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CONTINUANCE OF
CLOSED SESSION HEARING
FOR THE AMENDMENT TO THE
PALEN SOLAR ENERGY GENERATING SYSTEMS
BEFORE THE CALIFORNIA ENERGY COMMISSION

In the matter of, )
) Docket No. 09-AFC-07C
Palen Solar Electric Generating )
Systems Amendment )

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

WEDNESDAY, MAY 7, 2014
2:04 P.M.

Reported by:
Peter Petty
APPEARANCES (*present via telephone)

COMMISSIONERS (AND THEIR ADVISORS) PRESENT:
Karen Douglas, Presiding Member
   Eli Harland, Her Advisor
   Jennifer Nelson, Her Advisor
David Hochschild, Associate Member
   Gabriel D. Taylor, His Advisor
Eileen Allen, Commissioners’ Technical Advisor for Facility Siting

HEARING OFFICER:
Kenneth Celli, California Energy Commission

CEC STAFF PRESENT:
Jennifer Martin Gallardo, Staff Counsel
Chris Marxen, Project Manager
Alana Matthews, Public Adviser
Paul Kramer, Hearing Advisor

PETITIONER PALEN SOLAR HOLDINGS:
Scott Galati, Esq., Galati & Blek, LLC
Matt Stucky, Abengoa Solar-Palen Solar Holdings

INTERVENORS
Center for Biological Diversity (CBD)
   *Lisa Belenky
Basin & Range Watch
   *Kevin Emmerich
APPEARANCES (*present via telephone)

California Unions for Reliable Energy
*Tanya A. Gulessarian

Colorado River Indian River Tribes (CRIT)
Sara Clark

INTERESTED GOVERNMENT AGENCIES

National Parks Service
*Deborah Bardwick, Office of the Solicitor

Bureau of Land Management
*Paul Frank

PUBLIC:

David Harper, CRIT
Amanda Barrera, CRIT
Sarah Friedman, Sierra Club
V. John White, CEERT
Joan Taylor
David Lamfrom

Larry Silver, California Environmental Law Project
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CALIFORNIA REPORTING, LLC
52 Longwood Drive, San Rafael, California 94901 (415) 457-4417
COMMISSIONER DOUGLAS: Today we will convene a Committee meeting for the Palen Solar Electric Generating System, as explained in the April 14, 2014 Notice of Continuance of the April 16, 2014 Committee Conference Closed Session.

Today’s Committee meeting is being held for the purpose of conducting Committee deliberations in Closed Session.

So, I’ll start with introductions. My name is Karen Douglas. I’m the Presiding Member of this Siting Committee.

To the left of our Hearing Officer is Commissioner David Hochschild. He’s the Associate Member of the Committee.

To my immediate left are Hearing Officer Ken Celli, to my right my advisors, Jennifer Nelson and Eli Harland.

And to Commissioner Hochschild’s left we have Gabe Taylor, his advisor, and Eileen Allen, the Technical Advisor on Siting for the Commissioners.

So, let me ask now, is the Public Adviser in the room? Hi, Alana, so our Public Adviser’s in the room,

Alana Mathews.
And let me ask Petitioner, Palen Solar Holdings, if you could introduce yourselves for the record?

MR. GALATI: Scott Galati representing Palen Solar Holdings.

MR. STUCKY: And I am Matt Stucky with Abengoa Solar, which is a member of Palen Solar Holdings.

COMMISSIONER DOUGLAS: Thank you.

Staff please?

MS. MARTIN GALLARDO: This is Jennifer Martin Gallardo, Staff Attorney.

MR. MARXEN: Chris Marxen, representing staff.

COMMISSIONER DOUGLAS: Thank you. We’ll turn to the Intervenors, now.

Intervenor Center for Biological Diversity, Lisa Belenky or Eileen Anderson, are you on the line?

MS. BELENKY: Yes, this is Lisa Belenky. I’m on the line and I believe Eileen may be on the line, also.

COMMISSIONER DOUGLAS: Thank you.

Intervenor Kevin Emmerich, Basin & Range Watch, are you on the line?

MR. EMMERICH: Yes, this is Kevin Emmerich here.

COMMISSIONER DOUGLAS: Thank you.

Intervenor Alfredo Figueroa, are you on the phone?

Okay, Intervenor Tanya Gulessarian, I think we
heard you earlier. You’re on the phone?

MS. GULESSERIAN: Yes, thanks.

