, and then we open up to public comment first from people who are in the room, followed by people who are on the telephone. So if you’re on the telephone, hang in there and we will get to you. But let’s hear first from the Petitioner in the case, Mr. Galati, go ahead.

MR. GALATI: First of all, thank you for
granting the motion, thank you for holding the
hearing, and thank you very much for the comments
that we just heard, both Commissioner Hochschild
and Commissioner Douglas. I know that it is
difficult at some point and you’re probably going
to take some hits right now for everything that
you said from the bench, but everything that
you’ve said has been very instructive. I am
processing this, we will process it, and I can
tell you that I think we can answer every
question that you asked. I think we need to
develop some additional data and I think that we
can provide that data, and then you can consider
it.

So rather than put an artificial timeline
on when that will be, as you saw in our motion
we’ll update you on a monthly basis. We’re going
to go back together with our technical people
with what we’ve heard here today and see how
quickly we can develop data and information that
actually answers the questions. So we cannot
thank you enough for giving us the guidance that
you just did because now we have a roadmap. So I
don’t think there’s anything else that we’d like
to add, other than, again, thank you.
HEARING OFFICER CELLI: Thank you. At some point we’re going to have to address procedures because at some point we’re going to need to know when, if anything, is going to be coming from the Petitioners that we can alert the parties and we can have some sort of mechanism for exchange and disclosure of evidence, and alert the public about when the comment period, you know, I mean, we’re sort of in limbo here, so we will need to get some direction on that and we’ll talk about that probably later.

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

MR. JOHNSON: Committee, thank you very much. My name is Roger Johnson. I’m Deputy Director for Siting, Transmission and Environmental Protection Division. And I appreciate the Committee’s comments this afternoon. And I would like to advise the Committee that staff is ready and willing to work with the Petitioner on whatever they would like us to do as far as cultural resources, one, or Avian mortality.
Just to advise the Committee, though, we are looking to some recent information that’s coming out of the Ivanpah project as far as the avian mortality monitoring that’s begun on that project. The four REAT agencies have identified representatives for the Technical Advisory Committee and we are preparing to try to get a meeting together of that group later this month, maybe as late as early February, to begin implementing the study and looking at what additional monitoring is going to be necessary to really determine what the impacts are of this type of technology. So that’s something that the TAC will be looking into with the project owner and trying to determine what additional monitoring would be helpful to really understand the impacts of the project.

COMMISSIONER DOUGLAS: Thank you, Roger, that’s really helpful. One request I do have is that, as we work with the other REAT agencies, staff also work to put together some of the comparative information that we’ve asked about because we’ve asked not only about what can we learn from solar flux from the ISEGS experience, recognizing that the monitoring program is just
beginning, and recognizing that really we have a lot to learn, but also what do we know, or what could we know about other technologies, other projects, this location, the Genesis project is really right next to the proposed PSEGS project, and other projects, really so that when we come back to this issue -- and that when is not determined at this point -- but that the Committee and staff has the best possible grounding in being able to assess level of impact.

I also said, and I appreciate your willingness to work both on the Avian and the cultural issues, one of the issues that concerned me when I looked at the bio conditions was the -- I strongly support adaptive management and monitoring, I think that’s exactly the right way to approach these projects, but I do think that where there are questions and where there’s information that we need, we want to think about performance standards, we want to think about other approaches that might help mitigate risk and might give us a way of addressing some of the scenarios or some of the concerns that staff raised in its assessment. So I’ll look forward
to seeing what staff is able to think of and come up with, as well.

MR. JOHNSON: Okay, thank you.

HEARING OFFICER CELLI: Thank you.

Anything further from staff?

MS. STORA: Not at this time.

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

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

First of all, just as a purely procedural matter, and this may be a little too legalistic and geeky for most people out there, but I do feel like it’s important to say, that all of the parties should be treated similarly, and that in the many -- well, I guess there have been about seven matters that I’ve worked on before the CEC, I have never seen at the PMPD stage that any
other party was ever given a chance to provide additional information if the record was insufficient on a point on which they had the burden. So clearly, the Petitioner is being treated differently, and I just think that we need to acknowledge that, and that this is a problem with the CEC structure and the way these hearings and these matters are run. I just wanted to acknowledge that at the beginning.

