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DOCKET	
09-AFC-7	
DATE	<u>OCT 05 2010</u>
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October 5, 2010

California Energy Commission
Docket Unit
1516 Ninth Street
Sacramento, CA 95814-5512

Subject: **PALEN SOLAR I, LLC'S PREHEARING CONFERENCE STATEMENT
DOCKET NO. (09-AFC-7)**

Enclosed for filing with the California Energy Commission is the original of **PALEN SOLAR I, LLC'S PREHEARING CONFERENCE STATEMENT**, for the Palen Solar Power Project (09-AFC-7).

Sincerely,

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STATE OF CALIFORNIA

Energy Resources
Conservation and Development Commission

In the Matter of:

Application for Certification for the
PALEN SOLAR POWER PROJECT

DOCKET NO: 09-AFC-7

**PALEN SOLAR I, LLC'S
PREHEARING CONFERENCE
STATEMENT**

INTRODUCTION

Palen Solar I, LLC (PSI), a wholly owned subsidiary of Solar Millennium LLC, in accordance with 20 CCR § 1718.5 and the Committee Order dated September 21, 2010, hereby files its Prehearing Conference Statement for the Palen Solar Power Project (PSP). PSI is prepared to proceed to evidentiary hearing on all topic areas contained in the Revised Staff Assessment, Parts 1 and 2 (RSA).

In accordance with the above referenced order, PSI presents its Prehearing Conference Statement, as follows:

A. Topic Areas Complete and Ready to Proceed To Evidentiary Hearing

PSI believes that all topic areas (and or disciplines) are complete and ready for adjudication at the Evidentiary Hearings.

B. Disputed Topic Areas

PSI characterizes the disputed topic areas into the following three categories.

Category 1. Areas where PSI agrees with Staff's analysis, ultimate conclusions, and Conditions of Certification and where live testimony is not warranted. In some topic areas, Staff and PSI have agreed to modify certain conditions. PSI will capture those agreements in its Opening Testimony so that Staff need not revise its RSA. All of these topics were discussed in the last few public workshops.

Category 2. Topic areas where PSI disagrees with Staff analysis and ultimate conclusions and/or Conditions of Certification where live direct testimony and cross-examination are warranted

Category 3. Topic areas where PSI disagrees with Intervenors where live direct testimony and cross-examination are warranted

Category 2 topics include Biological Resources and Traffic and Transportation. Since PSI, LLC has not reviewed the Opening Testimony of the Intervenors, it cannot determine which areas, if any should be classified as Category 3. All other topics are classified as Category 1 because Staff and PSI are in complete agreement on the conclusions and the Conditions of Certification.

Brief descriptions of the disputes are included in Table 1.

C. Proposed Witnesses and Testimony

Table 1 identifies the witnesses that PSI intends to call and offer direct testimony including a brief summary of the subject areas of the testimony and an estimate of the amount of time necessary for direct live testimony. The table also identifies those areas where PSI believes live testimony is not warranted and therefore offers to submit the testimony upon sworn declaration.

D. Cross-Examination

Table 1 identifies those witnesses that PSI will cross-examine with an estimate of the amount of time necessary. PSI does not challenge the qualifications of any witness to provide expert testimony in accordance with the testimony received to date. A brief description of the subject areas in dispute that will encompass the scope of cross-examination is included in Table 1.

E. Exhibit List

Table 2 is PSI's Proposed Exhibit List.

F. Finding of Override

The RSA identified potential unmitigatable impacts in Cultural Resources, Visual Resources and Land Use. While PSI disagrees, it requests a Finding of Override in these areas.

G. Scheduling

In order to facilitate the schedule, PSI request the Committee allow the parties to make a brief closing argument at the end of testimony for each section so that the Committee can decide whether or not briefs are necessary. At this time PSI would not recommend briefing and if the Committee did require briefing that such briefing would not include closing argument regarding the facts and ultimate conclusions but be limited to well defined legal questions only.

At this time it is unclear whether the FDOC will be available at the time of evidentiary hearing. PSI proposes that the evidentiary record be left open to receive the FDOC prior to publication of the PMPD.

H. Proposed Modifications to Conditions of Certification

PSI has carefully reviewed the RSA and is in general agreement with the substantial majority of its Conditions of Certification. Conditions of Certification where PSI respectfully requests modifications are presented in our Opening Testimony.

CONCLUSION

PSI looks forward to a productive and efficient PreHearing Conference and Evidentiary Hearing.

