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CONTINUANCE OF
CLOSED SESSION HEARING
FOR THE AMENDEMENT TO THE
PALEN SOLAR ENERGY GENERATING SYSTEMS
BEFORE THE CALIFORNIA ENERGY COMMISSION

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

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

WEDNESDAY, MAY 7, 2014

2:04 P.M.

Reported by:

Peter Petty

APPEARANCES (*present via telephone)

COMMISSIONERS (AND THEIR ADVISORS) PRESENT:

Karen Douglas, Presiding Member

Eli Harland, Her Advisor

Jennifer Nelson, Her Advisor

David Hochschild, Associate Member

Gabriel D. Taylor, His Advisor

Eileen Allen, Commissioners' Technical Advisor for
Facility Siting

HEARING OFFICER:

Kenneth Celli, California Energy Commission

CEC STAFF PRESENT:

Jennifer Martin Gallardo, Staff Counsel

Chris Marxen, Project Manager

Alana Matthews, Public Adviser

Paul Kramer, Hearing Advisor

PETITIONER PALEN SOLAR HOLDINGS:

Scott Galati, Esq., Galati & Blek, LLC

Matt Stucky, Abengoa Solar-Palen Solar Holdings

INTERVENORS

Center for Biological Diversity (CBD)

*Lisa Belenky

Basin & Range Watch

*Kevin Emmerich

APPEARANCES (*present via telephone)

California Unions for Reliable Energy

*Tanya A. Gulesserian

Colorado River Indian River Tribes (CRIT)

Sara Clark

INTERESTED GOVERNMENT AGENCIESNational Parks Service

*Deborah Bardwick, Office of the Solicitor

Bureau of Land Management

*Paul Frank

PUBLIC:

David Harper, CRIT

Amanda Barrera, CRIT

Sarah Friedman, Sierra Club

V. John White, CEERT

Joan Taylor

David Lamfrom

Larry Silver, California Environmental Law Project

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1

P R O C E E D I N G S

1
2 MAY 7, 2014

2:04 P.M.

3 COMMISSIONER DOUGLAS: Today we will convene a
4 Committee meeting for the Palen Solar Electric
5 Generating System, as explained in the April 14, 2014
6 Notice of Continuance of the April 16, 2014 Committee
7 Conference Closed Session.

8 Today's Committee meeting is being held for the
9 purpose of conducting Committee deliberations in Closed
10 Session.

11 So, I'll start with introductions. My name is
12 Karen Douglas. I'm the Presiding Member of this Siting
13 Committee.

14 To the left of our Hearing Officer is
15 Commissioner David Hochschild. He's the Associate
16 Member of the Committee.

17 To my immediate left are Hearing Officer Ken
18 Celli, to my right my advisors, Jennifer Nelson and Eli
19 Harland.

20 And to Commissioner Hochschild's left we have
21 Gabe Taylor, his advisor, and Eileen Allen, the
22 Technical Advisor on Siting for the Commissioners.

23 So, let me ask now, is the Public Adviser in the
24 room? Hi, Alana, so our Public Adviser's in the room,
25 Alana Mathews.

1 And let me ask Petitioner, Palen Solar Holdings,
2 if you could introduce yourselves for the record?

3 MR. GALATI: Scott Galati representing Palen
4 Solar Holdings.

5 MR. STUCKY: And I am Matt Stucky with Abengoa
6 Solar, which is a member of Palen Solar Holdings.

7 COMMISSIONER DOUGLAS: Thank you.

8 Staff please?

9 MS. MARTIN GALLARDO: This is Jennifer Martin
10 Gallardo, Staff Attorney.

11 MR. MARXEN: Chris Marxen, representing staff.

12 COMMISSIONER DOUGLAS: Thank you. We'll turn to
13 the Intervenors, now.

14 Intervenor Center for Biological Diversity, Lisa
15 Belenky or Eileen Anderson, are you on the line?

16 MS. BELENKY: Yes, this is Lisa Belenky. I'm on
17 the line and I believe Eileen may be on the line, also.

18 COMMISSIONER DOUGLAS: Thank you.

19 Intervenor Kevin Emmerich, Basin & Range Watch,
20 are you on the line?

21 MR. EMMERICH: Yes, this is Kevin Emmerich here.

22 COMMISSIONER DOUGLAS: Thank you.

23 Intervenor Alfredo Figueroa, are you on the
24 phone?

25 Okay, Intervenor Tanya Gulesserian, I think we

1 heard you earlier. You're on the phone?