COMMISSIONER DOUGLAS: Yes, great.

Intervenor Hidelberto Sanchez or Eddie Simmons from LIUNA, are you on the phone?

All right, Intervenor -- let’s see, we have Sara Clark with the Colorado River Indian Tribes?

MS. CLARK: Yes, this is Sara Clark for Colorado River Indian Tribes.

COMMISSIONER DOUGLAS: Welcome.

Are there any Federal Government agencies on the phone or in the room today?

MR. FRANK: This is Paul Frank from BLM.

COMMISSIONER DOUGLAS: Thank you. Anyone else?

MS. BARDWICK: Deborah Bardwick, Office of the Solicitor.

COMMISSIONER DOUGLAS: Thank you. Any others?

All right, are there any officials representing Native American Tribes or Nations besides the Colorado River Indian Tribes who are here today, here or on the phone?

Okay, any State or local government agencies, or government officials in the room or on the phone?

Very well, I’ll turn this over to the Hearing Officer, Ken Celli.
HEARING OFFICER CELLI: Thank you, Commissioner Douglas.

Today’s agenda is divided into four parts.
First, the open meeting will be convened. Secondly, the public comment will be taken. Thirdly, the closed session will begin. And, finally, the open meeting will reopen to announce the conclusion of the closed session and we will adjourn at that time.

The closed session will be conducted in accordance with Government Code section 11126(c)(3), which allows a state body, including a delegated committee, to hold a closed sessions to deliberate on a decision to be reached in a proceeding the state body was required by law to conduct.

So, before we go into the closed session is there anyone in the room here who would like to make a public comment?

I’m going to ask that if you wish to make a public comment -- and Ms. Mathews, Alana, I don’t know if you have blue cards today?

Can I have them so I can call the names, the ones that you have, please?

And for the record, Ms. Mathews said that she had some cards, but she hasn’t gotten them all back.

When we talk today on the -- for those of you
who are in the room, I’m going to need you to approach
the podium here and speak right into the microphone, as
you can see I’m doing, speaking right down the tube of
that microphone so that we can hear you, and so that the
court reporter can get all of the words that you say
taken down so that we have a complete record of your
comments today.

So, first, we’d like to call Amanda Barerra, please?

MS. CLARK: We have an order that we’d like to
go in.

HEARING OFFICER CELLI: Oh.

MS. CLARK: Sorry about.

HEARING OFFICER CELLI: Well, Sara Clark, why
don’t I -- I see that you’ve signed a card so why don’t
I let you kick it off.

MS. CLARK: David Harper, who is a member of our
Mojave’s Elders Committee, will be speaking first.

HEARING OFFICER CELLI: Okay.

MR. HARPER: Good afternoon, my name’s --

HEARING OFFICER CELLI: Press the button in
front so the green light comes on.

MR. HARPER: Good afternoon, my name’s David

Harper. I am with the Colorado River Indian Tribes. I

am the traditional spokesman for the Colorado River
Indian Tribe’s Mojave Elders.

On behalf of the Mojave Elders Committee of the Colorado River Indian Tribes, we welcome the opportunity to address the Commissioners of the California Energy Commission today in support of our Tribe, in opposition of the Palen Solar Energy Project.

When you meet behind closed doors to discuss any issues for the Presiding Member’s proposed decision, we want you to keep in mind what the land means to us and the harm you will cause to us and the impact upon the land by approving this project, including the construction of the two 750-foot towers in pristine desert.

We are strongly opposed to the construction of these power towers and urge you to stand by your initial conclusion that the impacts of the proposed project outweigh the benefits.

As a matter of background, the Colorado River Indian Tribes is a Federally-recognized Indian Tribe with an approximately 284,691-acre reservation located between Parker, Arizona and Blythe, California, astride the Colorado River.

Our Tribe is composed of Mojave, Chemehuevi, Hopi and Navajo members.

The Aboriginal Mojave, or ‘Aha Macav, people who
lived within the interior and exterior boundaries of the reservation since the time immemorial, including but not limited to the area of this proposed project.

The Mojave people lived and died in that area. In other words, the footprint of the Mojave people is on the land so long as you do not erase it.

This land includes archeological resources, trails, sacred places, plants and wildlife in our magnificent visual and spiritual landscape, all of which will be marred by the construction of towers.

Although your way of thinking separates biological from cultural resources, the animals, plants, and all things are intrinsically intertwined with our cultural values and existence as a people.

