

DOCKETED

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Energy - Docket Optical System

From: David Lamfrom [dlamfrom@npca.org]
Sent: Monday, October 21, 2013 10:17 AM
To: Energy - Docket Optical System
Subject: 09-AFC-7C Petition to Intervene
Attachments: Palen Solar Project Petition to Intervene.pdf

Commissioners,

Thank you for your consideration of this petition to intervene. We tried to submit this petition earlier this week, but had trouble with the website.

The petition is tardy due in large part to the federal government shut down which prevented us from accessing critical information on the BLM and NPS website. We have described this in more detail in our petition.

NPCA represents an important and currently unrepresented constituency in this process. We want to ensure that impacts to Joshua Tree National Park are fully considered within this process.

Thank you for your continued support!

Respectfully,

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Petition to Intervene-National Parks Conservation Association

Seth Shteir, California desert field representative
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In a Proceeding Before the
STATE OF CALIFORNIA
State Energy Resources
Conservation and Development Commission

In the Matter of:

Palen Solar Power Project

DOCKET NO. 09-AFC-7C

PETITION TO INTERVENE

1. Petitioner, **National Parks Conservation Association**, hereby petitions to intervene in the above-captioned proceeding.
2. Petitioner will be represented in this proceeding by:

Self

Counsel

Group Member

[Type text]

Contact information for representative:

Name: Seth Shteir
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3. Petitioner is, is not a member of a group or organization already a party to this proceeding.

Petitioner National Parks Conservation Association seeks to intervene in this proceeding because we are concerned about the proposed project's impacts to Joshua Tree National Park's scenic viewsheds and avian species. The proposed project impairs Joshua Tree National Park's mission, "To preserve unimpaired the natural and cultural resources and values of the national park system for the enjoyment, education, and inspiration of this and future generations."

Joshua Tree was created as a National Monument on August 10, 1936 by President Franklin Delano Roosevelt and protects the convergence of three distinct ecosystems within its boundaries: the creosote bush and cholla cactus washes and bajadas of the Colorado desert; the vast Joshua tree forests of the Mojave Desert and the high elevation Pinyon and Juniper country of the Little San Bernardino Mountains. Joshua Tree National Monument was conferred National Park status with passage of Senator Dianne Feinstein's California Desert Protection Act of 1994. It is a world-class outdoor recreation destination and a powerful economic engine that in 2010 attracted 1.4 million recreational visits and infused local economies with \$38 million in direct visitor spending¹.

Petitioner National Parks Conservation Association is permitted to apply for intervenor status according to the California Energy Commission website under the following conditions, "In a power plant siting case, the petition to intervene must be submitted to the Commission between the date a project is found data adequate and no later than the prehearing conference or thirty days prior to the project's first formal hearing of evidence before the Committee (California Code of Regulations, tit. 20, 1207(b))² The Palen Project's prehearing conference is set for October 24, 2013, several days after NPCA has requested Intervener status.

NPCA strongly believes its request to become an Intervenor should be granted for the following reasons:

- 1) The proposed project impairs Joshua Tree National Park's unique mission, "To preserve unimpaired the natural and cultural resources of the national park system for the enjoyment, education and inspiration of this and future generations" by adversely impacting the park's scenic viewsheds and fully protected and special status avian species. No current intervenor is focused solely on this project's impacts to Joshua Tree National Park
- 2) The federal government shutdown from October 1, 2013 to October 17, 2013 delayed NPCA's petition for Intervenor status. First, the shutdown resulted in the closure of all 401 national park units, resulting in a crisis where California desert field staff suspended operations unrelated to

¹ Headwaters Economics. "National Park Service Units: Economic Impacts of Visitation and Expenditures". 2011.

<http://headwaterseconomics.org/apps-public/nps/impacts/>. (Accessed 10.19.13)

² California Energy Commission. "How do you become an Intervenor in a Siting Case". 1994-2013.

http://www.energy.ca.gov/public_adviser/become_an_intervenor.html. (Accessed 10.19.13)

this crisis. Second the Shutdown resulted in the deactivation of Department of Interior and Department of Agricultural websites that had critical information regarding natural resources relevant to the Palen Project.