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

As to the specifics of the avian issues, I certainly agree with Commissioner Douglas that it can’t just be adaptive management going
forward in some future way that we don’t know, we need to have performance standards. And that is something that the Center very clearly stated in our briefing.

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

The last piece I wanted to mention is this question of the feasibility, feasibility of alternatives, and you have invited the Petitioner
to provide more information on that, as well. And it is really unclear what information they
would be providing on either benefits or feasibility, technical feasibility, benefits of
this versus different technologies. But again, in that area, they certainly had the information
before, they had an opportunity to put it in, they didn’t choose to put it in. If we are going
forward and that area is going to be reopened, again, all of the parties have an equal chance to
put in additional information on those issues and we believe we would have to reopen evidentiary
hearings on those issues, as well.

So I think those were the main points that we wanted to make on this. Lastly, however,
I must -- I can’t stop without saying that, you know, for the Center and other parties, this
process was -- we felt that it was driven to be very very fast because the Petitioner insisted
that they had certain deadlines that had to be met, and now it’s being slowed down again at the
Petitioner’s request, but also it’s completely open-ended when new decisions may be made, when
data may be provided. So, again, I think given that scenario, we would like to see a minimum of
a one-year delay for additional data to be collected. Thank you.

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

I agree with you completely in terms of the issues on which we reopen the record; we will of course allow other parties to submit other relevant information and we will allow the opportunity for rebuttal, and so that gets to the
questions of process that the Hearing Officer was raising, and I think we’ll bracket that for now and go on, but I appreciate your comments.

HEARING OFFICER CELLI: Thank you.

Anything further from CBD?

MS. BELENKY: Not at this time. Thanks.

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

Okay, if they come back, we’ll give them a chance
to say what they need to. Is Mr. Figueroa on the
phone, or anyone from Californians for Renewable
Energy? Okay, hearing none, let’s go to Sara
Clark for CRIT.

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

HEARING OFFICER CELLI: Very well. Go
ahead.

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

As noted, there were significant tribal
participation in this proceeding, a significant
effort was made on behalf of various tribes to
put forth what I felt was compelling testimony
regarding the harm that this will cause, and to
have an acknowledgement of that, but nonetheless
a statement that the projects are critical for
California’s energy policy, that the Solar Energy
Zones and the Development Focus Areas require
projects to be here, that we will get some
project of some sort in this area, is just
disheartening to hear.

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

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

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

COMMISSIONER DOUGLAS: Thank you, Ms.
Clark. This is Commissioner Douglas again. I
wanted to just briefly acknowledge your comments,
as well, and briefly respond to them. I don’t
want you to interpret my comments as saying that
cultural resource concerns could not ever under
any circumstances be sufficient to support the
denial of a project, that question is not before
us. So you’ve made a strong record on cultural
issues, we considered that record in light of the
entire record in reaching the decision in the
PMPD, and we’re going to have to go back and
revisit that record in its entirety once it is,
again, complete and we’ve reached the end of this
process. I don’t want to pre-judge that. I do
want to note that many projects and many
technologies present at one level or another
significant unmitigable cultural issues, and we
have to acknowledge that issue as we consider the
renewable energy goals of the state. I don’t
think they are irreconcilable in every instance,
but I think there are times when the conflict is
greater or lesser and it’s our role as the
Commission ultimately to make those decisions on
a case-by-case basis.

I want to note briefly, I mentioned the
SEZ in the DFA -- I don’t even want to say
“status” -- the SEZ is the status and DFA is a
proposal --

MS. CLARK: “Idea”?  
COMMISSIONER DOUGLAS: “Idea,” thank you.
They do not have legal significance or legal
effect in this process because where the Energy
Commission — the BLM SEZ does not have a legal effect in our process, the Desert Renewable Conservation Plan is a soon to be draft that will go out for public comment, and so I don’t want to say anything today about what will or what will not be a DFA — but I just wanted to note that one of our tools in trying to address the extent of cultural resource impacts is to move to a more planning framework so that these impacts are not necessarily felt everywhere, but they’re felt in some places that we play for and bring infrastructure to, and so on. And this is all well beyond and outside of the record and the considerations for this case, but I brought it up, and then you brought it up, so I thought I’d just say, you know, it’s outside of the record for this case. But I just want to make it clear that it has no legal significance in this proceeding before us.

