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July 1, 2010

DOCKET	
09-AFC-7	
DATE	<u>JUL 01 2010</u>
RECD.	<u>JUL 01 2010</u>

California Energy Commission
Attn: Docket No. 09AFC7
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

Re: 09-AFC-7 Palen Solar Power Project

Dear Docket Clerk:

Enclosed are an original and one copy of CALIFORNIA UNIONS FOR RELIABLE ENERGY ISSUES STATEMENT TWO. Please process the document and provide us with a conformed copy in the envelope enclosed.

Thank you.

Sincerely,

/s/

Jason W. Holder

JWH:bh
Enclosures

STATE OF CALIFORNIA

**Energy Resources Conservation
and Development Commission**

In the Matter of:

The Application for Certification for the
Palen Solar Power Plant Project

Docket No. 09-AFC-7

**CALIFORNIA UNIONS FOR RELIABLE ENERGY
ISSUES STATEMENT TWO**

July 1, 2010

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Attorneys for the CALIFORNIA
UNIONS FOR RELIABLE ENERGY

California Unions for Reliable Energy (“CURE”) submits this issues statement pursuant to the Committee’s June 14, 2010 Notice of Mandatory Status Conference for the Palen Solar Power Project (the “Project”). The Committee’s notice requires parties to 1) summarize their respective preparations and readiness for Evidentiary Hearings, 2) state what obstacles to resolution of issues may exist and 3) provide a proposed schedule for the remainder of this proceeding.

1. CURE’s Preparations and Readiness for Evidentiary Hearings

CURE has reviewed the Staff Assessment/Draft Environmental Impact Statement (“SA/DEIS”) published on March 18, 2010. CURE has also reviewed the Applicant’s responses to Staff’s data requests, comments regarding the SA/DEIS, documents regarding the wildlife and jurisdictional waters surveys conducted in 2010, and information regarding recent changes to the Project.

This proceeding is not ready for evidentiary hearings. Staff was scheduled to release its Revised Staff Assessment (“RSA”) on June 18, 2010. To date, the RSA has not been released. CURE understands that Staff intended to include in the RSA substantial revisions to the environmental analysis for the Project. For example, during the two-day SA/DEIS workshop concerning the SA/DEIS in April 2010, Staff stated that the RSA would include substantial revisions to its analyses regarding impacts to biological resources and cultural resources, and would be revised to address the

changed transmission line corridor for the Project, among other things. Until the RSA is published and the parties are provided an adequate amount of time to review the revised environmental analysis, no party to this proceeding will be ready for Evidentiary Hearings.

2. Obstacles to Resolution of Issues

Because the Applicant failed to provide information explaining and supporting its recent changes to the Project, failed to provide complete analyses of associated significant impacts and propose mitigation, and because the Applicant only recently provided new surveys in areas that would be impacted by the Project, CURE submitted data requests to the Applicant in mid-May 2010. The Applicant objected to the data requests, but agreed to respond to select data requests. On June 17, 2010, CURE filed a petition to compel the Applicant to respond to all unanswered data requests (“Petition”). The basis for CURE’s Petition is that the Applicant is required to respond with data supporting its proposed Project and, to date, the Applicant has not. As more fully explained in the Petition, CURE requested information regarding:

- The methodology used by the Applicant to survey in previously unsurveyed areas, including along the long transmission line,
- The size of the area disturbed by the Project, which was inconsistently reported in the SA/DEIS, and the characteristics of several newly proposed Project components,
- The significance of Project impacts to several threatened and special-status species, and

- The feasibility of mitigation measures proposed to address the numerous recognized significant impacts to species and their habitat.

Furthermore, CURE has reviewed the Applicant's responses to select data requests, filed on June 14, 2010, and observes that a number of the responses are incomplete and otherwise inadequate. For example, of approximately 96 responses provided, approximately 32 responses repeat the following paragraph verbatim:

In response to agency direction and comment relating to the sand transport corridor, [the Applicant] has developed a reconfiguration of the PSPP to avoid to the extent feasible the most active portion of the sand transport corridor. This reconfiguration is currently being developed in more detail and will be docketed on June 30, 2010. This reconfiguration will affect the information requested by this data request and therefore a response at this time will be out of date. Therefore we will provide a Supplemental Response to this Data Request on June 30, 2010.

This response, however, is not relevant or responsive to many of the corresponding data requests. Furthermore, despite the Applicant's promise, neither the information regarding the reconfiguration of the Project, nor the supplemental responses to the select data requests were docketed on June 30th. Until the Applicant provides the information required by our data requests, issues cannot be resolved. The Applicant cannot wait until the 11th hour immediately prior to the deadline for providing testimony to provide CURE with responses to its data requests.

3. CURE's Proposed Schedule for the Remainder of These Proceedings

In light of the many outstanding issues that continue to go unresolved, it is difficult to determine an appropriate schedule. Nevertheless, CURE recommends the following schedule, which could be adjusted in either direction depending on the pace at which the Applicant provides additional information and analysis:

Applicant submits Response to CURE's Petition (per 20 CCR § 1716.5)	July 2, 2010
Applicant submits Information Regarding Project Reconfiguration	TBD
Hearing Regarding CURE's Petition to Compel Responses to CURE's Data Requests, Set One	TBD
Presiding Member's decision on CURE's Petition (per 20 CCR § 1716.5)	July 16, 2010
Staff publishes Revised Staff Assessment for 30-day public review	August 11, 2010
Applicant files Opening Testimony	August 18, 2010
Intervenors file Opening Testimony	September 10, 2010
All Parties file Rebuttal Testimony	September 16, 2010
All Parties file Prehearing Conference Statements	September 21, 2010
Prehearing Conference	September 22, 2010
Evidentiary Hearing	September 29-30, 2010
Presiding Member's Proposed Decision (PMPD) issued	October 25, 2010

Committee Conference on PMPD	TBD
End of 30-day comment period for PMPD	November 24, 2010
PMPD Errata (if necessary)	TBD
Energy Commission Hearing—Final Decision	November 30, 2010

Dated: July 1, 2010

Respectfully submitted,

/s/

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Attorneys for the CALIFORNIA UNIONS
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**DECLARATION OF SERVICE
Palen Solar Power Plant Project**

Docket No. 09-AFC-7

I, Bonnie Heeley, declare that on July 1 2010, I served and filed copies of the attached **CALIFORNIA UNIONS FOR RELIABLE ENERGY ISSUES STATEMENT TWO** dated July 1, 2010. The original document, filed with the Docket Office, 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/solar_millennium_palen/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 Office via email and U.S. mail as addressed below.

I declare under penalty of perjury that the foregoing is true and correct. Executed at South San Francisco, California on July 1, 2010.

/s/

Bonnie Heeley

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