

DOCKETED

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CONTINUANCE OF
EVIDENTIARY HEARING FOR THE AMENDMENT TO THE
PALEN SOLAR ENERGY GENERATING SYSTEMS
BEFORE THE CALIFORNIA ENERGY COMMISSION

In the matter of,)
) Docket No. 09-AFC-07C
Palen Solar Energy Generating)
Systems Amendment)

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

MONDAY, NOVEMBER 25, 2013
2:08 P.M.

Reported by:
Kent Odell

APPEARANCES

HEARING ADVISOR:

Kenneth D. Celli, California Energy Commission

PANEL:

David Hochschild, Commissioner, California Energy Commission

Gabe Taylor, Advisor to Commissioner Hochschild

CEC STAFF PRESENT:

Jeff Ogata, Attorney for California Energy Commission

Christine Stora, Compliance Project Manager

Jacqueline Record, Air Quality

PETITIONER/APPLICANT:

Scott Galati, Esq., Attorney for Palen Solar Holdings, LLC (Via WebEx)

INTERVENOR:

Ileene Anderson, Center for Biological Diversity (Via WebEx)

PUBLIC:

Tiffany North, County of Riverside (Via WebEx)

Tom Budlong (Via WebEx)

Ken Waxlax (Via WebEx)

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P R O C E E D I N G S

1
2 NOVEMBER 25, 2013

2:08 P.M.

3 COMMISSIONER HOCHSCHILD: Good afternoon and
4 welcome. Today we will convene a Committee meeting for
5 the Palen Solar Electric Generating System.

6 As explained in the November 22nd, 2013 Notice
7 of a Continuance of Evidentiary Hearing, today's
8 Committee meeting is being held for the purpose of
9 conducting Committee deliberations in Closed Session.

10 So, I'm the Associate Commissioner David
11 Hochschild.

12 My Advisor Gabe Taylor's here, as is Ken Celli,
13 the Hearing Officer.

14 Is there anything else I need to -- okay, staff,
15 can you please introduce yourselves?

16 MS. STORA: Yes, this is Christine Stora, the
17 Compliance Project Manager on the Palen Solar Project.

18 MS. RECORD: Hello, Jacqueline Record, Air
19 Quality staff.

20 MR. OGATA: Jeff Ogata, Staff Counsel for this
21 project.

22 MR. GALATI: And there's nobody else here.

23 With that, Ken, do you want to take it away?
24 Thank you.

25 HEARING OFFICER CELLI: Thank you, Commissioner

1 Hochschild.

2 So, ladies and gentlemen, I just want to go to
3 the phones because the only people who are here in
4 Hearing Room A today are representatives of staff, the
5 court reporter, and people associated with the
6 Committee.

7 So, in this case we have Bright Source Energy,
8 usually represented by Scott Galati. Is there anyone on
9 the phone from Bright Source Energy or Palen Solar
10 Holdings.

11 Okay, hearing none, and we've already heard from
12 the people representing staff here today.

13 Who do we have for the Center for Biological
14 Diversity?

15 MS. ANDERSON: Hearing Officer Celli, I believe
16 it's just myself, this is Ileene Anderson with the
17 Center for Biological Diversity.

18 HEARING OFFICER CELLI: Thank you and welcome
19 back, Ms. Anderson.

20 MS. ANDERSON: Thanks.

21 HEARING OFFICER CELLI: Do we have anyone on the
22 telephone, Kevin Emmerich or anybody from Basin and
23 Range Watch?

24 Hearing none, is there anyone on the telephone
25 for Californians for Renewable Energy, Alfredo Figueroa,

1 or anybody?

2 Okay, hearing none, any representatives from
3 California Unions for Reliable Energy on the telephone?

4 Hearing none, or LIUNA, the Laborers
5 International Union of North America? Okay, nobody
6 there.

7 And is anyone here from the Colorado River
8 Indian Tribes, Sara Clark, Winter King, Rebecca Loud
9 bear?

10 Okay, hearing none, the record should reflect
11 that we have one telephone -- one anonymous caller. We
12 have Ileene Anderson, Ken Waxlax, Tiffany North and Tom
13 Budlong on the phone today.

14 Now, today's agenda is divided into four parts.
15 First, we're going to have what we're having now, which
16 is the open meeting.

17 After that I'm going to take public comment, if
18 there is any.

19 And then, third, we're going to go into a closed
20 session. And what that means is that, basically, we're
21 off the record for however long the Commissioners need
22 to deliberate for.

23 And then at the close of the closed session I
24 will come down, get back on the record and adjourn, and
25 that is the agenda for today.