The Palen Solar Power Project would have the following specific and adverse impacts to the resources of Joshua Tree National Park, making NPCA's petition to intervene critical:

Adverse Impacts to Joshua Tree National Park's Scenic Viewsheds

The California Energy Commission's Final Staff Assessment for the Palen Project indicates that it will have "A substantial adverse impact to existing scenic resource values as seen from several viewing areas and key observation points in the project vicinity and Chuckwalla Valley area, including Joshua Tree National Park's federally designated wilderness and backcountry to the west and northwest of the project site³. For example, Key Observation Points (KOP) 1 and 2 are respectively located along State Route 177 Corridor adjacent to Joshua Tree National Park's Coxcomb Mountains and west of Desert Center⁴. These two observation points include landscapes that appear predominantly natural and are designed to characterize visual impacts to park visitors who may tour remote jeep roads or explore some of Joshua Tree National Park's federally designated wilderness. The California Energy Commission report also concludes that the Palen Project's contribution to significant cumulative visual effects would be "Cumulatively considerable" when combined with other development projects in the area⁵. The Palen Project's impacts to Joshua Tree National Park's visual resources are reasons for concern as the 2010 Joshua Tree National Park Visitor Survey found that 90% of groups surveyed thought that Joshua Tree National Park's views without development were very or extremely important to their visitor experience⁶.

Adverse Impacts to Bald and Golden Eagles and Special Status Avian Species that migrate through and utilize Joshua Tree National Park's resources.

Joshua Tree National Park has 250 recorded species of birds and lies under the inland portion of the Pacific Flyway⁷. The proposed Palen Solar Power Project would adversely impact Joshua Tree National Park's migrating and foraging eagles, as well as special status avian species. The California Energy Commission Final Staff Assessment of the Palen Project states that "Construction and operation of the proposed project or its alternatives could result in death or injury of these birds (Migrating and resident birds)."⁸ Death or injury will result from solar flux and the project's solar panels having a water-like mirage effect that results in avian collisions and mortality⁹. Additionally, the project's evaporation ponds will likely attract bird and bat species, increasing collisions with project infrastructure¹⁰.

Species which will be adversely affected by this project include fully protected species like bald and golden eagles, peregrine falcon and Yuma clapper rail¹¹. Special status avian species that would be

³ California Energy Commission. "Palen Solar Power Project Final Staff Assessment"(9/10/13). 4.12-2

⁴ Ibid, 4.12-11

⁵ Ibid

⁶ National Park Service. "Joshua Tree National Park Visitor Study" (Fall 2010). P.55

⁷ Joshua Tree National Park. "Birds". (10/19/13). <http://www.nps.gov/jotr/naturescience/birds.htm> . (Accessed 10.19.13)

⁸ California Energy Commission. "Palen Solar Power Project Final Staff Assessment"(9/10/13), 4.2-4

⁹ Ibid

¹⁰ Ibid

¹¹ Ibid, 4.2-5

adversely impacted include the gilded flicker, elf owl, osprey, ferruginous hawk, burrowing owl, Cooper's hawk, sharp shinned hawk, northern harrier, prairie falcon, Swainson's hawk, Harris hawk and short eared owl¹². The Final Staff Assessment concludes that "Mortality or other take, such as sub-lethal injury caused by burning or blinding through exposure to flux would be significant under CEQA."¹³ It goes on to say that, "Staff cannot quantify the potential risk of these effects. However, this impact is unavoidable (Avian injury and mortality) and staff believes these impacts would be significant under CEQA and may violate the California Endangered Species Act (CESA) and/or the federal Endangered Species Act (ESA)."¹⁴ Finally, cumulative effects to avian species would be "Cumulatively considerable."¹⁵

In closing, petitioner NPCA would like to participate in all further California Energy Commission proceedings related to the Palen Solar Power Project as an Intervenor

4. Petitioner agrees, does not agree that documents can be served upon me via email only and an additional paper copy by mail is not necessary.

¹² Ibid, 4.2-6

¹³ Ibid

¹⁴ Ibid

¹⁵ Ibid, 4.2-7

October 19, 2013

Date

Seth Shteir

Signature

[Type text]