

DOCKET

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STATE OF CALIFORNIA

Energy Resources Conservation and Development Commission

In the Matter of:

APPLICATION FOR CERTIFICATION
FOR THE IVANPAH SOLAR
ELECTRIC
GENERATING SYSTEM

DOCKET NO. 07-AFC-5

INTERVENOR WESTERN WATERSHEDS PROJECT

COMMENTS ON THE PRESIDING MEMBER'S PROPOSED DECISION

September 2, 2010

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INTERVENOR WESTERN WATERSHEDS PROJECT

COMMENTS ON THE PRESIDING MEMBER'S PROPOSED DECISION

Intervenor Western Watersheds Project provides the following comments on the Presiding Member's Proposed Decision (PMPD) for the Ivanpah Solar Electric Generating System (ISEGS). We provided preliminary comments on the PMPD on August 20, 2010¹.

The ISEGS project will industrialize 3,582 acres of relatively undisturbed public land in California's Ivanpah Valley. Yet, despite this enormous scale and the consequent size of the impacts, the environmental review process for the project has been rushed. The result is a flawed and inadequate environmental analysis that fails to address impacts and provides an inadequate basis for decision-making. However, even with this flawed analysis as the basis for his decision making, the Presiding Member has had to conclude that the project, even with mitigation, will have significant impacts on the environment.

Western Watersheds Project agrees with the Presiding Member that the project will have significant environmental impacts even with mitigation. However, Western Watersheds Project strongly disagrees that the benefits of the proposed ISEGS project merit issuance of findings of overriding concern for those impacts. The CEC cannot conclude that the project's impacts should be overridden when it has not fully analyzed those impacts.

The PMPD at 7 incorrectly states that the "I-15 alternative" was suggested by intervenors Sierra Club and Western Watersheds Project. Western Watersheds Project neither suggested nor endorsed the I-15 alternative.

Western Watershed Project did request that the CEC consider an alternative that would locate the project on a site that would allow the project to proceed but would avoid impacts to desert tortoise and other biological resources such as the Ivanpah dry lake playa. The desert tortoise has been listed under the California Endangered Species Act for over 20 years. Yet, as staff testified in the hearings, they considered no alternative sites for the project that were not desert tortoise habitat.

Other alternatives proposed such as distributed PV have been inappropriately dismissed from consideration. The PMPD dismisses

¹ Intervenor Western Watersheds Project Additional Testimony For August 24, 2010 Evidentiary Hearing, Updated List Of Exhibits. Dated August 20, 2010.

distributed PV as an alternative on the grounds that reaching the portfolio standard using that technology would be “challenging”. It concludes “Distributed solar must be viewed as a partner, not a competitor or replacement for utility scale solar.” While that may be true, the task at hand was to consider the efficacy and feasibility of distributed PV as an alternative to this specific project.

The CEC should deny the ISEGS application because there are alternatives to the project that would avoid significant impacts to the environment

Western Watersheds Project strongly disagrees with the Presiding Member’s conclusion that impacts to desert tortoise will be fully mitigated. Extensive testimony from CEC Staff and Expert Witnesses testified that the ISEGS project would significantly affect a genetically distinct subpopulation of desert tortoise, the northeastern Mojave Evolutionarily Significant Unit (ESU). This ESU only occurs in California in the Ivanpah Valley and is the most genetically distinct of the California populations. The cumulative impacts of development in the North Ivanpah Valley threaten the degradation of a quarter of California’s Ivanpah Valley desert tortoise habitat. This will also severely impact connectivity across Mountain Pass and curtail gene flow to other desert tortoise populations in California. Impacts to connectivity were not analyzed in the environmental review and no mitigations proposed to overcome specific impacts to connectivity. There is not even a requirement for any replacement habitat to be acquired within the Northeastern Mojave Recovery Unit. Conservation for this essential desert tortoise population and the development of appropriate mitigation strategies to protect it are being ignored.

Translocation of desert tortoises from the proposed ISEGS site is proposed as a take minimization measure. Translocation of desert tortoises is scientifically controversial and carries a high risk not just to the translocated animals but to resident tortoises at the recipient sites. The DRECP’s Independent Science Advisors consider translocation of desert tortoise to be an ineffective mitigation action in their recent draft recommendations. Major risks of translocation were clearly delineated in the 1994 Recovery Plan and include: (1) the tendency of the released desert tortoises to travel or wander from the site or attempt to return home; (2) increased vulnerability to predators; (3) the potential for agonistic responses from resident or host desert tortoises; (4) the potential for introducing or spreading diseases; and, (5) genetic pollution.

In Staff’s submittal (TN-57805) and the BLM’s recently released FEIS, yet another “tortoise translocation” proposal is floated. Tortoises on the

ISEGS site that need to be translocated will be moved to the National Park Service's Mojave National Preserve. This will involve a two-step process in which the tortoises will be moved to a holding facility and eventually released on yet-to-be identified sites on the Preserve. This new proposal involving an additional government agency raises new issues that have not been addressed or analyzed in any of the CEQA documents for this project. Nor is it mentioned in the PMPD. Western Watersheds Project presented testimony that this new translocation proposal increases the risk that California's entire Northeastern Mojave desert tortoise population could be lost.


The CEC should deny the ISEGS application because it will significantly impact California's small Northeastern Mojave desert tortoise population and will increase extinction risks for this CESA listed species.

Impacts to other sensitive species of animals and plant remain unexamined or unmitigated including impacts to bighorn sheep, bats, golden eagle, and CEQA-protected rare plants.

The soil and water analysis conducted by Commission staff and relied on by the PMPD was based on an earlier configuration that used significantly less heliostats. The project will draw on ground water, most of which will be used for mirror washing. The proposed ISEGS site is in an area of the Ivanpah Ground Water Basin where substantial declines in groundwater levels have already been observed. The project will substantially alter the existing drainage pattern of the project site. CEC should not grant the ISEGS application until the uncertainties due to the project redesign are analyzed.

Dated: September 2, 2010

Respectfully submitted,

A handwritten signature in black ink that reads "Michael J. Connor". The signature is written in a cursive style and is positioned above a horizontal line that extends to the right.

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**California Energy Resources Conservation
and Development Commission**

In the Matter of:

APPLICATION FOR CERTIFICATION
FOR THE IVANPAH SOLAR
ELECTRIC
GENERATING SYSTEM

DOCKET NO. 07-AFC-5

DECLARATION OF SERVICE

I, Michael J. Connor, declare that on September 2, 2010, I served and filed copies of the attached INTERVENOR WESTERN WATERSHEDS PROJECT COMMENTS ON THE PRESIDING MEMBER'S PROPOSED DECISION dated September 2, 2010. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [www.energy.ca.gov/sitingcases/ivanpah].

The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

FOR SERVICE TO ALL OTHER PARTIES:

sent electronically to all email addresses on the Proof of Service list;
 by personal delivery or by depositing in the United States mail at with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses NOT marked "email preferred."

AND

FOR FILING WITH THE ENERGY COMMISSION:

sending two paper copies to the address below;

OR

depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 07-AFC-5

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I declare under penalty of perjury that the foregoing is true and correct.





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APPLICATION FOR CERTIFICATION
FOR THE *IVANPAH SOLAR ELECTRIC
GENERATING SYSTEM*

DOCKET No. 07-AFC-5
PROOF OF SERVICE
(Revised 3/11/10)

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