1 So, that's the way we're going to proceed. The
2 closed session will be conducted in accordance with
3 Government Code Section 11126(c)(3), which allows a
4 State body, including a delegated committee, to hold a
5 closed session to deliberate on a decision to be reached
6 in a proceeding the State body was required by law to
7 conduct.

8 So with that, we're now going to go to public
9 comment. Is there anyone in the room who wishes to make
10 a public comment?

11 MR. OGATA: Mr. Celli, Jeff Ogata --

12 MR. BUDLONG: Yeah, Tom Budlong does.

13 HEARING OFFICER CELLI: Hang on a minute, Tom.
14 I'm just going to take care of the room first and then
15 I'm going to go to the phone. Okay?

16 MR. BUDLONG: Oh, I'm sorry, I'm sorry.

17 HEARING OFFICER CELLI: Go ahead, Mr. Ogata.

18 MR. OGATA: Thank you. Obviously, we don't have
19 public comment, but we did want to make one statement
20 for the record regarding the air quality exhibit.

21 As I understand it, at the air quality hearing
22 staff was proposing to submit into the record some
23 typographical and some minor changes to their testimony
24 based upon some input we got from the South Coast Air
25 Quality Management District.

1 And as I understand it, that that letter from
2 them dated November 22nd, 2013, is marked as Exhibit
3 2015.

4 And if I could have our staff person, Jacque,
5 just sort of summarize that for you and then we would
6 move that into the record.

7 HEARING OFFICER CELLI: Go ahead, Ms. Record.

8 MS. RECORD: Okay. Hello, my name is Jacqueline
9 Record. At the hearing on Friday, November 22nd, I
10 stated for the record minor edits to Air Quality Table 9
11 of the Final Staff Assessment, in combination with the
12 docketed letter TN-201322, identified as Exhibit 2015,
13 titled "South Coast AQMD's Comments to the Final Staff
14 Assessment for the Palen Solar Generation."

15 All corrections have been documented for the
16 record, so staff will not be making an errata.

17 HEARING OFFICER CELLI: Thank you. Let me just
18 check my notes from Friday. It appears that 2013
19 through 2014 were received, but 2015 and 2016 were
20 identified, but not received, because we didn't know
21 what they were and we hadn't received them, yet.

22 So, let me just see, Mr. Galati, are you on the
23 line now?

24 Oh, boy. Mr. Galati, there's some weird
25 feedback we're getting from your line. If you've got a

1 telephone, it might be a better way to call in.

2 MR. GALATI: How's this?

3 HEARING OFFICER CELLI: Not good. Not good, it
4 sounds like you're speaking through a saxophone.

5 So, you might want to try calling back in.

6 Okay, so he's probably going to try to call back in,
7 again.

8 So let me ask, Ileene Anderson, any objection
9 from the Center for Biological Diversity?

10 MS. ANDERSON: No objection.

11 HEARING OFFICER CELLI: Okay, any objection from
12 the Basin and Range Watch people? Is there anyone on
13 the phone from Basin and Range Watch or California --
14 the Colorado River Indian Tribes? Is there anyone from
15 CRIT on the telephone?

16 And I'm just going to assume that there's no
17 objection from the Petitioner, since they did not object
18 on Friday. The only objection came from CVD.

19 So, with that 2015 will be received into
20 evidence.

21 (Staff Exhibit 2015 was received into evidence.)

22 MR. OGATA: Great, thank you.

23 HEARING OFFICER CELLI: Thank you.

24 Now, Tom Budlong?

25 MR. BUDLONG: Yes.

1 HEARING OFFICER CELLI: You have the floor.

2 Let's hear your comments, sir, please?

3 MR. BUDLONG: I have a couple of items of
4 interest. About a week ago my son happened to be
5 driving by Ivanpah when they were testing the solar --
6 the power tower, and took some remarkable photographs.
7 I've put them on Picasso web albums.

8 And if you go in there and search for, I think,
9 Ivanpah Solar Tower and Operation, you'll find them.

10 They're remarkable because what they show is
11 with the power -- with the tower lit up and sometimes
12 not lit up you can see a halo around the top of the
13 tower. The actual thickness of the halo is about one
14 receiver width, and there are two halos on either side
15 of the tower, and they're about one receiver width away
16 from it.

17 And I presume that that's a solar effect of some
18 sort. You know, you look at that and say I don't want
19 to go through there on a hang glider by any means.

20 The other thing that you can see is you can see
21 a comet coming up from the heliostats from the tower and
22 you wonder what's going on in there.