Dated: October 4, 2010

Respectfully Submitted,

// original signed //

Scott A. Galati
Counsel to Palen Solar I, LLC

TABLE 1**Palen Solar Power Plant
Proposed Witness List**

TOPIC AREA	DISPUTES BETWEEN PARTIES	WITNESS	TESTIMONY SUMMARY	DIRECT TESTIMONY ESTIMATE	CROSS-EXAM ESTIMATE
PROJECT DESCRIPTION	Category 1	Alice Harron, PVSI, LLC Michael Cressner, PVSI, LLC	Submitted on Declaration; minor clarifications about Project Description	None	None
AIR QUALITY	Category 1	Sarah Head, Aecom Russ Kingsley, Aecom	Submitted on Declaration; recommend record be left open to accommodate FDOC	None	Possible Cross-Examination of CBD expert
BIOLOGICAL RESOURCES	Category 2	Alice Karl, Alice Karl and Associates Jennifer Gugliano, Aecom Angie Harbin-Ireland, Aecom	Condition of Certification BIO-23 and 24 related to vegetation and groundwater; Condition of Certification BIO 20 related to effects of sand shadow	1 hour	1 hour for Staff witnesses Possible Cross-Examination of CBD expert Possible Cross-Examination of Basin and Range Watch
CULTURAL RESOURCES	Category 1	Stacy Jordan, Aecom	Submitted on Declaration	None	Possible Cross-Examination of CARE Witnesses
HAZARDOUS MATERIALS	Category 1	Michael Cressner, PVSI, LLC	Submitted on Declaration	None	None

TOPIC AREA	DISPUTES BETWEEN PARTIES	WITNESS	TESTIMONY SUMMARY	DIRECT TESTIMONY ESTIMATE	CROSS-EXAM ESTIMATE
LAND USE	Category 1	Elizabeth Ingram, PVSI, LLC Aecom	Submitted on Declaration	None	None
NOISE AND VIBRATION	Category 1	Michael Cressner, PVSI, LLC	Submitted on Declaration	None	None
PUBLIC HEALTH	Category 1	Sarah Head, Aecom Russ Kingsley, Aecom	Submitted on Declaration	None	None
SOCIOECONOMICS	Category 1	Michael Cressner, PVSI, LLC	Submitted on Declaration	None	None
SOIL AND WATER RESOURCES	Category 1	Mike Flack, Aecom	Submitted on Declaration	None	Possible Cross-Examination of CBD expert
TRAFFIC AND TRANSPORTATION	Category 2	Shawn Kelly, Aecom	Dispute over portions of TRANS-6 related to glint and glare	30 minutes	30 minutes
TRANSMISSION LINE SAFETY AND NUISANCE	Category 1	Michael Cressner, PVSI, LLC	Submitted on Declaration	None	None
VISUAL RESOURCES	Category 1	Michael Cressner, PVSI, LLC	Submitted on Declaration	None	None

TOPIC AREA	DISPUTES BETWEEN PARTIES	WITNESS	TESTIMONY SUMMARY	DIRECT TESTIMONY ESTIMATE	CROSS-EXAM ESTIMATE
WASTE MANAGEMENT	Category 1	Michael Cressner, PVSI, LLC	Submitted on Declaration	None	None
WORKER SAFETY	Category 1	Michael Cressner, PVSI, LLC	Submitted on Declaration	None	None
FACILITY DESIGN	Category 1	Michael Cressner, PVSI, LLC	Submitted on Declaration	None	None
GEOLOGY AND PALEONTOLOGY	Category 1	Michael Cressner, PVSI, LLC	Submitted on Declaration	None	None
POWER PLANT EFFICIENCY	Category 1	Michael Cressner, PVSI, LLC	Submitted on Declaration	None	None
POWER PLANT RELIABILITY	Category 1	Michael Cressner, PVSI, LLC	Submitted on Declaration	None	None
TRANSMISSION SYSTEM ENGINEERING	Category 1	Michael Cressner, PVSI, LLC	Submitted on Declaration	None	None
ALTERNATIVES	Category 1	Alice Harron, PVSI, LLC Michael Cressner, PVSI, LLC	Submitted on Declaration	None	None