2 MS. GULESSERIAN: Yes, thanks.

3 COMMISSIONER DOUGLAS: Yes, great.

4 Intervenor Hidelberto Sanchez or Eddie Simmons
5 from LIUNA, are you on the phone?

6 All right, Intervenor -- let's see, we have Sara
7 Clark with the Colorado River Indian Tribes?

8 MS. CLARK: Yes, this is Sara Clark for Colorado
9 River Indian Tribes.

10 COMMISSIONER DOUGLAS: Welcome.

11 Are there any Federal Government agencies on the
12 phone or in the room today?

13 MR. FRANK: This is Paul Frank from BLM.

14 COMMISSIONER DOUGLAS: Thank you. Anyone else?

15 MS. BARDWICK: Deborah Bardwick, Office of the
16 Solicitor.

17 COMMISSIONER DOUGLAS: Thank you. Any others?

18 All right, are there any officials representing
19 Native American Tribes or Nations besides the Colorado
20 River Indian Tribes who are here today, here or on the
21 phone?

22 Okay, any State or local government agencies, or
23 government officials in the room or on the phone?

24 Very well, I'll turn this over to the Hearing
25 Officer, Ken Celli.

1 HEARING OFFICER CELLI: Thank you, Commissioner
2 Douglas.

3 Today's agenda is divided into four parts.
4 First, the open meeting will be convened. Secondly, the
5 public comment will be taken. Thirdly, the closed
6 session will begin. And, finally, the open meeting will
7 reopen to announce the conclusion of the closed session
8 and we will adjourn at that time.

9 The closed session will be conducted in
10 accordance with Government Code section 11126(c)(3),
11 which allows a state body, including a delegated
12 committee, to hold a closed sessions to deliberate on a
13 decision to be reached in a proceeding the state body
14 was required by law to conduct.

15 So, before we go into the closed session is
16 there anyone in the room here who would like to make a
17 public comment?

18 I'm going to ask that if you wish to make a
19 public comment -- and Ms. Mathews, Alana, I don't know
20 if you have blue cards today?

21 Can I have them so I can call the names, the
22 ones that you have, please?

23 And for the record, Ms. Mathews said that she
24 had some cards, but she hasn't gotten them all back.

25 When we talk today on the -- for those of you

1 who are in the room, I'm going to need you to approach
2 the podium here and speak right into the microphone, as
3 you can see I'm doing, speaking right down the tube of
4 that microphone so that we can hear you, and so that the
5 court reporter can get all of the words that you say
6 taken down so that we have a complete record of your
7 comments today.

8 So, first, we'd like to call Amanda Barerra,
9 please?

10 MS. CLARK: We have an order that we'd like to
11 go in.

12 HEARING OFFICER CELLI: Oh.

13 MS. CLARK: Sorry about.

14 HEARING OFFICER CELLI: Well, Sara Clark, why
15 don't I -- I see that you've signed a card so why don't
16 I let you kick it off.

17 MS. CLARK: David Harper, who is a member of our
18 Mojave's Elders Committee, will be speaking first.

19 HEARING OFFICER CELLI: Okay.

20 MR. HARPER: Good afternoon, my name's --

21 HEARING OFFICER CELLI: Press the button in
22 front so the green light comes on.

23 MR. HARPER: Good afternoon, my name's David
24 Harper. I am with the Colorado River Indian Tribes. I
25 am the traditional spokesman for the Colorado River

1 Indian Tribe's Mojave Elders.

2 On behalf of the Mojave Elders Committee of the
3 Colorado River Indian Tribes, we welcome the opportunity
4 to address the Commissioners of the California Energy
5 Commission today in support of our Tribe, in opposition
6 of the Palen Solar Energy Project.

7 When you meet behind closed doors to discuss any
8 issues for the Presiding Member's proposed decision, we
9 want you to keep in mind what the land means to us and
10 the harm you will cause to us and the impact upon the
11 land by approving this project, including the
12 construction of the two 750-foot towers in pristine
13 desert.