Further, this land contains artifacts, such as manos and mutates, or grinding stones, the most important tool at the time because mutates helped sustain the Mojave people by allowing them to grind berries, mesquite beans, and plants.

We do not want our artifacts disturbed and removed from the ground to be shipped off and warehoused in distant places, and studies as specimens for western archeological or academic purposes, which has frequently occurred with other solar projects in the area.

Because the Mojave people live in the area of
the proposed project, we know that the Mojave people
died in this area. Consequently, the land is sacred and
must be treated in a respected manner, including the
objects left behind by our ancestors.

Our expectation for respect is comparable to
your belief that your family members and loved ones, who
are buried in cemeteries, should be left in peace,
including respect for items which your loved one left
behind that are symbolic of your connection to your
past.

CEC staff and the project developers propose
money to afford the severe cultural harm caused by the
proposed project.

How can the CEC set a price for mitigation when
the very limited archeological, ethnographic and trail
studies of the areas don’t exist?

How can the CEC and BLM establish a rental value
for this land without first obtaining information and
input from the Colorado River Indian Tribes?

When you ask the Mojave people who much money is
enough to compensate for the destruction of the land,
you must consider that some things simply cannot be
bought or fixed with money.

Putting western archeological studies of the
areas, including area tribes against each other to fight
for small sums of money for projects, such as informational kiosks, are inadequate measures to address the monumental harm caused by the projects, such as the proposed one.

Therefore, in approaching the Mojave people to discuss money, we ask that you seriously consider the implications of the question of how much money is enough to mitigate the cultural harms caused by the proposed project to our people.

Finally, you Commissioners are not above the laws of nature. You seek to embark on another human endeavor to allegedly protect the environment at the expense of our people, while creating a financial windfall for others.

By destroying the land, we remind you that our people of the ‘Aha Macav knew how to leave a modest footprint on the land and take only what we needed to survive.

However, you’re asking us to bear the burden of your failure to live within your means.

Perhaps the consequences of this project do not speak as loudly to you because the project will not be built on your backyard.

But we are here to bear witness to the fact that the proposed project will be built in our backyard, the
traditional area of the Mojave people.

We know that human beings cannot ignore the consequences of destroying the land and water. Through our cultural practices and teachings, it’s been instilled to us that the land and water have a value beyond measure. We are stewards. And when we make use of the land and water it’s with the knowledge that we must preserve both for the coming generations.

In the words of our Elders, the late Pete Homer, Sr., Joe Sharp, and Herman Laffoon, who gave -- who have gone before us, they’ve said, when we were all young boys the cremation ceremonies would last several days and then the old people would tell us these things and talk to us that we would know how to be a good Mojave.

This is your land they said. Take care of it as it is the Mojave way. If you see your cattle wandering, tell us. If you have problems, remember the right way to act. Ever mindful, be good farmers, don’t waste water.

They also said we may have lost some of the traditions, but we still have the land. Remember that this is your land and you must take care of it.

If you are not good stewards of the land, it will be taken from you.

As Chief Irataba told us, so our grandparents
told us, and today we are still here, still strong, and
still guarding this land which is our home.

As protectors of the land, we express ourselves
in utmost respect and ask that you listen to your hearts
and deny the proposed project, The Colorado River Indian
Tribes. Thank you.

HEARING OFFICER CELLI: Thank you very much, Mr.
Harper.

Ms. Clark, who was next?

MS. CLARK: Amanda Barrera will be making a few
comments.

HEARING OFFICER CELLI: Okay, Ms. Barrera,
please come to the podium. And if you need to pull that
microphone down closer to your mouth, go ahead.

MS. BARRERA: Good afternoon. My name’s Amanda
Barrera. I’m a Chemehuevi Indian from the Colorado
Indian Tribes, serving on our Tribal Council as one of
the representatives.

And I come here with my Mojave Elders Group to
read into -- regards the statement that the Tribal
Council passed on April 28th, which was read by Mr.
Harper.

But I also want to remind the Commission that we
have been in a long fight in regards to this for the
lands that are for the Mojave people.
Starting in June of 2012 our Tribal Council
passed a resolution in opposing the fast track that the
president did.

In June 29, Intertribal Council, which
represents the 21 Tribes of Arizona, passed another
resolution.

And in June of 2012, the National Congress of
American Indians passed a resolution that I’d like to
read into the record, and it says:

“Opposing the Department of Interior’s Fast
Track Policies of renewable energy projects on ancestral
homelands.