23 I find those remarkable pieces of evidence that
24 there's really something going on there. I think Basin
25 and Range Watch have similar photographs, but since

1 they're not here they can't talk about them, I guess.

2 They're truly scary, they really are. And if
3 somebody wants to see those pictures, like I say,
4 they're on Picasso web albums. It's easy to get at once
5 you get there. I think if you just search for Ivanpah
6 or Ivanpah solar tower in operation, you can see them.

7 The second thing is that what just happened to
8 cross my desk was the monitoring plan for Ivanpah for
9 bird mortality and impacts because of birds.

10 And it's interesting that they're beginning
11 that. Under their plan objectives they talk about
12 estimating the flux-related avian mortality, documenting
13 patterns of collision and flux-related mortality. I'm
14 reading from paragraph 1.2. Spatial patterns associated
15 with collision, quantitative information for developing
16 and implementing adaptive management, framework to
17 characterize the recommended responses, document use
18 patterns for various avian species.

19 It strikes me that no one knows the answers to
20 these questions. Any impact that's been attempted to
21 predict so far is really unknown, you're just guessing.

22 And here we have a test bit about to start up
23 and I think it would be almost irresponsible of Palen to
24 continue its process without taking advantage of this
25 learning that's coming out of Ivanpah.

1 Now, these two projects are so similar, they're
2 in the same neck of the woods in the world, they're of
3 similar design expect Palen is a little bit larger.

4 And it seems to me that prudence would say
5 you've got your fingers on some data pretty close, now,
6 and in a few months you're probably going to get some
7 good data out of it, and the next year you'll get a
8 year's worth of data, and you'll see what kind of a
9 thing this is.

10 And as far as going into Palen unknown, when the
11 chance here is to go in with some pretty good data, the
12 data could be disastrous, it could not be disastrous.
13 You might and you might not learn from it. But to
14 ignore that seems to me almost irresponsible.

15 All these questions have come up of, you know,
16 migrating birds. Do they go through here or don't they
17 go through here? Well, nobody really monitors those
18 things very closely because there's no bodies of water
19 around there where they can come and rest.

20 Of course, the other thing is that we all know
21 about is how much are birds attracted to these mirrors,
22 being fooled into thinking they are bodies of water, and
23 we're going to go down and rest for a while and maybe
24 get something to eat by feeding off the bottom, and then
25 they slam into the mirrors.

1 A third thing is that this is not a trivial
2 question as far as companies are concerned. We've just
3 seen Duke Energy plead guilty and come up with a
4 substantial fine for killing birds with their turbines
5 and the same thing could happen here.

6 So, the thrust of all this is go and look at
7 those pictures, if you want to see what it looks like
8 and you hadn't seen that before. And, really, proceed
9 with caution and you've got some data here that will
10 allow you to proceed with caution. You don't have to be
11 a test bed. You've got a test be ready, in the making,
12 and just wait a little while.

13 A little caution, I think, is prudent and
14 responsible.

15 I guess that's about the end of my comment.

16 HEARING OFFICER CELLI: Well, thank you very
17 much for those comments, Mr. Budlong, and good to hear
18 from you again.

19 MR. BUDLONG: Thank you.

20 HEARING OFFICER CELLI: Do we have any other
21 comments?

22 I see I have Ileene Anderson on the line. Did
23 you have any comments, Ms. Anderson?

24 MS. ANDERSON: I don't today, thank you.

25 HEARING OFFICER CELLI: Ken Waxlax, did you have

1 a comment?

2 MR. WAXLAX: No, I'll stand by my previous
3 comments, thank you.

4 HEARING OFFICER CELLI: Thank you.

5 Mr. Galati, let me -- it looks like you're
6 muted. Let me unmute Mr. Galati.

7 MR. GALATI: Can you hear me now?

8 HEARING OFFICER CELLI: There, I can hear you
9 now. Go ahead, Mr. Galati.

10 MR. GALATI: Yeah, I have no comments, thanks.

11 HEARING OFFICER CELLI: Did you object to the
12 receipt of Exhibit, was it 2015, from staff?

13 MS. RECORD: Yes, that's correct.

14 MR. GALATI: No, this was the final staff
15 assessment comments from South Coast?

16 HEARING OFFICER CELLI: Correct.

17 MR. GALATI: No objection.

18 HEARING OFFICER CELLI: Okay, thank you.

19 Ms. North, Tiffany North from County of
20 Riverside?

21 MS. NORTH: Yes, I have two quick comments, if I
22 may.

23 HEARING OFFICER CELLI: Go ahead.

24 MS. NORTH: They're both about recent documents
25 that were docketed with the Commission. This morning

1 the Petitioner docketed Exhibit 55 from the Rice Solar
2 Energy Proceeding. Exhibit 55 is entitled, "The Rice
3 Solar Energy, LLC Supplemental Rebuttal Testimony on
4 Worker Safety and Fire Protection."