14 We are strongly opposed to the construction of
15 these power towers and urge you to stand by your initial
16 conclusion that the impacts of the proposed project
17 outweigh the benefits.

18 As a matter of background, the Colorado River
19 Indian Tribes is a Federally-recognized Indian Tribe
20 with an approximately 284,691-acre reservation located
21 between Parker, Arizona and Blythe, California, astride
22 the Colorado River.

23 Our Tribe is composed of Mojave, Chemehuevi,
24 Hopi and Navajo members.

25 The Aboriginal Mojave, or 'Aha Macav, people who

1 lived within the interior and exterior boundaries of the
2 reservation since the time immemorial, including but not
3 limited to the area of this proposed project.

4 The Mojave people lived and died in that area.
5 In other words, the footprint of the Mojave people is on
6 the land so long as you do not erase it.

7 This land includes archeological resources,
8 trails, sacred places, plants and wildlife in our
9 magnificent visual and spiritual landscape, all of which
10 will be marred by the construction of towers.

11 Although your way of thinking separates
12 biological from cultural resources, the animals, plants,
13 and all things are intrinsically intertwined with our
14 cultural values and existence as a people.

15 Further, this land contains artifacts, such as
16 manos and mutates, or grinding stones, the most
17 important tool at the time because mutates helped
18 sustain the Mojave people by allowing them to grind
19 berries, mesquite beans, and plants.

20 We do not want our artifacts disturbed and
21 removed from the ground to be shipped off and warehoused
22 in distant places, and studies as specimens for western
23 archeological or academic purposes, which has frequently
24 occurred with other solar projects in the area.

25 Because the Mojave people live in the area of

1 the proposed project, we know that the Mojave people
2 died in this area. Consequently, the land is sacred and
3 must be treated in a respected manner, including the
4 objects left behind by our ancestors.

5 Our expectation for respect is comparable to
6 your belief that your family members and loved ones, who
7 are buried in cemeteries, should be left in peace,
8 including respect for items which your loved one left
9 behind that are symbolic of your connection to your
10 past.

11 CEC staff and the project developers propose
12 money to afford the severe cultural harm caused by the
13 proposed project.

14 How can the CEC set a price for mitigation when
15 the very limited archeological, ethnographic and trail
16 studies of the areas don't exist?

17 How can the CEC and BLM establish a rental value
18 for this land without first obtaining information and
19 input from the Colorado River Indian Tribes?

20 When you ask the Mojave people how much money is
21 enough to compensate for the destruction of the land,
22 you must consider that some things simply cannot be
23 bought or fixed with money.

24 Putting western archeological studies of the
25 areas, including area tribes against each other to fight

1 for small sums of money for projects, such as
2 informational kiosks, are inadequate measures to address
3 the monumental harm caused by the projects, such as the
4 proposed one.

5 Therefore, in approaching the Mojave people to
6 discuss money, we ask that you seriously consider the
7 implications of the question of how much money is enough
8 to mitigate the cultural harms caused by the proposed
9 project to our people.

10 Finally, you Commissioners are not above the
11 laws of nature. You seek to embark on another human
12 endeavor to allegedly protect the environment at the
13 expense of our people, while creating a financial
14 windfall for others.

15 By destroying the land, we remind you that our
16 people of the 'Aha Macav knew how to leave a modest
17 footprint on the land and take only what we needed to
18 survive.

19 However, you're asking us to bear the burden of
20 your failure to live within your means.

21 Perhaps the consequences of this project do not
22 speak as loudly to you because the project will not be
23 built on your backyard.

24 But we are here to bear witness to the fact that
25 the proposed project will be built in our backyard, the

1 traditional area of the Mojave people.

2 We know that human beings cannot ignore the
3 consequences of destroying the land and water. Through
4 our cultural practices and teachings, it's been
5 instilled to us that the land and water have a value
6 beyond measure. We are stewards. And when we make use
7 of the land and water it's with the knowledge that we
8 must preserve both for the coming generations.