Whereas we the members of the National Congress
of American Indians of the United States, invoking the
divine blessing of the Creator upon our efforts and
purpose in order to preserve for ourselves and our
descendants the inherent sovereign rights of our Indian
Nations, rights secured under Indian treaties and
agreements with the United States, and all other rights
and benefits to which we are entitled under the laws and
constitution of the United States to enlighten the
public toward a better understanding of the Indian
people, to preserve Indian cultural values and otherwise
promote the health, safety and welfare of the Indian
people so hereby established and submit the following
resolution:

And whereas the National Congress of American Indians, NCAI, was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native Tribal Government.

And whereas the Colorado River Indian Tribes, herein CRIT, is a Federally-recognized Indian Tribe consisting of members of Mojave, Chemehuevi, Hopi, and Navajo;

And whereas the ‘Aha Macav, or Mojave people, people of human descent and Pian (phonetic), prehistoric man of the Colorado River have called the desert mountains and waters of Arizona and California that surround the current reservation lands their home since time memorial, and the Chemehuevi of the Colorado River Indian Tribe live nomadically upon the land;

And whereas the Department of the Interior, DOI, in pursuit of green energy is authorizing the development of utility-scaled solar and wind-renewable energy projects, many of which are sited on Federal lands managed by the Bureau of Land Management, BLM;

And whereas over 40 proposed solar and wind renewable energy projects are to be undertaken within a 50-mile radius of the Colorado River Indian Reservation which puts tens of thousands of acres of land within the
ancestral territory homelands of the CRIT, as well as
other human tribes at further risk of destruction;

And whereas BLM, due to the pressure from the
current U.S. Administration is reviewing and approving
these projects on an arbitrary, imposed fast track
process;

And whereas BLM, as a result of the fast track
process has failed to conduct meaningful consultation
with tribes, particularly with CRIT, and has taken
actions that violate Federal laws, which include
provisions designed to protect Tribes’ sacred places and
cultural resources, such as the National Historic
Preservation Act, the National Environmental Policy Act,
the Administrative Procedures Act, the Native American
Graves Protection and Reparation Act, and the Federal
Land Policy and Management Act;

And whereas BLM is proposing this fast track
process as the normal approval process for the solar
energy development program for the six southwest states,
which designates solar energy zones across the states
many of which, if not all, encompass sacred places and
areas that are of cultural and religious importance to
tribes;

And whereas these projects are destroying our
cultural resources, desecrating our sacred places,
imparing our abilities to practice our traditional and
religious beliefs, and severing our physical and
spiritual connection to lands that are fundamental to
our cultural identities;

And whereas continuance of DOI’s current
policies has placed a tremendous burden on tribes, we
will have to legally challenge and oppose such projects
with insufficient and limited resources;

And whereas CRIT demands halting the use of the
fast track process for renewable energy projects
approval and demands BLM to abide by the Federal lands
currently in place to protect tribal laws, sacred places
and cultural resources, and to consult meaningfully and
in good faith with Tribal governments on a government-
to-government basis regarding decisions relating to
renewable energy projects on sacred and cultural lands
of significance to tribes;

And whereas the ‘Aha Macav Elders of the
Colorado River Indian Tribes reviewed and approved, and
sanctioned this resolution now therefore be it resolved
that the National Congress of American Indians calls
upon BLM to conduct meaningful consultation with CRIT
and other affected tribes, reverse the policy for and
implementation of the fast track approvals process for
renewable energy projects, and abide by applicable
Federal laws in order to preserve and continue protecting the Colorado River and any other tribes’ sacred places and cultural resources that are located in Federal lands managed by BLM;

And be it further resolved that this resolution shall be the policy of National Congress of American Indians until it is withdrawn or modified by subsequent resolution.”

This resolution was passed on June 17th, at the mid-year National Congress of American Indians and is a standing resolution that’s supported right now by all the Tribal leaders throughout the United States.

And we ask that you take those into consideration when you talk about our lands and the destruction that’s going on there for our people and our continuous footprints throughout there.

Thank you.

HEARING OFFICER CELLI: Thank you very much, Ms. Barrera.

Ms. Clark, any other commenters?

MS. CLARK: I’ll just make a few comments, thank you.

HEARING OFFICER CELLI: Okay, I want to let you know that we really wanted to hear public comment and did not want to hear from the attorneys, per se, of the
parties, but let’s see if you can make this kind of quick.