Finally, I appreciate your willingness to work with staff and the Applicant on revising CUL-1 so that it’s more oriented to the impacts that were identified in the record on Native Americans. I recognize that it is unlikely, maybe not completely impossible, but probably
quite unlikely that you would get to the point
where you would be able to say that those impacts
were fully mitigated. But I think that any
guidance that you could provide us in thinking
about how to tailor the condition well toward the
impact that has been identified would be
valuable, in spite of the possibility that it
would not fully mitigate the possible impact. So
I appreciate your willingness to do that. That’s
all.

MS. CLARK: Thank you.

HEARING OFFICER CELLI: Thank you, Ms.
Clark, and thank you, Commissioner Douglas. And
Ms. Clark, I just want to remind all of us and
everybody that this was a Petition to Amend, this
was not an Application for Certification. This
was an amendment of a certified project. And in
our system here, what happens is, once a project
is certified, then there seems to be a steady
stream of amendments that seem to come through
Compliance almost immediately because a certified
project is obligated to inform the Commission of
any changes that they seek to make, however
minor. And in this case, this one is a rather
major change. But I just wanted to make that
distinction because this is unlike an Application for Certification, this is a certified project, so they have further options.

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

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

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

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

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

MR. EMMERICH: Okay. Old technology is better, I guess. I guess I’d like to say first off that we support the staff and Committee PMPD Decision to deny the Petition to Amend the Palen Solar Project. And I want to add in, before I forget, that we concur with the other comments,
that if there is new Avian data, there should be
a prehearing conference and another evidentiary
hearing.

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

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

To the Avian issues, that’s what we
really want to comment about here, we do agree
that those impacts can’t be mitigated. We’re really glad that that was a good reason that you didn’t want to deny that Petition. We don’t think you had to extend this decision because spring is not really a long time and I don’t see how much data you’re going to find out within that period of time, so we would agree with the other comments that a lot of the data should be studied for at least a year at the Ivanpah project, and there should be a lot of stuff going on, but you should study this data probably even for longer than that. I mean, to really get an idea of what’s happening, the solar power towers are just new, new to Avian fauna, they don’t really know what’s going on, we don’t know what’s going on, and we’re going to need a long time to really figure out what the impacts of that Ivanpah project are.

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

HEARING OFFICER CELLI: Mr. Emmerich, you just went away from your phone receiver, I think. We’re not hearing you as well. Oh, boy. One moment. Everybody, here we go, it just hung up,
it’s calling in, hang on the phone. Our connection just went away and came back, so, Mr. Emmerich, what happened is you were on the phone, you sort of -- your sound went away, we needed you to come back and repeat that.

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

Finally, we would like to recommend that perhaps you can come up with a draft curtailment mitigation schedule; in other words, we asked for this before, to find out like seasonal data for different bird migrations and come up with a
curtailment schedule that could be reviewed by
Intervenors, agencies, and the public.

Anyway, we believe it’s a step in the
right direction to deny the application, but if
you’re going to extend this, extend it for a very
long time. So I guess that would be my comment.

I hope that came out okay.

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

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

And then at some point the Committee is
going to have to make a determination whether it’s worth reopening or not because let’s just say that the Committee says, “You know, we’re satisfied with the PMPD as is and think it should go to the full Commission without further evidentiary hearing.” When would the Committee know to do that? Mr. Galati, would you speak to that, please?

MR. GALATI: First of all, to address what all the Intervenors said, we envision a process where everybody is allowed to review everybody else’s testimony, submit rebuttal testimony, and have another evidentiary hearing. We support that process. We wouldn’t believe that it would be fair to not do that. Second of all, I would point out that the Committee, the Presiding Member specifically, has the ability to take a process and say, “I want more information,” and therefore provide that; sometimes it happens before the PMPD, sometimes it happens after the PMPD, such as what’s happening here. So I don’t think there’s anything unique or illegal that the Committee is doing by asking questions. As a matter of fact, the only one who should be asking questions is
the Committee, they’re the ones making the decisions.