9 In the words of our Elders, the late Pete Homer,
10 Sr., Joe Sharp, and Herman Laffoon, who gave -- who have
11 gone before us, they've said, when we were all young
12 boys the cremation ceremonies would last several days
13 and then the old people would tell us these things and
14 talk to us that we would know how to be a good Mojave.

15 This is your land they said. Take care of it as
16 it is the Mojave way. If you see your cattle wandering,
17 tell us. If you have problems, remember the right way
18 to act. Ever mindful, be good farmers, don't waste
19 water.

20 They also said we may have lost some of the
21 traditions, but we still have the land. Remember that
22 this is your land and you must take care of it.

23 If you are not good stewards of the land, it
24 will be taken from you.

25 As Chief Irataba told us, so our grandparents

1 told us, and today we are still here, still strong, and
2 still guarding this land which is our home.

3 As protectors of the land, we express ourselves
4 in utmost respect and ask that you listen to your hearts
5 and deny the proposed project, The Colorado River Indian
6 Tribes. Thank you.

7 HEARING OFFICER CELLI: Thank you very much, Mr.
8 Harper.

9 Ms. Clark, who was next?

10 MS. CLARK: Amanda Barrera will be making a few
11 comments.

12 HEARING OFFICER CELLI: Okay, Ms. Barrera,
13 please come to the podium. And if you need to pull that
14 microphone down closer to your mouth, go ahead.

15 MS. BARRERA: Good afternoon. My name's Amanda
16 Barrera. I'm a Chemehuevi Indian from the Colorado
17 Indian Tribes, serving on our Tribal Council as one of
18 the representatives.

19 And I come here with my Mojave Elders Group to
20 read into -- regards the statement that the Tribal
21 Council passed on April 28th, which was read by Mr.
22 Harper.

23 But I also want to remind the Commission that we
24 have been in a long fight in regards to this for the
25 lands that are for the Mojave people.

1 Starting in June of 2012 our Tribal Council
2 passed a resolution in opposing the fast track that the
3 president did.

4 In June 29, Intertribal Council, which
5 represents the 21 Tribes of Arizona, passed another
6 resolution.

7 And in June of 2012, the National Congress of
8 American Indians passed a resolution that I'd like to
9 read into the record, and it says:

10 "Opposing the Department of Interior's Fast
11 Track Policies of renewable energy projects on ancestral
12 homelands.

13 Whereas we the members of the National Congress
14 of American Indians of the United States, invoking the
15 divine blessing of the Creator upon our efforts and
16 purpose in order to preserve for ourselves and our
17 descendants the inherent sovereign rights of our Indian
18 Nations, rights secured under Indian treaties and
19 agreements with the United States, and all other rights
20 and benefits to which we are entitled under the laws and
21 constitution of the United States to enlighten the
22 public toward a better understanding of the Indian
23 people, to preserve Indian cultural values and otherwise
24 promote the health, safety and welfare of the Indian
25 people so hereby established and submit the following

1 resolution:

2 And whereas the National Congress of American
3 Indians, NCAI, was established in 1944 and is the oldest
4 and largest national organization of American Indian and
5 Alaska Native Tribal Government.

6 And whereas the Colorado River Indian Tribes,
7 herein CRIT, is a Federally-recognized Indian Tribe
8 consisting of members of Mojave, Chemehuevi, Hopi, and
9 Navajo;

10 And whereas the 'Aha Macav, or Mojave people,
11 people of human descent and Pian (phonetic), prehistoric
12 man of the Colorado River have called the desert
13 mountains and waters of Arizona and California that
14 surround the current reservation lands their home since
15 time memorial, and the Chemehuevi of the Colorado River
16 Indian Tribe live nomadically upon the land;

17 And whereas the Department of the Interior, DOI,
18 in pursuit of green energy is authorizing the
19 development of utility-scaled solar and wind-renewable
20 energy projects, many of which are sited on Federal
21 lands managed by the Bureau of Land Management, BLM;

22 And whereas over 40 proposed solar and wind
23 renewable energy projects are to be undertaken within a
24 50-mile radius of the Colorado River Indian Reservation
25 which puts tens of thousands of acres of land within the

1 ancestral territory homelands of the CRIT, as well as
2 other human tribes at further risk of destruction;