5 The County raises questions about the
6 appropriateness of docketing this exhibit.

7 If you recall, at the October 29th evidentiary
8 hearing you advised that the Committee would be willing
9 to take official notice of the PMPD and any decisional
10 documents from the Energy Commission, but the Committee
11 was not going to be inclined to take any official notice
12 of any briefs, or other party opening statements, or
13 testimony.

14 And after agreeing to that, by the parties, now
15 the Petitioners have filed this supplement testimony and
16 the County just doesn't think that's appropriate.

17 Additionally, on Friday the Petitioner docketed
18 a map entitled "Palen Solar Project Site and Private
19 Parcels." That was TN-201307.

20 The map shows Assessor's Parcel Number 810110007
21 as a private parcel within the project boundaries,
22 that's owned by Bright Source.

23 We've been repeatedly told that this project is
24 entirely on BLM land. And so I just wanted
25 clarification, is this parcel truly part of the project

1 and, if so, it would need to comply with County LORS.

2 So, I just had a question about that.

3 HEARING OFFICER CELLI: Thank you. I
4 actually -- I remember seeing that map come through. I
5 wasn't sure what it's use was.

6 Was that -- so, the proponent of that, the filer
7 of that was the Applicant, the Petitioner?

8 MS. NORTH: Yes.

9 MR. GALATI: Yes, and Mr. Celli, can you hear
10 me?

11 HEARING OFFICER CELLI: Yes. Please, go ahead,
12 Mr. Galati, if you can answer her question, please?

13 MR. GALATI: Yes, I can answer the second
14 question first and I can address the first question, if
15 you'd like.

16 The second question was about the map. During
17 the evidentiary hearing Ms. Belenky was asking questions
18 of my witness, Charlie Turlinsky, about the project. To
19 be clear, the project does not include any private land.

20 But Ms. Belenky asked if the Applicant had
21 ownership or control of any land near the project and we
22 did. We have ownership and control of two of three
23 parcels.

24 We explained that we did not include those in
25 the project layout, that they were included in the

1 project layout for the original Palen Solar Power
2 Project, but they are not part of the amendment.

3 So, there is no private land involved, as we
4 said from the beginning.

5 What Ms. Belenky asked was could we make a map
6 showing her which pieces of private property were owned
7 by or controlled -- I think one has an option and one is
8 owned by the Applicant. So, we prepared that map.

9 And then Ms. Belenky asked us to docket it
10 because we prepared it. So, we did so.

11 HEARING OFFICER CELLI: Thank you, Mr. Galati.

12 Does that answer your question, Ms. North?

13 MS. NORTH: I just wanted to -- and I remembered
14 that discussion. I just wanted it clarified because it
15 looks like, as you're looking at the map, the project
16 boundaries actually show that one of the parcels is
17 inside the project boundary. And so, I just want it
18 clarified that it wasn't.

19 MR. GALATI: It is not. And if it looks like
20 that, I think it might be an overlap of different
21 colored lines, but it is absolutely there is no private
22 land inside the project boundary, as proposed by PSEGS.

23 MS. NORTH: All right.

24 MR. GALATI: It was within the original project
25 boundary, so it might be another project boundary.

1 MS. NORTH: Okay, thank you.

2 HEARING OFFICER CELLI: Any further comments,
3 Ms. North?

4 MS. NORTH: No, thank you.

5 HEARING OFFICER CELLI: Okay, I think we've --

6 MR. GALATI: I'd like -- that's item, the
7 Exhibit Number 55, Ms. North may not have been party to
8 the conversations we had where I asked for
9 administrative notice of that exhibit, on Friday, of
10 which it was granted and we docketed so that it would be
11 in the public record.

12 HEARING OFFICER CELLI: That's correct.

13 Okay, thank you Mr. Galati, thank you Ms. North.

14 MS. NORTH: Thank you.

15 HEARING OFFICER CELLI: I have one more person.

16 Juan Garcia, are you on the phone? Did you wish to make
17 a comment? Mr. Garcia? Oh, he seems to have one of the
18 headphones, so he's just listening in.

19 Okay, with that, ladies and gentlemen, then it's
20 now, I'll make a note that it's 2:23 p.m. and the
21 Committee will now go into closed session. It will
22 probably be a couple of hours. I'm not sure exactly how
23 long it will take.

24 At the close of the closed -- at the termination
25 of the closed session I will come back on the record and