Lastly, I’d like to say, here’s how I envision it happening: we would file a status report letting the Committee and the parties know how we’re doing and what our plan is, and then at some point in time, we would file a specific motion to reopen the record that would include our testimony and the additional information in it so that the committee had at least an idea of what we planned to come to hearing to actually expand upon. We would use that as testimony and invite the parties to write rebuttal testimony to that testimony, either both in exchange to say “this is not enough to open the record,” or, “if you do open the record, we think they’re wrong because of this,” or, “here’s additional information you should consider in rebuttal to that.” Then you would take that information, set an evidentiary hearing, and let us come. The only thing I would request is the informal hearing process kind of hinders what we can do. Some of these questions I think I’d like to be able to help ask questions, to get the data to you as witnesses are waiting for a question to be
asked in order to provide that information. So that’s how I see it happening. And the Committee then could hear all the evidence at evidentiary hearing, and then decide from that point on what additional briefing or what it would need and whether or not we met the burden to fill the gaps in the record. So I think it will be fair, I think it will be open, and I think that all the parties will have an opportunity to say whether they think the record should be open, whether there’s enough information, and whether the information tells the story that we’re trying to tell.

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

HEARING OFFICER CELLI: Staff, anything?
MS. STORA: We have nothing further.
HEARING OFFICER CELLI: CBD, anything further?
MS. BELENKY: Yes. We have two other
points, one just in response to what Mr. Galati said. It sounds like the Petitioner will decide when they’re going to submit the new data that they are compiling; but we, from the Intervenor’s point of view, we need to have sufficient time to review that to see what other evidence we may need to rebut it and to find experts if we need them, if there are going to be new hearings. So what we don’t want to see is the Petitioner now asking for a delay, in three months filing something and saying again, “Now we really have to rush because we’re in a rush.” And I really want to just express that, now, this will take time for the other parties as well and it would be unfair to now let the Petitioner again, you know, always be the one deciding the timing. That just feels like a very unclear process. And so I want to say that, now, if they are going to provide data, we need a sufficient amount of time which may be 60 or 90 days at the minimum to look at the data, find rebuttal testimony if we need it, and find experts who will be able to provide testimony and be available on the dates that they’re needed.

The second piece is that, because this is
actually being delayed and taking longer, and it may take three months, it make take six months, it make take several years, you know, new things are happening out in the world and there may be other new data that the other parties want to submit, and we feel that we should have the right to submit that at any time.

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

HEARING OFFICER CELLI: I think -- so I hear you very loudly and clearly, Ms. Belenky,
and I want to just acknowledge that the Petitioner sought a Decision by December. They got their Decision by December. This is a new regime at this point, we’re into a whole new thing here. I really don’t know what to expect or what we’re going to get from the Petitioner in the way of their data, etc. but what I would say, and what the Committee has already made clear to me, is that the Intervenors will be given ample time, plenty of time to get experts, respond, and be able to fairly and adequately respond to whatever the Petitioner puts forth. So that is the intention of the Committee.

COMMISSIONER DOUGLAS: I’ll just add -- this is Commissioner Douglas again -- I think it would be very helpful if the Petitioner, as you do your status reports, as soon as you have a sense of the timeframe in which you’ll be bringing forward the motion to reopen the record and prepare for hearings, that you let us and the other parties know so that we can begin planning just simple workload, the other parties can get their information together, they can look for their witnesses, so that we can really handle -- everyone can handle all the logistics needed on
the front end, and then we won’t have to build as much time in between getting the motion and actually having hearings. So I think it will expedite things, as well, just the sooner you can provide clarity, the better.

MR. GALATI: We will certainly work to do that. First of all, the information that we’re providing is not a secret, you just told -- the Committee told all the parties the topic areas that we’re going to be talking about, so nothing stops a party today from going and gathering information and arguments on those, as well. We recognize when it comes to avian data, for example, there might be some new data. But one thing we’d like and we’d be interested to do right now is have staff set a workshop to start talking about the cultural conditions and even to talk about possibly the bio conditions with what we’ve heard today, we can start that now. So there’s many things we can accomplish together through workshops, that it isn’t just submit a report, wait for people to comment on 90 days, and then think about it. I just wanted to make sure -- that’s not how I envision it working. If there is a lot of data that is submitted, we
understand people need time to take a look at it and we’ll accommodate as best we can.