3 And whereas BLM, due to the pressure from the
4 current U.S. Administration is reviewing and approving
5 these projects on an arbitrary, imposed fast track
6 process;

7 And whereas BLM, as a result of the fast track
8 process has failed to conduct meaningful consultation
9 with tribes, particularly with CRIT, and has taken
10 actions that violate Federal laws, which include
11 provisions designed to protect Tribes' sacred places and
12 cultural resources, such as the National Historic
13 Preservation Act, the National Environmental Policy Act,
14 the Administrative Procedures Act, the Native American
15 Graves Protection and Reparation Act, and the Federal
16 Land Policy and Management Act;

17 And whereas BLM is proposing this fast track
18 process as the normal approval process for the solar
19 energy development program for the six southwest states,
20 which designates solar energy zones across the states
21 many of which, if not all, encompass sacred places and
22 areas that are of cultural and religious importance to
23 tribes;

24 And whereas these projects are destroying our
25 cultural resources, desecrating our sacred places,

1 impairing our abilities to practice our traditional and
2 religious beliefs, and severing our physical and
3 spiritual connection to lands that are fundamental to
4 our cultural identities;

5 And whereas continuance of DOI's current
6 policies has placed a tremendous burden on tribes, we
7 will have to legally challenge and oppose such projects
8 with insufficient and limited resources;

9 And whereas CRIT demands halting the use of the
10 fast track process for renewable energy projects
11 approval and demands BLM to abide by the Federal lands
12 currently in place to protect tribal laws, sacred places
13 and cultural resources, and to consult meaningfully and
14 in good faith with Tribal governments on a government-
15 to-government basis regarding decisions relating to
16 renewable energy projects on sacred and cultural lands
17 of significance to tribes;

18 And whereas the 'Aha Macav Elders of the
19 Colorado River Indian Tribes reviewed and approved, and
20 sanctioned this resolution now therefore be it resolved
21 that the National Congress of American Indians calls
22 upon BLM to conduct meaningful consultation with CRIT
23 and other affected tribes, reverse the policy for and
24 implementation of the fast track approvals process for
25 renewable energy projects, and abide by applicable

1 Federal laws in order to preserve and continue
2 protecting the Colorado River and any other tribes'
3 sacred places and cultural resources that are located in
4 Federal lands managed by BLM;

5 And be it further resolved that this resolution
6 shall be the policy of National Congress of American
7 Indians until it is withdrawn or modified by subsequent
8 resolution."

9 This resolution was passed on June 17th, at the
10 mid-year National Congress of American Indians and is a
11 standing resolution that's supported right now by all
12 the Tribal leaders throughout the United States.

13 And we ask that you take those into
14 consideration when you talk about our lands and the
15 destruction that's going on there for our people and our
16 continuous footprints throughout there.

17 Thank you.

18 HEARING OFFICER CELLI: Thank you very much, Ms.
19 Barrera.

20 Ms. Clark, any other commenters?

21 MS. CLARK: I'll just make a few comments, thank
22 you.

23 HEARING OFFICER CELLI: Okay, I want to let you
24 know that we really wanted to hear public comment and
25 did not want to hear from the attorneys, per se, of the

1 parties, but let's see if you can make this kind of
2 quick.

3 MS. CLARK: Okay, if you don't want to hear from
4 me, that's fine. I'm not going to --

5 HEARING OFFICER CELLI: Well, no, make your
6 point. But I'm just asking that you make it brief
7 because we've got a lot of commenters and they have a
8 meeting to get to.

9 MS. CLARK: I understand. My name is Sara Clark
10 and I have represented the Colorado River Indian Tribes
11 as an Intervenor in this proceeding.

12 As you have heard from the CRIT Mojave Elders
13 Committee and our Tribal Council, the construction of
14 these two solar power towers and the massive heliostat
15 field proposed by Brightsource and Abengoa Solar will
16 have severe cultural impacts on the Tribe and its
17 members.

18 These losses are considered unmitigatable [sic]
19 by the Tribe and no amount of compensation will be
20 sufficient to remedy the harms that will be caused.