Palen Solar Power Project (09-AFC-7)
Exhibit List

Exhibit No.	Title/ Subject	Topic(s)
Exhibit 1	Palen Solar I, LLC’s Application for Certification Volumes I & II , dated August 2009, and docketed on August 24, 2009.	All
Exhibit 2	Air Quality Modeling Files , dated August 2009 and docketed on August 31, 2009.	Air Quality
Exhibit 3	Letter from Assembly Person V. Manuel Perez (Project Support Letter for PSPP & BSPP) , dated October 21, 2009, and docketed on October 26, 2009.	Project Description Socioeconomics
Exhibit 4	Palen Solar I, LLC’s Data Adequacy Supplement , dated October 2009, and docketed on October 30, 2009.	Air Quality Biological Resources Cultural Resources Geology & Paleontology Power Plant Efficiency Power Plant Reliability Project Description Soil & Water Resources Transmission System Engineering Visual Resources Waste Management

Exhibit 5	<p>Streambed Alteration Agreement Application, dated November 2009, and docketed on November 25, 2009.</p>	<p>Biological Resources Soil & Water Resources</p>
Exhibit 6	<p>Palen Solar Power Plant Pre-Development Drainage Conditions Report, dated November 25, 2009, and docketed on November 30, 2009.</p>	Soil & Water Resources
Exhibit 7	<p>New Alternative Approach to Staff Review for Cultural Resources, dated December 1, 2009, and docketed on December 1, 2009.</p>	Cultural Resources
Exhibit 8	<p>Palen Solar I, LLC's Selection of Cultural Resources Evaluation Approach, dated December 21, 2009, and docketed on December 22, 2009.</p>	Cultural Resources
Exhibit 9	<p>Palen Solar I, LLC's Application for the California Endangered Species Act Section 2081 (B) Incidental Take Permit and Revised Desert Tortoise Technical Report (including Fall 2009), dated January 2010, and docketed on January 13, 2010.</p>	Biological Resources

Exhibit 10	<p>Palen Solar I, LLC's Response to CEC Data Request 226 - Attachment G Water Supply Assessment, dated January 2010, and docketed on January 19, 2010.</p>	Soil & Water Resources
Exhibit 11	<p>Palen Solar I, LLC's Responses to CEC Data Requests Set 1, dated January 2010, and docketed on January 22, 2010.</p>	<p>Air Quality (1-32) Alternatives (33-50) Biological Resources (51-103) Cultural Resources (104-168) Geology & Paleontology (169-171) Health & Safety (172-179) Power Plant Reliability (180) Soil & Water (181-253) Transmission System Engineering(254) Visual Resources (255-278) Waste Management (279-280)</p>
Exhibit 12	<p>Palen Solar I, LLC's Supplemental Responses to CEC Data Request Set 1, dated January 2010, and docketed on January 27, 2010.</p>	<p>Air Quality (5,9,12, and 27) Biological Resources (75) Visual Resources (255-278)</p>
Exhibit 13	<p>Palen Solar I, LLC's Data Responses to January 7, 2010 CEC Workshop Queries and January 11, 2010 CEC Staff Email Queries with Attachment DR-CR-116a & b (Cultural Resources Impact Blocks), dated January 29, 2010 and docketed on February 1, 2010.</p>	Cultural Resources

Exhibit 14	<p>Palen Solar I, LLC's Data Response to CEC January 11, 2010 Email Queries Regarding Acreage Clarification, dated January 13, 2010, and docketed on February 4, 2010.</p>	<p>Project Description Land Use</p>
Exhibit 15	<p>Palen Solar I, LLC's Response to January 14, 2010 CEC Workshop Queries, dated February 2010, and docketed on February 8, 2010.</p>	<p>Biological Resources Cultural Resources</p>
Exhibit 16	<p>Palen Solar I, LLC's Responses to January 14, 2010 CEC Workshop Queries – Revised Construction Emissions Spreadsheet, Refinement to PSPP Air Permit Applications, and Response to CEC Data Request 29, dated February 2010, and docketed on February 9, 2010.</p>	<p>Air Quality</p>
Exhibit 17	<p>Palen Solar I, LLC's Supplemental Responses to CEC Data Requests, DR-BIO-60 through DR-BIO-62 & Preliminary Geomorphic Aeolian Ancient Lake Shoreline Report, dated February 2010, and docketed on February 16, 2010.</p>	<p>Biological Resources (60-62)</p>