COMMISSIONER DOUGLAS: That’s great, and that will be very helpful.

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

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

HEARING OFFICER CELLI: Thank you. CBD, we just heard from. Anything further from CRIT?
MS. CLARK: No further comments, thank you.

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

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

HEARING OFFICER CELLI: Thank you. Okay, thank you. Then if the parties have no further comments regarding the PMPD, I’m going to ask the Public Advisor, Ms. Matthews, whether there’s anybody here in the room who is a member of the public who wanted to make a comment. We have one has raised his hand, there’s another, so usually what we ask the people who want to make a comment to do is fill out a little blue card and - there you go. Alana Matthews, who is our Public Advisor along with Dr. Blake Roberts is -- they are passing out the blue cards so people can address the Committee. For those of you who are in the room, I’m going to ask that you come up to
the podium and speak clearly so you can address
the Committee, so that they can hear you, and you
need to be on the microphone so the Court
Reporter can get your information down and so the
people on the telephone can hear you.

So first we have Erin -- I’m sorry if I
mispronounce your name -- Niemela?

MS. NIEMELA: That’s correct.

HEARING OFFICER CELLI: Okay, go ahead
please.

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

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

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

Obviously, the December PMPD points to a concern about the PSEGS’s potential impacts on avian species. Solar projects throughout the state, including PV and thermal trough, are in the process of addressing various levels of avian issues. As with any application with a new technology at Large-Scale, we’re in the early stages of learning about how solar projects impact species. To date, there has been no baseline avian analysis conducted in the state to determine where, how, and to what extent avian mortality has historically occurred in the areas where solar projects are located, thus when it comes to avian mortality near projects, there’s very little known data regarding whether or not avian mortality is being caused by the project, or is based on other preexisting factors. This
is something we’ve encountered with every type of solar technology, not just tower technology. So obviously it’s crucial that the Commission approach these issues thoughtfully and be able to base decisions on sound science. Again, the precedential nature of the CEC’s decision on this project with regard to avian impacts can’t be overstated. The implications reach beyond the Palen project and, again, our view is that they could impact the interpretation for other solar projects. We appreciate the acknowledgement today that solar thermal provides for unique operational flexibility and dispatchability, and it probably goes without saying the importance of flexible resources will only increase with time and it’s in the best interest of the state to encourage rather than discourage deployment of solar technologies that provide dispatchable power.

As we look beyond 2020, it’s clear the Grid needs as much flexible low carbon power as possible. Solar thermal technologies and any solar technologies with storage can provide an important bridge between where we are today and where we need to be in the future. And we really
appreciate the time and thought you’ve given to this issue. Thank you.

HEARING OFFICER CELLI: Thank you. V.

John White. Please come forward.

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

We don’t normally participate in siting cases and have been following this one and are actually surprised at the outcome and, I guess, wish that we had participated given some of the statements made and some of the findings of fact.

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

We share the concern that this decision is not only precedential, but will basically shut the door on solar thermal development in California. And I don’t think that’s what you intend, I take Commissioner Hochschild’s words
very seriously, I know of his interest in solar
thermal, but you can’t take away the context in
which this decision is happening and the risks on
the financial side that are being borne and the
fact that the window of Federal support for
large-scale solar projects is closing.

