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STATE OF CALIFORNIA
Energy Resources Conservation
and Development Commission

In the Matter of:

APPLICATION FOR CERTIFICATION) DOCKET NO. 09-AFC-7C
FOR THE PALEN SOLAR ELECTRIC)
GENERATING SYSTEM)
_____)

**BASIN AND RANGE WATCH OPPOSITION TO MOTION TO REOPEN EVIDENTIARY
RECORD**

April 7th, 2014

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Basin and Range Watch would like to concur with Center for Biological Diversity in opposing the petitioner's request to reopen the evidentiary record for the Palen Solar Electric Generating System. BrightSource has failed to provide any new information that would convince us that they have come up with any adequate mitigation measures that would prevent kills of important avian fauna in the region.

The petitioner has requested an evidentiary hearing for the middle of May, 2014. This would be inappropriate because there is not enough information that has been obtained from focused surveys for the Ivanpah Solar Electric Generating System. Furthermore, these are the first non-incidentals surveys to take place starting for the spring migration season. The spring avian migration will go on until about the end of June, over one month after the petitioner has requested an evidentiary hearing for the project.

The only possible mitigation the petitioner has come up with has not changed since the first hearing. These mitigation measures include plastic decoy birds, water cannons, trained K9's and a host of other speculative ideas. These mitigation measures were discussed in the last evidentiary hearing in October, 2013. When asked about these measures, the California Energy Commission staff can be quoted as determining that the threats the project would have to avian fauna are "unmitigable". There would be no point in holding a hearing and discussing this issue when so little data has been obtained from focused surveys that only cover a small percentage of the Ivanpah Project site. The conclusions would be identical. At the very least, the CEC should wait until Fall of 2014 to even consider discussing the issue. Even better, the CEC should wait until about 3 years worth of avian mortality data is obtained for the Ivanpah Solar Electric Generating System before even considering such an action. Waiting three years would allow biologists to compile data from three years worth of spring and fall avian migration seasons.

We believe that holding a hearing for this project when so little information about avian data is obtained it would be a violation of the Migratory Bird Treaty Act, the Bald and Golden Eagle Protection Act and the Endangered Species Act.

Today, April 7th, 2014, the US Fish and Wildlife Service released the report *Avian Mortality at Solar Energy Facilities in Southern California: A Preliminary Analysis*, Rebecca A. Kagan, Tabitha C. Viner, Pepper W. Trail, and Edgard O. Espinoza National Fish and Wildlife Forensics Laboratory

The report finds that *"Trauma was the leading cause of death documented for remains at the Desert Sunlight and Genesis sites. Trauma and solar flux injury were both major causes of mortality at the Ivanpah site. Exposure to solar flux caused singeing of feathers, which resulted in mortality in several ways. Severe singeing of flight feathers caused catastrophic loss of flying ability, leading to death by impact with the ground or other objects. Less severe singeing led to impairment of flight capability, reducing ability to forage and evade predators, leading to starvation or predation."*

and

"These solar facilities appear to represent "equal-opportunity" hazards for the bird species that encounter them. The remains of 71 species were identified, representing a broad range of ecological

types. In body size, these ranged from hummingbirds to pelicans; in ecological type from strictly aerial feeders (swallows) to strictly aquatic feeders (grebes) to ground feeders (roadrunners) to raptors (hawks and owls). The species identified were equally divided among resident and non-resident species, and nocturnal as well as diurnal species were represented. Although not analyzed in detail, there was also significant bat and insect mortality at the Ivanpah site, including monarch butterflies. It appears that Ivanpah may act as a “mega-trap,” attracting insects which in turn attract insect-eating birds, which are incapacitated by solar flux injury, thus attracting predators and creating an entire food chain vulnerable to injury and death.”

The report concludes:

“In summary, three main causes of avian mortality were identified at these facilities: impact trauma, solar flux, and predation. Birds at all three types of solar plants were susceptible to impact trauma and predators. Predation was documented mostly at the photovoltaic site, and in many cases appeared to be associated with stranding or nonfatal impact trauma with the panels, leaving birds vulnerable to resident predators. Solar flux injury, resulting from exposures to up to 800° F, was unique to the power tower facility. Our findings demonstrate that a broad ecological variety of birds are vulnerable to morbidity and mortality at solar facilities, though some differential mortality trends were evident, such as waterbirds at Desert Sunlight, where open water sources were present; and insectivores at Ivanpah, where insects are attracted to the solar tower.”

The FWS admits: *“It must be emphasized that we currently have a very incomplete knowledge of the scope of avian mortality at these solar facilities. Challenges to data collection include: large facilities which are difficult to efficiently search for carcasses; vegetation and panels obscuring ground visibility; carcass loss due to scavenging; rapid degradation of carcass quality hindering cause of death and species determination; and inconsistent documentation of carcass history.*

and:

“Given these variables it is difficult to know the true scope of avian mortality at these facilities. The numbers of dead birds are likely underrepresented, perhaps vastly so. Observational and statistical studies to account for carcass loss may help us to gain a better sense of how many birds are being killed. Complete histories would help us to identify factors (such as vertical placement of mirrors) leading to mortalities. Continued monitoring is also advised as these facilities transition from construction to full operation. Of especial concern is the Ivanpah facility which was not fully-functioning at the time of the latest carcass submissions. In fact, all but 7 of the carcasses with solar flux injury and reported dates of collection were found at or prior to the USFWS site visit (October 21-24, 2013) and, therefore, represent flux mortality from a facility operating at only 33% capacity. Investigation into bat and insect mortalities at the power tower site should also be pursued.”

This confirms what we have been trying to tell you for over a year now. You simply don't have enough information to proceed with this project and mitigate the impacts it will have to avian wildlife.

As we also mentioned before, there have been additional issues that have recently been raised for the Ivanpah Project involving air quality and visual flash and safety.

On March 27th, NRG, the owners of the Ivanpah Project submitted a Petition to Amend in which *“ISEGS is requesting an increase in the maximum allowable annual fuel usage limit from 328 MMSCF per power block to 525 MMSCF. The requested change would require modification of the annual fuel use limits in Conditions AQ-12 and AQ-34.”*

That is the second request they have made to use more natural gas since approval. We would like to know if this will become an issue for the Palen Project.

On March 10th, 2014, the CEC received a complaint from the Las Vegas International Airport about the intense, “blinding” glare from the ISEGS project. While the owner of ISEGS submitted a response, we still have a few questions about glare safety issues for the Palen Solar Project.

While the CEC explained that the ISEGS project was still being configured, they were also uncertain about how many times the heliostats would be placed in a stand-by, glaring position during operation.

We believe there is still a glare danger to hikers, motorists and pilots from these power tower designs and do not feel the issue has been resolved for the Palen Project.

We have not heard of what we feel are any acceptable ways to mitigate or prevent the large impacts the project would inflict on cultural values and resources.

The petitioner would also like to talk about converting or “upgrading” the project to thermal storage. This almost suggests that the petitioner believes that their current design will turn out to be inadequate. We believe that would require such a change in the configuration and footprint of the project, that the petitioner should be required to submit a whole new application to the California Energy Commission. The review would need a whole new Preliminary Staff Assessment.

We feel that holding a hearing in May would not only be a waste our time, but a waste of California taxpayer dollars. There is not enough new information since the last hearing was held.

Submitted April 7th, 2014

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