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United States Department of the Interior

FISH AND WILDLIFE SERVICE
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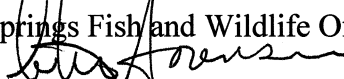


In Reply Refer To:
FWS-ERIV-09B0187-11F0244-R001

SEP - 9 2013

Memorandum

To: California Desert District Manager, Bureau of Land Management,
Moreno Valley, California
Attention: Greg Miller

From: *fol* Assistant Field Supervisor, Palm Springs Fish and Wildlife Office,
Palm Springs, California 

Subject: Acknowledgment of Request to Reinitiate Formal Consultation for the Palen Solar
Energy Generation System Project, Riverside County, California

This memorandum acknowledges our receipt of your request dated July 29, 2013, for reinitiation of formal consultation, pursuant to section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), on the Bureau of Land Management's (BLM) proposal to issue a Right-of-Way (ROW) grant for the construction, operation, maintenance, and decommissioning of the 500 megawatt (MW) Palen Solar Energy Generation System (PSEGS) Project. The Palen Solar Power Project (PSPP), a solar trough facility originally planned for the PSEGS site, was licensed by the California Energy Commission (CEC) in 2010 (CEC 2010) and in June 2011, we issued a biological opinion for the PSPP addressing the project's direct and indirect effects to the Mojave population of desert tortoise (*Gopherus agassizii*) and its designated critical habitat (Service 2011). The BLM completed the final environmental impact statement (EIS) for the PSPP project (BLM 2011), but a record of decision was never issued and the PSPP was never constructed.

In June 2012, Palen Solar Holdings (PSH; an indirect subsidiary of BrightSource Energy, Inc.) bought the assets of the PSPP in bankruptcy court and filed a Petition to Amend with the CEC for the PSEGS Project in December 2012 (PSH 2012). Palen Solar III, LLC (PS III; a joint venture between Abengoa, Inc. and BrightSource Energy, Inc.) submitted a revised Plan of Development to the BLM in support of the ROW grant application in February 2013 (PS III 2013). The BLM released the draft supplemental EIS in July 2013 (BLM 2013). For the purposes of this consultation, PSH is the applicant.

The proposed modifications to the project include replacing the parabolic trough solar collection system and associated heat transfer fluid with BrightSource's solar power tower technology. Heliostats, which are elevated mirrors guided by a tracking system mounted on pylons, focus the sun's rays on a solar receiver steam generator located atop a 750-foot tower near the center of each solar field to create steam to drive a turbine that generates electricity. The PSEGS project would be comprised of two adjacent solar fields and associated facilities that would be developed

in two operational phases. Each phase would consist of one solar field and power block with approximately 250 MW of generation capacity. Each solar field would have an array of approximately 85,000 heliostats for a total of 170,000 heliostats for the project. Each phase would also share common facilities, including an administration building, warehouse, evaporation ponds, maintenance complex with a meter/valve station for incoming natural gas service to the site, an on-site switchyard, and a single-circuit 230-kV generation tie-line to deliver power to the electricity grid. Other on-site facilities would include access and maintenance roads (either dirt, gravel, or paved), perimeter fencing, tortoise fencing, and other ancillary security facilities.

The PSEGS amendment does not propose to change the 500 MW generating capacity of the PSPP, the interconnection point at the Red Bluff Substation, the site access, and for the most part the project footprint, although the generation tie-line would be realigned near the western end of the route and around the newly constructed Red Bluff Substation. A new natural gas pipeline is also proposed.

This revised biological assessment (BA) addressed new impacts to the desert tortoise resulting from proposed project modifications, and also included a discussion on the federally endangered Yuma clapper rail (YCR; *Rallus longirostris yumanensis*) due to impacts documented at the nearby Desert Sunlight project currently under construction. The BLM determined that the PSEGS project is likely to adversely affect the desert tortoise, but not likely to adversely affect YCR on the basis of conservation measures intended to avoid impacts to YCR and other resident and migratory birds. However, the feasibility of these measures has yet to be confirmed with the applicant. Therefore, we will continue to work together to clarify the specifics of these measures and how they would be implemented to inform our decision relative to your not likely to adversely affect determination. Though the BA also concluded the proposed project is not likely to adversely modify designated desert tortoise critical habitat, we will reserve judgment on that issue pending our conclusions in the biological opinion.

Section 7 allows us up to 90 calendar days to conclude formal consultation with your agency and an additional 45 calendar days to prepare our biological opinion. During the consultation process, we will continue to work cooperatively with BLM and PSH to clarify any questions related to project impacts and refine the necessary conservation measures to avoid, minimize, and offset impacts to desert tortoise and its designated critical habitat and YCR.

As a reminder, after initiation of formal consultation, the Federal action agency may not make any irreversible or irretrievable commitment of resources that limits future options (50 CFR § 402.09). This practice insures agency actions do not preclude the formulation or implementation of reasonable and prudent alternatives that avoid jeopardizing the continued existence of endangered or threatened species or destroying or modifying their critical habitats.

We will continue to communicate with Ms. Marsden to ensure all necessary information is obtained to facilitate our analysis of the proposed project. If you have any questions or concerns

regarding this consultation or the consultation process in general, please feel free to contact Jody Fraser of this office at 760-322-2070, extension 207.

cc:

Magdalena Rodriguez, California Department of Fish and Game, Ontario, California
Ann Crisp, California Energy Commission, Sacramento, California

Literature Cited:

- [BLM] Bureau of Land Management. 2010. Final environmental impact statement for the Palen Solar Power Project (PSPP). Prepared by Environmental Science Associates (ESA) for the BLM, Palm Springs-South Coast Field Office, Palm Springs, California.
- [BLM] Bureau of Land Management. 2013. Draft supplemental environmental impact statement for the Palen Solar Electric Generating System (formerly Palen Solar Power Project). Palm Springs-South Coast Field Office, Palm Springs, California.
- [CEC] California Energy Commission. 2010. Commission Decision, Dated December 15, 2010. Submitted to CEC/Docket Unit on December 22, 2010. California Energy Commission/Hearing Office (TN 59350).
- [PS III] Palen Solar III, LLC. 2013. Palen Solar Electric Generating System (formerly Palen Solar Power Project), Revised Plan of Development, File Number CACA 48810, dated February 8, 2013.
- [PSH] Palen Solar Holdings, LLC. 2012. Petition for Amend (09-AFC-7C), Submitted by Palen Solar Holdings, LLC. Submitted to California Energy Commission, prepared by Centerline. (December).
- [Service] U.S. Fish and Wildlife Service. 2011. Biological Opinion for the Palen Solar Power Project, Riverside County, California. Carlsbad Fish and Wildlife Office, Carlsbad, California. June 2, 2011.