21 And for these reasons, alone, we urge you to
22 deny the petition to reopen the evidentiary record and
23 to adopt the PMPD that was issued in December.

24 In addition, I just have a few short comments
25 about sort of the legal reasons and arguments that have

1 been made to reopen the evidentiary record. If this is
2 what you don't want me to do, that is fine.

3 HEARING OFFICER CELLI: Yes, that's exactly what
4 we don't want to hear. We've already read your --

5 MS. CLARK: Okay, it --

6 HEARING OFFICER CELLI: And we appreciate that
7 you did submit a legal brief.

8 MS. CLARK: I wouldn't have called it a brief,
9 but okay thank you.

10 HEARING OFFICER CELLI: Thank you.

11 Is Sarah Friedman here? Hi, would you please
12 come forward and speak right into that mic?

13 MS. FRIEDMAN: And I'll also make it brief
14 because I submitted a letter, as well.

15 Hi, I'm here on behalf of the Sierra Club. We
16 are a nonprofit organization with approximately 1.3
17 billion members. About 250,000 of them live in
18 California and care deeply about the California desert,
19 either because they live there, or because they visit
20 there, or just simply because they care.

21 This project, in this location, has been very
22 important to our members over the years. We submitted
23 comments in the first iteration of Palen to the BLM.
24 And we were very pleased to see the Presiding Member's
25 proposed decision denying a petition for amendment, and

1 sort of proud of all the work of CRIT and others that
2 made that happen.

3 We've gone on record strongly supporting the
4 PMPD, but just kind of wanted to be here in person to
5 reiterate, again, how important we think that is in
6 light of the avian resources there. And particularly
7 the location of this project site, near Joshua Tree
8 National Park, which is a location very important to our
9 members, and the Colorado River which is both important
10 on its face, and then also because of the birds that
11 reside there.

12 We've been following closely the Ivanpah
13 Project, as I'm sure you all have, and believe the day
14 that -- to date, though, you know, sort of not what we
15 would maybe want to see in terms of systematic
16 monitoring also shows that there are serious concerns.
17 And we commend the Presiding Member's proposed decision
18 for identifying those and hope that you guys all keep
19 that in mind.

20 Thank you.

21 HEARING OFFICER CELLI: Thank you, Ms. Friedman.

22 Now, Alana Mathews, are there any more?

23 Okay, she's shaking her head no. So, if then if
24 there are no more commenters here in the room I'm going
25 to go to the telephone.

1 Paul Kramer, if you wouldn't mind, I'm just
2 going to ask you to be scrolling for us.

3 Are there any members of any State agencies that
4 are on the telephone, who wish to make a comment, would
5 you please speak up at this time?

6 Or Federal agencies, BLM?

7 Okay, hearing none, then I'm just going to --
8 because we can't see who you are, ladies and gentlemen,
9 you're on the phone and you're not identified as other
10 than a call-in user, I'm just going to ask the people to
11 please speak up, and the person who has the most
12 momentum will be able to make the comment, and we'll
13 just sort of go in whatever order we can go in.

14 So go ahead, anyone on the phone?

15 MS. GULESSERIAN: This is Tanya Gulesserian.
16 I'm ready to speak.

17 HEARING OFFICER CELLI: Go ahead, Ms.
18 Gulesserian.

19 MS. GULESSERIAN: Thank you very much. This is
20 Tanya Gulesserian. I'm with California Unions for
21 Reliable Energy.

22 CURE supports the Applicant's motion to open the
23 evidentiary record, limited to just the four topic areas
24 that are iterated in our brief.

25 The Applicant has done what the Committee has

1 asked, has provided additional information that was
2 outlined by the Committee and now is appropriately
3 seeking to reopen the evidentiary record, enter the
4 information into the record and then get a schedule that
5 will allow this exchange of testimony prior to
6 evidentiary hearing.

7 So, CURE requests the Committee grant the motion
8 and adopt the Applicant's proposed schedule. Thank you
9 very much.

10 HEARING OFFICER CELLI: Thank you. And we did
11 receive all of the parties' submitted comments, so I
12 don't think it's really necessary to reiterate what
13 we've already received in writing.

14 I want to know if there's any member of the
15 public who is on the telephone, who wishes to make a
16 comment at this time, please speak up.