And I think, while there is a lot of
concern and evidence that’s being gathered
regarding avian effects on all the solar
projects, I happened to be down in the desert
this last week and spent some time around the
desert center, I’m familiar with the landscape
and I know there’s a lot of other interests and
conscerns in that area, but I was struck by the
fact that this is an area where the transmission
line has gone right overhead, it is a Solar
Energy Zone where we have been encouraged to push
people and take people, match up the
transmission, this is at the core of the DRECP
that we’re struggling to make work; precious
little land has been preserved for large solar
projects in the desert. I know there is
opposition to projects that arise in site
specific situations, but the fact remains that we
have dedicated far more land in our planning
process for off-road vehicles, and mining, and environmental protection, and tribal protection, than we have for solar, okay? So there aren’t that many sites that are left that are not -- have some issues with them. So I think this is a very important moment, so I’m very grateful to the Chair for her thoughtful guidance to the parties and we are seeking to find what anecdotal information there is that can be understood, but I would just caution the Committee and the Commission from over-weighting certain anecdotal observations when, in fact, we have very very little data here upon which to base such a momentous decision. And I think you have to carefully weigh the risks, as I know you are, of being wrong one way or the other, and the consequences it will have for our ability to build out a balanced renewable portfolio. So we are here to express support for the process and for the engagement of the parties, but also to let you know we think the stakes couldn’t be higher and that this is a project that its fate will be examined not just here, but around the world, and so it’s a very consequential decision and I commend you to your deliberations. Thank
COMMISSIONER DOUGLAS: Thank you, Mr. White. I appreciate you being here very much and I appreciate the observations that you have to make on context. The Committee can consider factors like that and you may wish to have CEERT make a statement at an evidentiary hearing, or even as public comment because these are the sorts of things that we can consider. We also, of course, we have to make decisions based on the record that’s before us, and so one of the things that is important for me to state and stress and stress again is that, if there are issues that you or others want the Committee to have before us and what the Committee to consider, then find a way to help us by getting that into the record so that we can consider it because we ultimately, as a decision making body and an adjudicative process, are constrained to keep our findings of fact within the record that’s before us, and yet we don’t want to be blind to a broader context, we want to be empowered to and we want to be able to consider it. You’ve raised some helpful points, so thank you.

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

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

MS. BARDWICK: Actually, I’m from the Office of the Solicitor.

HEARING OFFICER: Oh, I’m sorry, that’s right.

MS. BARDWICK: No, that’s okay, quite all right.
HEARING OFFICER CELLI: Mr. Lancaster, I just had to mute you. He was a witness, I believe, for staff. So, Ms. Bardwick, you have the floor. Go ahead.

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

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

MS. FRASIER: That’s right, I am. I am still here. I would like to make a quick comment. I think we agree and would like to echo some of the comments that Commissioner Douglas made. The magnitude of the facts on avian resources has yet to be determined. I think we recognize that there will be an impact from solar flux, but we don’t know the magnitude of that. And given the cumulative effects scenario in the I-10 Corridor, I think we welcome the timeframe to collect additional data, whether it be through the ISEGS program in the Ivanpah Valley, or
additional surveys in the Chuckwalla Valley.

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

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

MR. PAGEL: No, it’s Pagel, P-a-g-e-l.

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

MR. PAGEL: I just wanted to echo Jody’s comments. She stated most of the things that I wanted to stay. The data needs that we believe are in front of us are going to be very complicated and, again, to echo Jody’s comments, we wish to work collaboratively with the REAT agencies and with the project proponent and all others involved with the effort.

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

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

HEARING OFFICER CELLI: Thank you very much and appreciate the participation of the United States Fish and Wildlife Service and
National Park Service.

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

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

HEARING OFFICER CELLI: Sorry.

MR. WILKEN: I don’t have any comments though.

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

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

HEARING OFFICER CELLI: Thank you.

Tiffany North from the County of Riverside.

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

HEARING OFFICER CELLI: Thank you. I don’t have any other notes of any other interested -- are there any other people who would like to make public comment on the phones
who are associated with a Federal, State, or County agency? Okay, hearing none, then I’m going to go ahead and the way I’m going to proceed, ladies and gentlemen on the phone, is that people have either identified themselves and I can call you by name, or else you have just called in by telephone in which case you show up according to my register here as call-in user number one through, let’s say, number 30, and you’re not identified. So I’m going to go through the identified people first and then I’m going to open it up for people who just are on the phoned who didn’t use their computer and just called in.

So I have an Anne – she appears to be on a computer only – Barbara Boyle, did you wish to make a comment? Barbara Boyle? Okay. I have c.b., small “c”, small “b”. Just some of these people may be staff people or people associated with the Applicant or the Petitioner, in this case, such as Charles Terlinsky. Charles Coombs, did you wish to make a comment, Curtis Coombs?

MR. COOMBS: No, I don’t.

HEARING OFFICER CELLI: Okay, thank you.

And Douglas Bonamici, I’m going to unmute you.
You are with CRIT. Douglas Bonamici.

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

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

MR. BONAMICI: Okay. I’ll try and speak more clearly.

HEARING OFFICER CELLI: That’s better.