MS. CLARK: Okay, if you don’t want to hear from me, that’s fine. I’m not going to --

HEARING OFFICER CELLI: Well, no, make your point. But I’m just asking that you make it brief because we’ve got a lot of commenters and they have a meeting to get to.

MS. CLARK: I understand. My name is Sara Clark and I have represented the Colorado River Indian Tribes as an Intervenor in this proceeding.

As you have heard from the CRIT Mojave Elders Committee and our Tribal Council, the construction of these two solar power towers and the massive heliostat field proposed by Brightsource and Abengoa Solar will have severe cultural impacts on the Tribe and its members.

These losses are considered unmitigatable [sic] by the Tribe and no amount of compensation will be sufficient to remedy the harms that will be caused.

And for these reasons, alone, we urge you to deny the petition to reopen the evidentiary record and to adopt the PMPD that was issued in December.

In addition, I just have a few short comments about sort of the legal reasons and arguments that have
been made to reopen the evidentiary record. If this is what you don’t want me to do, that is fine.

HEARING OFFICER CELLI: Yes, that’s exactly what we don’t want to hear. We’ve already read your --

MS. CLARK: Okay, it --

HEARING OFFICER CELLI: And we appreciate that you did submit a legal brief.

MS. CLARK: I wouldn’t have called it a brief, but okay thank you.

HEARING OFFICER CELLI: Thank you.

Is Sarah Friedman here? Hi, would you please come forward and speak right into that mic?

MS. FRIEDMAN: And I’ll also make it brief because I submitted a letter, as well.

Hi, I’m here on behalf of the Sierra Club. We are a nonprofit organization with approximately 1.3 billion members. About 250,000 of them live in California and care deeply about the California desert, either because they live there, or because they visit there, or just simply because they care.

This project, in this location, has been very important to our members over the years. We submitted comments in the first iteration of Palen to the BLM. And we were very pleased to see the Presiding Member’s proposed decision denying a petition for amendment, and
sort of proud of all the work of CRIT and others that made that happen.

We’ve gone on record strongly supporting the PMPD, but just kind of wanted to be here in person to reiterate, again, how important we think that is in light of the avian resources there. And particularly the location of this project site, near Joshua Tree National Park, which is a location very important to our members, and the Colorado River which is both important on its face, and then also because of the birds that reside there.

We’ve been following closely the Ivanpah Project, as I’m sure you all have, and believe the day that -- to date, though, you know, sort of not what we would maybe want to see in terms of systematic monitoring also shows that there are serious concerns. And we commend the Presiding Member’s proposed decision for identifying those and hope that you guys all keep that in mind.

Thank you.

HEARING OFFICER CELLI: Thank you, Ms. Friedman.

Now, Alana Mathews, are there any more?

Okay, she’s shaking her head no. So, if then if there are no more commenters here in the room I’m going to go to the telephone.
Paul Kramer, if you wouldn’t mind, I’m just going to ask you to be scrolling for us.

Are there any members of any State agencies that are on the telephone, who wish to make a comment, would you please speak up at this time?

Or Federal agencies, BLM?

Okay, hearing none, then I’m just going to -- because we can’t see who you are, ladies and gentlemen, you’re on the phone and you’re not identified as other than a call-in user, I’m just going to ask the people to please speak up, and the person who has the most momentum will be able to make the comment, and we’ll just sort of go in whatever order we can go in.

So go ahead, anyone on the phone?

MS. GULESSERIAN: This is Tanya Gulesserian.

I’m ready to speak.

HEARING OFFICER CELLI: Go ahead, Ms. Gulesserian.

MS. GULESSERIAN: Thank you very much. This is Tanya Gulesserian. I’m with California Unions for Reliable Energy.

CURE supports the Applicant’s motion to open the evidentiary record, limited to just the four topic areas that are iterated in our brief.

The Applicant has done what the Committee has
asked, has provided additional information that was
outlined by the Committee and now is appropriately
seeking to reopen the evidentiary record, enter the
information into the record and then get a schedule that
will allow this exchange of testimony prior to
evidentiary hearing.

So, CURE requests the Committee grant the motion
and adopt the Applicant’s proposed schedule. Thank you
very much.

HEARING OFFICER CELLI: Thank you. And we did
receive all of the parties’ submitted comments, so I
don’t think it’s really necessary to reiterate what
we’ve already received in writing.