17 MR. WHITE: This is John White. I'm the
18 Director of the Center for Energy Efficiency and
19 Renewable Technology. We --

20 HEARING OFFICER CELLI: Go ahead, Mr. White.

21 MR. WHITE: We are in support of the Applicant's
22 motion to reopen the record. We believe that this is a
23 very consequential decision that has very significant
24 precedent impact, as well as impact on the portfolio of
25 California's renewable resources.

1 We think that the additional information that
2 the Applicant has developed is worth the Committee's
3 consideration.

4 And so, therefore, we would express our support
5 for the motion to reopen the record.

6 HEARING OFFICER CELLI: Thank you.

7 Joan Taylor?

8 MS. TAYLOR: Thank you, Commissioner, members --
9 Chairman and members of the Commission.

10 Yeah, Sarah Freeman was speaking for Sierra
11 Club -- can you hear me okay?

12 HEARING OFFICER CELLI: We can hear you fine.
13 Go ahead, Joan Taylor.

14 MS. TAYLOR: Great, thanks. Yeah, I'm just
15 speaking for myself as a conservationist for 50 years in
16 the California desert and urging great caution in
17 proceeding with the proposed conversion.

18 We all acknowledge that the solar rush in
19 California is a grand experiment. But compared to other
20 technologies, these solar power towers really have the
21 potential of being riskiest and perhaps the experiment
22 that turns out to be a poster child against renewable
23 energy.

24 I draw your attention to just putting Ivanpah's
25 tortoise impacts aside, for the sake of this discussion,

1 there is the issue of the natural gas usage. There is
2 the issue of the project being offline. In April it was
3 offline two-thirds of the time that it was being
4 reported by Cal-ISO.

5 Twenty-two of those days were actually two or
6 more, you know, units entirely offline.

7 So, there's a technological risk. It was
8 recognized by the CPUC when they did the PPA. We need
9 time for that to play out.

10 As for the environmental risks, well, clearly
11 they are coming out. The March report showed over 55 --
12 50 birds injured, about half of them could not be
13 identified as to cause because they had been scavenged,
14 and the other half were solar flux.

15 And looking at the fact that the project was
16 offline so much of the time, we have to ask what would
17 have been the mortality if it had been operating at full
18 capacity the entire month.

19 So, just urging you caution. We want to see
20 solar ramped up in a way that is -- that makes sense,
21 both for the (inaudible) -- sake and for the desert's
22 sake.

23 We urge you to take your time to require the
24 survey design be made more robust for the Ivanpah
25 Project and give it time to play out.

1 Thanks very much.

2 HEARING OFFICER CELLI: Thank you, Ms. Taylor.

3 I see David Lamfrom asked to give a comment.

4 So, as -- I would like to recommend to the people who
5 are listening in on a computer that we have that chat
6 option, if you want to just type in and say that you
7 want to make a comment. Then we'll know that you're out
8 there and you want to be heard, and we will call you by
9 name.

10 So, go ahead, David Lamfrom.

11 MR. LAMFROM: Thanks very much. I'll be brief
12 because I submitted a letter that I hope that you guys
13 will consider when you go into closed session.

14 We also submitted a letter on January the 2nd.
15 We hope that you guys will take both of those into
16 consideration.

17 The bottom line is we think CEC should deny the
18 request to reopen the hearing and we support the PMPD's
19 recommendation.

20 And I just want to make a couple of really quick
21 points. One is just that the data that has been
22 presented by Brightsource is not adequate. It's
23 incomplete. It doesn't represent a reasonable sample
24 size. It doesn't consider Ivanpah Solar operating at
25 full capacity for the majority of the data points. It

1 reflects limited sampling. It does not account for
2 predation or scavenging. It does not speak to the loss
3 of smaller pollinators, like insects and bats.

4 And we think it would be harmful to try to
5 extrapolate this data.

6 The Palen Project is in a completely different
7 desert than the Ivanpah Project is. It's within the
8 migratory pathway that's a primary route to the Salton
9 Sea, and it has towers that are significantly taller.

10 The bottom line is we don't even have reasonable
11 baseline data related to Brightsource. And the data
12 that's been presented is insufficient.

