

DOCKET

08-AFC-9

DATE	JAN 25 2011
RECD.	JAN 25 2011

STATE OF CALIFORNIA
Energy Resources Conservation
and Development Commission

In the Matter of:

APPLICATION FOR CERTIFICATION
FOR THE PALMDALE HYBRID
POWER PROJECT

DOCKET NO. 08-AFC-9

**MOTION TO CONTINUE HEARING DATES AND
OTHER DEADLINES
INTERVENOR CENTER FOR BIOLOGICAL DIVERSITY**

January 25, 2011

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STATE OF CALIFORNIA

**Energy Resources Conservation
and Development Commission**

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APPLICATION FOR CERTIFICATION
FOR THE PALMDALE HYBRID
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INTERVENOR CENTER FOR BIOLOGICAL DIVERSITY**

Introduction

Intervenor Center for Biological Diversity (the “Center”) seeks a continuance in this matter because the current schedule does not allow sufficient time for all of the parties to fully review and address evidentiary issues that were not adequately addressed in the Final Staff Assessment (“FSA”). The most recent Revised Schedule for this matter issued on January 18, 2011 stated that the FSA was issued on December 22, 2010; however, the document was not actually made available to Intervenors or other members of the public until January 5, 2011. The Revised Schedule required Opening Testimony from Intervenors on January 19, 2011, only 2 weeks after the FSA was made available. As the Center noted in the Opening Testimony that was filed, there was insufficient time to review the FSA before Opening Testimony was due. The Prehearing Conference is scheduled for January 31, 2011, and the Evidentiary Hearing is now scheduled for February 3, 2011. The Revised Schedule requires Opening Briefs to be filed one week after evidentiary hearings and Reply Briefs to be filed one week later—two weeks after evidentiary hearings. This schedule is extremely short and does not provide the parties

Request to Continue Hearing Date and Other Deadlines
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time to adequately address the many important evidentiary and legal issues that are presented in this matter.

There is no evidence in the record that there is any need to rush this process, and yet, the current schedule provides insufficient time for the parties to review documents and prepare testimony and briefing. Therefore, the Center respectfully requests that the Hearing date and other deadlines be continued.

Request for Continuance of Hearing Date

As an initial matter, the Revised Schedule provided insufficient time for review of the FSA and preparation of opening testimony. The FSA (of over 1,100 pages), was not made available until January 5, 2011, and Opening Testimony was due only 2 weeks later on January 19, 2011. Compounding the short deadline, although the Center provided detailed comments to the Committee for this project in response to the Final Determination of Compliance (“FDOC”) on July 22, 2010 (Docket # 57740) regarding the generation and use of emission reduction credits (ERCs) from the paving of existing unpaved public roads to offset the project’s particulate emissions, the Staff did not even begin to address these issues until the Rebuttal Testimony filed on January 21, 2011, *six months after* these issues had been raised by the Center. Because Staff has introduced entirely new information regarding the paving proposal at this late date, the Center and other parties should be provided with additional time to review this material (along with the other matters in the FSA) and provide testimony before any evidentiary hearing takes place regarding these issues.

In light of delays in the issuance of the FSA, the Center respectfully requests that the Evidentiary Hearings be continued at least eight weeks until March 31, 2011, and that the parties be provided with additional opportunities to file opening testimony and rebuttal.

Even if the Committee is not inclined to grant a continuance of the hearing date for all issues, the Committee should consider continuing the Evidentiary Hearings on the following categories: Air Quality, Biological Resources, Land Use, Soil and Water, and Public Health in order to provide all of the parties with a reasonable time for the parties to prepare for the Evidentiary Hearings on those issues. A continuance would allow the Committee to maintain a reasonable schedule with sufficient time for all of the parties to submit testimony and prepare for the Evidentiary Hearings.

Specifically, the Center respectfully requests that the parties be provided at least four weeks of additional time to review the FSA and new testimony from Staff, and that Opening Testimony from all parties be due no earlier than February 24, 2011, Rebuttal Testimony be due no earlier than March 17, 2011. This would ensure all written testimony is provided at least two weeks before the evidentiary hearings. Such a schedule would maintain the reasonable timeframes for all parties to participate in the process going forward.

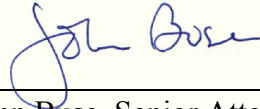
Request for Continuance of Other Deadlines

The Revised Schedule requires Opening Briefs to be filed one week after evidentiary hearings and Reply Briefs to be filed one week later—two weeks after evidentiary hearings. This schedule is extremely short and does not provide the parties time to adequately address the many important evidentiary and legal issues that are

presented in this matter. The Center respectfully requests that opening briefs be due no sooner than three weeks after the evidentiary hearings close and reply briefs be due no sooner than six weeks after evidentiary hearings close.

Dated: January 25, 2011

Respectfully submitted,

A handwritten signature in blue ink that reads "John Buse". The signature is written in a cursive style and is positioned above a horizontal line.

John Buse, Senior Attorney
Lisa T. Belenky, Senior Attorney
Center for Biological Diversity



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1516 NINTH STREET, SACRAMENTO, CA 95814
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APPLICATION FOR CERTIFICATION
For the *PALMDALE HYBRID*
POWER PROJECT

Docket No. 08-AFC-9

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(Revised 1/14/2011)

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DECLARATION OF SERVICE

I, John Buse, declare that on, _____ January 25, 2011 _____, I served and filed copies of the attached **MOTION TO CONTINUE HEARING DATES AND OTHER DEADLINES**, dated January 25, 2011. 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: [http://www.energy.ca.gov/sitingcases/palmdale/index.html]. 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:

(Check all that Apply)

FOR SERVICE TO ALL OTHER PARTIES:

- sent electronically to all email addresses on the Proof of Service list;
- by personal delivery;
- by delivering on this date, for mailing with the United States Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "email preferred."

AND

FOR FILING WITH THE ENERGY COMMISSION:

- sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (***preferred method***);

OR

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

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 08-AFC-9
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

