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<th>09-AFC-07C</th>
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<td><strong>Document Title:</strong></td>
<td>Pat Flanagan Comments: Palen Solar Power Project</td>
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<td><strong>Description:</strong></td>
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<td>Pat Flanagan</td>
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Comment Received From: Pat Flanagan
Submitted On: 7/28/2014
Docket Number: 09-AFC-07C

Palen Solar Power Project

Additional submitted attachment is included below.
NEW TOOL AVAILABLE TO ASSESS MIGRATORY BIRD SPECIES

The Impacts Of Energy Projects On Migratory Birds

When solar or wind projects are to be constructed on federal land the National Environmental Protection Act (NEPA) requires that the effects of the projects on migratory birds be analyzed. If the proposed project is on state lands, then the California Environmental Quality Act (CEQA) also comes into play. Sometimes both federal and state regulations apply. For instance, surface rights may be federal while the water rights remain with the county.

Migratory bird species using the Pacific Flyway in the California Desert have been inadequately assessed under NEPA and CEQA by the Bureau of Land Management (BLM) and industrial solar energy project applicants. A good example is Bechtel's 6.5 square mile Soda Mountain Solar project (Soda Mountain Solar LLC), which straddles Interstate 15 between the Mojave National Preserve and the Soda Mountain Wilderness Study Area. Public comments are currently being reviewed.

I submitted comments on this project.

During my review of the draft BLM environmental documents, I read that the project's "operations and maintenance-related interference with the movement of migratory birds through existing migratory corridors" was "less than significant" before mitigation and that "no mitigation measures are required."

This evaluation was based on the project applicant's bird surveys for the spring and fall of 2009. During the spring count, 629 birds comprising 22 species were detected, and 210 birds comprising 23 species were identified in the fall count. Ten Species of Special Concern were listed as "known to occur or with the potential to occur" in the study area, with three of these species—the Western burrowing owl, the Mojave horned lark, and the Loggerhead shrike—seen during the surveys.

The remaining seven species—including the long-eared owl, the brown pelican, and the yellow-headed blackbird—are expected to appear "only as migrants." Only as migrants? Migrants are what the Migratory Bird Treaty Act protects—birds flying to their breeding or wintering sites. "Only" references the critically important passage time in a bird's year, which if not successful, eliminates breeding and wintering.

I became curious as to how many migrating species we could be talking about? To find out I consulted eBird, a citizen scientist enterprise run jointly by Cornell Laboratory of Ornithology and the National Audubon Society. Below is the ebird website description:

A real-time, online checklist program, ebird has revolutionized the way that the birding community reports and accesses information about birds. ebird provides rich data sources for basic information on bird abundance and distribution at a variety of spatial and temporal scales. By maximizing the utility and accessibility of bird observations made each year by recreational and professional bird watchers, ebird is amassing one of the largest and fastest growing biodiversity data resources in existence. The observations of each participant join those of others in an international network of eBird users. eBird then shares these observations with a global community of educators, land managers, ornithologists, and

Figure 1: Desert Hotspots

DESSERT REPORT JUNE 2014
SpEaSHEET 1

The Ebird List:

- Watch list with 100 species
- Birds with some combination of
  - Habitat
  - Nesting
  - Roosting
  - Food
  - Flight
  - Migration
  - Conservation
  - Other

Species: eBird and eAnnotations

1. Desert tortoise
2. Saguaro cactus
3. Arizona mariposa butterfly
4. Black-tailed jackrabbit
5. Gambel's quail
6. Aviary birds
7. Domestic cats
8. Domestic dogs
9. Domestic pigeons
10. Domestic rats

Conservation biologists and land managers work to identify and protect endangered species, as well as address the presence and absence of invasive species. The data collected is used to inform conservation efforts and manage land use.
The Impacts Of Energy Projects

Continued from page 17
- Stewardship list (with 92 species – species with a high percentage of global or Western Hemisphere population restricted to a single avifauna biome - 57.6% are on the eBird list)
- California DFW Species of Special Concern: 25 species are added by notation on the eBird list

SPREADSHEET 2
- Comparison of Salton Sea (338 species) with Death Valley National Park (315 species): 252 species overlap; 86 species Salton Sea only; 63 species Death Valley NP only
- Comparison of Zzyzx (224 species) and Big Morongo Canyon Preserve (228 species): 176 species overlap; 48 Zzyzx only; 52 Preserve only

SPREADSHEET 3
Partners in Flight (color-coded by notation to species on the eBird List)
- PIF Species of Continental Importance in Avifaunal Biomes

SUMMARY
All migratory bird species are protected by federal treaty. Solar project developers are not currently required, either during planning or operations and maintenance, to adequately assess the individual and cumulative impacts of solar (or wind) projects on migratory species. Point-count bird surveys focus on undeveloped project sites, and provide scant understanding of the attractions to birds created by vertically-oriented mirrors or other smooth reflective panels; water-like reflective or polarizing panels; actively fluxing towers; open bodies of water; aggregations of insects that attract insectivorous birds.

eBird is an existing tool that can provide a regional matrix of data for comprehensively evaluating the possible impacts of these projects on migratory bird species year around, year after year. We did not intend to booby-trap the Pacific Flyway, so let’s be smart enough not to. Until we acknowledge and understand the depth of our challenge we are in no position to know which locations have the least amount of impact, or to develop effective mitigation strategies.

Pat Flanagan is a consultant, writer, and activist living in Twenty-nine Palms.

References can be found in the Notes section of desertreport.org.

Migratory Bird Treaty Act of 1918
Migratory birds are protected under the Migratory Bird Treaty Act of 1918 (MBTA, last amended 2013), which includes Conventions with Mexico, Canada, Japan, and Russia, and the Calif. Fish and Wildlife Code Sections 3503, 3503.5, 3505, and 3513. Avian species protected under the MBTA are those listed in the four conventions and, in accordance with the Migratory Bird Treaty Reform Act of 2004, "all species native to the United States or its territories, which are those that occur as a result of natural biological or ecological processes."