MR. BONAMICI: Okay. I just want all parties, all of those concerned, including those
that are here on behalf of developers, that this area is a target and we’re going to have to push back on that for the benefit of the tribe here, and if we can work things out we will, but it happens (inaudible), yes. Just keep that in mind. Thank you.

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

MR. OLLARSABA: Yeah, no comment.

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

MR. WILKINS: I would.

HEARING OFFICER CELLI: Please, go ahead.

MR. WILKINS: Yes, thank you. I appreciate the opportunity for talking to the Committee. I’m the Director of the Concentrating Solar Power Alliance, which includes a number of CSP companies including both Rice Source and Abengoa. Prior to that, I’ve worked at the Department of Energy in Washington and I was responsible for the CSP program for about 11
I’d like to echo the importance of what you’re talking about here with regard to Palen and I appreciate the Commissioner Douglas’s comments on what she felt is the importance of solar thermal, particularly with storage. And indeed, the solar resource is by far the largest renewable resource in the United States or in the world, but there’s a problem with it and that is it’s intermittent and CSP technologies that have storage have the ability pretty much to do away with that problem because you can store the energy and then provide the power whenever it’s needed. It essentially acts just like a natural gas plant or a coal plant without the need for fossil fuels. Now, I can provide ancillary services, it has very high quality grid power, and it can displace firming or peaking generation that is usually carbon-based. These are all the positives. But there is a negative, and the negative is that it’s more expensive than wind or PV, so therefore usually it comes out on the lower end of the selection process when it comes to picking projects.

Now, one of the problems is that, except for the five projects, the large five CPS
projects that are now either being built or have just come on line, there’s only been one other CSP project built in the United States since the early 1990’s, and that means that the CSP industry in the United States has not had very much experience in building projects. And if you look at the other technologies like wind and PV, essentially CSP is where PV was six or seven years ago, and wind was 12 or 14 years ago. Those two technologies, wind and PV, were able to come down the learning curve and reduce their costs significantly because other countries like Germany, Japan, and states like California instituted policies that enabled projects to be built. Well, California is probably the best location in the United States for CSP because of the solar resource and the closeness to major population centers. And Palen, outside of Rice, which was mentioned earlier, another CSP project, these are the only two projects that I’m aware of, of utility scale for CSP that are on the books that have a potential for being built. So it’s important that these projects get built so the industry can learn how to reduce the cost.
is a tower and the Department of Energy, National Renewable Energy Laboratory, the Sandia National Laboratories, we’ve all done studies that showed that when you compare the ultimate cost for power from CSP technologies, towers are likely to be the lowest cost. So it’s important that industry gets a chance to build these projects. If these projects aren’t getting built, there’s good possibilities that the technology is going to leave the country and go overseas.

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

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

MS. ANDERSON: No, not at this time.

Thank you very much.

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

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

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

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

HEARING OFFICER CELLI: Thank you. I have a Jody, no further information. Did you wish to make a comment, Jody? And then I have “Just listening,” and that says it all. I have K. Kaufman. I’m going to unmute her. Ms. Kaufman, did you wish to make a comment?

MR. KAUFMAN: No comment.

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

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

HEARING OFFICER CELLI: Thank you. Is Marie Fleming with the staff or Applicant? She’s with Applicant. Let’s see, Mark -- Mark, did you wish to make a comment, Mark without a last name?

MARK: No, thank you.

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

MR. LANCASTER: Yes.

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

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

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

RAY: No comment.
HEARING OFFICER CELLI: Thank you. Ryan -- I have Ryan and he appears to only be on headset, but Ryan without a last name, did you wish to make a comment? Okay, Sarah Friedman -- Sarah Clark is with CRIT. So Sarah Friedman, did you wish to make a comment?

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

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

MS. FRIEDMAN: Yes.

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

MS. FRIEDMAN: Okay, great. And also this particular project is grandfathered in.
HEARING OFFICER CELLI: Anything further, Ms. Friedman?

MS. FRIEDMAN: No, that’s all.

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

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

COMMISSIONER DOUGLAS: Okay, and I’m going to thank all the parties for a productive conference and we’ll look forward to getting the
status reports from Petitioner. And with that, we’re adjourned.

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

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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.

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

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