I want to know if there’s any member of the
public who is on the telephone, who wishes to make a
comment at this time, please speak up.

MR. WHITE: This is John White. I’m the
Director of the Center for Energy Efficiency and
Renewable Technology. We --

HEARING OFFICER CELLI: Go ahead, Mr. White.

MR. WHITE: We are in support of the Applicant’s
motion to reopen the record. We believe that this is a
very consequential decision that has very significant
precedent impact, as well as impact on the portfolio of
California’s renewable resources.
We think that the additional information that the Applicant has developed is worth the Committee’s consideration.

And so, therefore, we would express our support for the motion to reopen the record.

HEARING OFFICER CELLI: Thank you.

Joan Taylor?

MS. TAYLOR: Thank you, Commissioner, members -- Chairman and members of the Commission.

Yeah, Sarah Freeman was speaking for Sierra Club -- can you hear me okay?

HEARING OFFICER CELLI: We can hear you fine.

Go ahead, Joan Taylor.

MS. TAYLOR: Great, thanks. Yeah, I’m just speaking for myself as a conservationist for 50 years in the California desert and urging great caution in proceeding with the proposed conversion.

We all acknowledge that the solar rush in California is a grand experiment. But compared to other technologies, these solar power towers really have the potential of being riskiest and perhaps the experiment that turns out to be a poster child against renewable energy.

I draw your attention to just putting Ivanpah’s tortoise impacts aside, for the sake of this discussion,
there is the issue of the natural gas usage. There is
the issue of the project being offline. In April it was
offline two-thirds of the time that it was being
reported by Cal-ISO.

Twenty-two of those days were actually two or
more, you know, units entirely offline.

So, there’s a technological risk. It was
recognized by the CPUC when they did the PPA. We need
time for that to play out.

As for the environmental risks, well, clearly
they are coming out. The March report showed over 55 --
50 birds injured, about half of them could not be
identified as to cause because they had been scavenged,
and the other half were solar flux.

And looking at the fact that the project was
offline so much of the time, we have to ask what would
have been the mortality if it had been operating at full
capacity the entire month.

So, just urging you caution. We want to see
solar ramped up in a way that is -- that makes sense,
both for the (inaudible) -- sake and for the desert’s
sake.

We urge you to take your time to require the
survey design be made more robust for the Ivanpah
Project and give it time to play out.
Thanks very much.

HEARING OFFICER CELLI: Thank you, Ms. Taylor.

I see David Lamfrom asked to give a comment.

So, as -- I would like to recommend to the people who are listening in on a computer that we have that chat option, if you want to just type in and say that you want to make a comment. Then we’ll know that you’re out there and you want to be heard, and we will call you by name.

So, go ahead, David Lamfrom.

MR. LAMFROM: Thanks very much. I’ll be brief because I submitted a letter that I hope that you guys will consider when you go into closed session.

We also submitted a letter on January the 2nd. We hope that you guys will take both of those into consideration.

The bottom line is we think CEC should deny the request to reopen the hearing and we support the PMPD’s recommendation.

And I just want to make a couple of really quick points. One is just that the data that has been presented by Brightsource is not adequate. It’s incomplete. It doesn’t represent a reasonable sample size. It doesn’t consider Ivanpah Solar operating at full capacity for the majority of the data points. It
reflects limited sampling. It does not account for
predation or scavenging. It does not speak to the loss
of smaller pollinators, like insects and bats.

And we think it would be harmful to try to
extrapolate this data.

The Palen Project is in a completely different
desert than the Ivanpah Project is. It’s within the
migratory pathway that’s a primary route to the Salton
Sea, and it has towers that are significantly taller.

The bottom line is we don’t even have reasonable
baseline data related to Brightsource. And the data
that’s been presented is insufficient.

And then a final point I want to make, just
related to Joshua Tree National Park is that, you know,
we don’t know with these much taller towers what the
impact is going to be and if insects, and birds, et

cetera, are going to be drawn from an even larger area.

And, you know, some of those species that may be
affected are species that live within Joshua Tree
National Park, which may be attracted to this mega-trap
that’s going to be significantly taller and maybe
drawing species from an even wider area.

So, I think just in terms of being responsible
and looking at where we have really limited data, you
know, it seems to me that -- you know, we were extremely
supported of CEC’s initial findings and we want to
strongly encourage you guys to continue on the track
that you’re on.

Thank you for the opportunity to speak.