Exhibit 18	<p>Palen Solar I, LLC's Responses to January 14, 2010 CEC Workshop Queries – (Supplemental Data for DR-S&W-242), dated February 2010, and docketed on February 16, 2010.</p>	Soil & Water Resources
Exhibit 19	<p>Letter from Riverside County Planning Department (RE: Review of AFC and NOI), dated February 16, 2010 and docketed on February 17, 2010.</p>	Land Use
Exhibit 20	<p>Heat Transfer Fluid Emissions Conference Call Record of Conversation (Between W. Walters (Aspen) and CEC, Abengoa Solar, Inc, Abener N. America, Atmospheric Dynamics & Solutia, Inc), dated January 27, 2010, and docketed on February 24, 2010.</p>	Air Quality
Exhibit 21	<p>Palen Solar I, LLC's Revised Habitat Mitigation & Monitoring Plan Impacts & Compensation Tables, dated February 12, 2010, and docketed on March 8, 2010.</p>	Biological Resources
Exhibit 22	<p>Palen Solar I, LLC's Draft Biological Assessment, dated March 2010, and docketed on March 9, 2010.</p>	Biological Resources

Exhibit 23	<p>South Coast Air Quality Management District's Preliminary Determination of Compliance, dated March 4, 2010, and docketed on March 10, 2010.</p>	Air Quality
Exhibit 24	<p>Palen Solar I, LLC's Responses to January 14, 2010, CEC Workshop Queries, dated March 2010, and docketed on March 15, 2010.</p>	Soil & Water Resources
Exhibit 25	<p>Palen Solar I, LLC's Supplemental Data Responses to January 14, 2010, CEC Workshop Queries (Groundwater) - DR – S&W – 242, dated February 2010, and docketed on March 15, 2010.</p>	Soil & Water Resources
Exhibit 26	<p>Palen Solar I, LLC's Spring Survey Protocols, dated April 2010, and docketed on April 22, 2010.</p>	Biological Resources
Exhibit 27	<p>Palen Solar I, LLC's Initial Comments on the Staff Assessment/ Draft Environmental Impact Statement, dated May 4, 2010, and docketed on May 4, 2010.</p>	<p>Air Quality Alternatives Biological Resources Cultural Resources Hazardous Materials Land Use Noise & Vibration Project Description Soil & Water Resources Traffic & Transportation Transmission System Engineering Visual Resources Waste Management Worker Safety</p>

Exhibit 28	Palen Solar I, LLC's Preliminary Spring 2010 Survey Results for Desert Tortoise, Rare Plants and Jurisdictional Waters , dated May 7, 2010, and docketed on May 12, 2010.	Biological Resources
Exhibit 29	Palen Solar I, LLC's Initial Comments on the Biological Resources Section of the Staff Assessment/ Draft Environmental Impact Statement , dated May 12, 2010, and docketed on May 12, 2010.	Biological Resources
Exhibit 30	Palen Solar I, LLC's Responses to Questions from the April 28, 29 and May 7, 2010 CEC Workshops – Draft Aeolian Sand Mitigation Summary Report , dated May 14, 2010, and docketed on May 19, 2010.	Biological Resources
Exhibit 31	Palen Solar I, LLC's, Responses to Questions from the April 28, 29 and May 7, 2010 CEC Workshops – Mojave Fringe -Toed Lizard Mitigation , dated May 14, 2010, and docketed on May 19, 2010.	Biological Resources
Exhibit 32	Palen Solar I, LLC's Wildlife Movement and Desert Tortoise Habitat Connectivity Analysis , dated May 14, 2010, and docketed on May 19, 2010.	Biological Resources

Exhibit 33	Riverside County Zoning Letter , dated May 20, 2010, and docketed on May 21, 2010.	Land Use
Exhibit 34	Palen Solar I, LLC's Responses to Questions from the April 28, 29, and May 7, 2010, CEC Workshops- Worker Safety, Hazardous Materials, Soil & Water Resources , dated May 21, 2010, and docketed on May 21, 2010.	Hazardous Materials Soil & Water Resources Worker Safety
Exhibit 35	Palen Solar I, LLC's Responses to Questions from the April 28, 29 and May 7, 2010, CEC Workshops - Natural Gas vs. Propane at PSPP and Southern California Edison's Red Bluff Substation Project Description , dated May 2010 and April 2010 (respectively), and docketed on May 22, 2010.	Project Description
Exhibit 36	Palen Solar I, LLC's Application/ Report of Waste Discharge - Soil & Water Resources , dated May 25, 2010, and docketed on May 25, 2010.	Soil & Water Resources