HEARING OFFICER CELLI: Thank you, Mr. Lamfrom.

I have no further requests from anyone to speak
in the chat, so we’re going to go back to the first
come, first served system.

And people on the telephone, if you want to make
a comment please speak up now.

MR. SILVER: This is Larry Silver from
California Environmental Law Project.

I just simply wish to endorse the views of Sarah
Friedman and Joan Taylor. California Environmental Law
Project has been asked by Sierra Club to represent it
with regard to these proceedings.

And I just wanted to basically endorse their
remarks and enter that appearance.

HEARING OFFICER CELLI: Thank you, Mr. Silver.

Anyone else on the telephone who would like to
make a comment, please speak up now?

Go ahead. Is there anyone else who would like
to make a comment at this time, please speak up?

Okay, then at this time --

MS. BELENKY: Oh, I’m sorry, Mr. Celli?
MS. BELENKY: Yes, this is Lisa Belenky at the Center for Biological Diversity.

I understand this is the public comment period, but several other Intervenors have actually spoken, so I just didn’t want our silence to in any way appear that we were not participating.

You know, I think that our filing speaks for itself. We are concerned about misrepresentations made by the Petitioner about our own position and the way they misrepresented it.

And I think that, certainly, the Committee can figure that out for themselves. But we would like an opportunity, at some point, to address that if this goes any further, after today.

But most importantly, I think about the filing made by the Petitioner yesterday, they are now claiming that -- that any delay in this reopening will somehow kill the project.

I just want to really reinforce that we need to all take that with a grain of salt. We heard the same thing last year, multiple times, every time there was a change in the date.

And we are very concerned that the Committee not be influenced by these statements because they are
unsupported and it is -- it feels quite like they are
crying wolf once again.

This process needs to take the time that it
takes to ensure that there’s full public participation
and due process.

So, I just wanted to reinforce that because the
Petitioner did file a new brief yesterday, and we hadn’t
had a chance to respond.

HEARING OFFICER CELLI: Thank you, Ms. Belenky.
We have received all of your filings and appreciate your
comments.

Is there anyone else on the telephone at this
time, who would like to make a comment?

Hearing none, then at this time the Committee is
going to go into a closed session. It will probably be
a couple of hours.

We’re going to leave the WebEx on. We’re going
to stay on the record. We have a court reporter here
today.

And at the conclusion of that meeting I will
probably come down and report, if there is anything to
report, and adjourn the meeting.

So, I suspect that will be sometime probably
after 4:00, but I don’t know how late we’re going to go.

So with that, then we are in closed session.
Thank you.

(Thereupon, the Committee adjourned into Closed Session at 2:39 p.m.)

(Thereupon, the Public Session reconvened at 4:22 p.m.)

HEARING OFFICER CELLI: Okay, Mr. Petty says we’re back on the record.

And I’m hoping everybody can hear me on the phone.

Okay, I have a note from Lisa Belenky, “Is there any news?”

Okay, so at this point, ladies and gentlemen, the closed session has completed. The Committee has instructed me to draft an order with respect to the motion --

Oh, all right. Okay, hang on. So, for the record, Alana Mathews, our Public Adviser just came in and said there are still people here who wanted to come back and hear me close out.

So, I’m going to say I’m going to hold off until everybody comes in the room. And, hopefully, they’ll be here in the next few minutes and we can -- we will adjourn.

We’re still on the record. This is Hearing Advisor Kenneth Celli, C-e-l-l-i.
The closed session has completed itself. The Committee instructed me to draft an order responding to the motion to reopen.

That motion will be available as soon as possible.

And with that we are adjourned. Thank you.

(Off the record at 4:27 p.m.)

(On the record at 4:27 p.m.)

HEARING OFFICER CELLI: Ladies and gentlemen, this is Ken Celli. We’re back on the record.

The Public Adviser just brought to my attention that I misspoke.

I didn’t mean to say that a motion would be available as soon as possible; that a Committee order ruling on the motion will be available as soon as possible.

And with that we are adjourned. Thank you.

(Thereupon, the Hearing was adjourned at 4:27 p.m.)

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REPORTER’S CERTIFICATE

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of May, 2014.

PETER PETTY
CER**D-493
Notary Public
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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 transcribed by me, a certified was under my supervision thereafter transcribed into typewriting.

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IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of May, 2014.

[Signature]

Barbara Little
Certified Transcriber
AAERT No. CET**D-520