Exhibit 37	Palen Solar I, LLC's Revised Rule 1401 Health Risk Assessment for Auxiliary Boiler Operations , dated May 25, 2010, and docketed on May 25, 2010.	Air Quality
Exhibit 38	Palen Solar I, LLC's Responses to Select CURE Data Requests Set 1 , dated June 14, 2010, and docketed on June 15, 2010.	Biological Resources
Exhibit 39	Palen Solar I, LLC's Responses to Basin and Range Watch Data Requests , dated June 14, 2010, and docketed on June 15, 2010.	Biological Resources Visual Resources
Exhibit 40	Palen Solar I, LLC's Spring 2010 Survey Results Corrected & Preliminary Impact Calculations , dated May 27, 2010, and docketed on June 16, 2010.	Biological Resources
Exhibit 41	Emails Regarding School Impact Fee (Between Dennis Larson (AECOM) and Scott Debauche (Aspen Environmental Group)) , dated February, 9, 2010, and docketed on June 18, 2010.	Socioeconomics

Exhibit 42	Palen Solar I, LLC's Supplementary Information - Reconfigured Alternative 2 & Reconfigured Alternative 3 , dated June 2010, and docketed on July 2, 2010.	Biological Resources
Exhibit 43	Palen Solar I, LLC's HTF Fugitive Components Letter , dated June 25, 2010, and docketed on July 20, 2010.	Air Quality
Exhibit 44	Palen Solar I, LLC's Data Responses to Alternatives 2 & 3 , dated July 20, 2010 and docketed on July 20, 2010.	Air Quality Hazardous Materials Soil & Water Resources Transmission System Engineering Worker Safety
Exhibit 45	Palen Solar I, LLC's Redacted Phase II Study , dated July 8, 2010, and docketed on July 28, 2010.	Transmission System Engineering

Exhibit 46	<p>Email Regarding Receptors Alternatives Figures (From Russell Kingsley (AECOM) to Jillian Baker (SCAQMD)), dated July 2010, and docketed on July 30, 2010.</p>	Air Quality
Exhibit 47	<p>Palen Solar I, LLC's Responses to CEC Staff's Email Request for Information, dated August 2010, and docketed on August 5, 2010.</p>	Biological Resources
Exhibit 48	<p>Letter from BLM Inviting CEC Deputy Director T. O'Brien to Participate in the Cultural Resources Programmatic Agreement, dated March 15, 2010, and docketed on August 9, 2010.</p>	Cultural Resources
Exhibit 49	<p>CEC's Response to BLM's Invitation to Participate in the Programmatic Agreement Section 106 Consultation for PSPP, dated August 9, 2010, and docketed on August 10, 2010.</p>	Cultural Resources

Exhibit 50	Palen Solar I, LLC's Drainage Diffusers for PSPP , dated February 15, 2010 and docketed on August 13, 2010.	Biological Resources
Exhibit 51	Palen Solar I, LLC's Updated Hazardous Materials Table 5.6-3R for PSPP Reconfigured Alternatives 2 & 3 , dated August 2010, and docketed on August 13, 2010.	Hazardous Materials
Exhibit 52	Letter from the U.S. Department of the Army Regarding Approved Jurisdictional Determination , dated August 2, 2010, and docketed on August 16, 2010.	Biological Resources
Exhibit 53	Palen Solar I, LLC's Data Responses to Reconfigured Alternatives 2 & 3 – Biological Resources , dated July 21, 2010, and docketed on August 18, 2010.	Biological Resources
Exhibit 54	Palen Solar I, LLC's Response to CEC Committee's July 29, 2010 Order and Response to CURE's Petition to Compel Production of Information , dated August 24, 2010, and docketed on August 24, 2010.	Biological Resources

Exhibit 55 **Department of Transportation Letter
Regarding Gen-Tie and
Telecommunication Encroachment
Concurrence**, dated August 23, 2010, and
docketed on August 30, 2010. Traffic & Transportation

Exhibit 56 **Palen Solar I, LLC's Golden Eagle
Survey Results**, dated September 13,
2010, and docketed on September 13,
2010. Biological Resources



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
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1-800-822-6228 – WWW.ENERGY.CA.GOV

**APPLICATION FOR CERTIFICATION
FOR THE PALEN SOLAR POWER
PLANT PROJECT**

Docket No. 09-AFC-7

**PROOF OF SERVICE
(Revised 8/27/10)**

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DECLARATION OF SERVICE

I, Marie Mills, declare that on October 5, 2010, I served and filed copies of the attached **PALEN SOLAR I, LLC'S PREHEARING CONFERENCE STATEMENT**, dated October 4, 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: [\[http://www.energy.ca.gov/sitingcases/solar_millennium_palen\]](http://www.energy.ca.gov/sitingcases/solar_millennium_palen)

The documents have 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. 09-AFC-7
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.



Marie Mills