13 And then a final point I want to make, just
14 related to Joshua Tree National Park is that, you know,
15 we don't know with these much taller towers what the
16 impact is going to be and if insects, and birds, et
17 cetera, are going to be drawn from an even larger area.

18 And, you know, some of those species that may be
19 affected are species that live within Joshua Tree
20 National Park, which may be attracted to this mega-trap
21 that's going to be significantly taller and maybe
22 drawing species from an even wider area.

23 So, I think just in terms of being responsible
24 and looking at where we have really limited data, you
25 know, it seems to me that -- you know, we were extremely

1 supported of CEC's initial findings and we want to
2 strongly encourage you guys to continue on the track
3 that you're on.

4 Thank you for the opportunity to speak.

5 HEARING OFFICER CELLI: Thank you, Mr. Lamfrom.

6 I have no further requests from anyone to speak
7 in the chat, so we're going to go back to the first
8 come, first served system.

9 And people on the telephone, if you want to make
10 a comment please speak up now.

11 MR. SILVER: This is Larry Silver from
12 California Environmental Law Project.

13 I just simply wish to endorse the views of Sarah
14 Friedman and Joan Taylor. California Environmental Law
15 Project has been asked by Sierra Club to represent it
16 with regard to these proceedings.

17 And I just wanted to basically endorse their
18 remarks and enter that appearance.

19 HEARING OFFICER CELLI: Thank you, Mr. Silver.

20 Anyone else on the telephone who would like to
21 make a comment, please speak up now?

22 Go ahead. Is there anyone else who would like
23 to make a comment at this time, please speak up?

24 Okay, then at this time --

25 MS. BELENKY: Oh, I'm sorry, Mr. Celli?

1 HEARING OFFICER CELLI: Yes, Ms. Belenky, go on.

2 MS. BELENKY: Yes, this is Lisa Belenky at the
3 Center for Biological Diversity.

4 I understand this is the public comment period,
5 but several other Intervenors have actually spoken, so I
6 just didn't want our silence to in any way appear that
7 we were not participating.

8 You know, I think that our filing speaks for
9 itself. We are concerned about misrepresentations made
10 by the Petitioner about our own position and the way
11 they misrepresented it.

12 And I think that, certainly, the Committee can
13 figure that out for themselves. But we would like an
14 opportunity, at some point, to address that if this goes
15 any further, after today.

16 But most importantly, I think about the filing
17 made by the Petitioner yesterday, they are now claiming
18 that -- that any delay in this reopening will somehow
19 kill the project.

20 I just want to really reinforce that we need to
21 all take that with a grain of salt. We heard the same
22 thing last year, multiple times, every time there was a
23 change in the date.

24 And we are very concerned that the Committee not
25 be influenced by these statements because they are

1 unsupported and it is -- it feels quite like they are
2 crying wolf once again.

3 This process needs to take the time that it
4 takes to ensure that there's full public participation
5 and due process.

6 So, I just wanted to reinforce that because the
7 Petitioner did file a new brief yesterday, and we hadn't
8 had a chance to respond.

9 HEARING OFFICER CELLI: Thank you, Ms. Belenky.
10 We have received all of your filings and appreciate your
11 comments.

12 Is there anyone else on the telephone at this
13 time, who would like to make a comment?

14 Hearing none, then at this time the Committee is
15 going to go into a closed session. It will probably be
16 a couple of hours.

17 We're going to leave the WebEx on. We're going
18 to stay on the record. We have a court reporter here
19 today.

20 And at the conclusion of that meeting I will
21 probably come down and report, if there is anything to
22 report, and adjourn the meeting.

23 So, I suspect that will be sometime probably
24 after 4:00, but I don't know how late we're going to go.

25 So with that, then we are in closed session.

1 Thank you.

2 (Thereupon, the Committee adjourned into
3 Closed Session at 2:39 p.m.)

4 (Thereupon, the Public Session reconvened
5 at 4:22 p.m.)

6 HEARING OFFICER CELLI: Okay, Mr. Petty says
7 we're back on the record.

8 And I'm hoping everybody can hear me on the
9 phone.

10 Okay, I have a note from Lisa Belenky, "Is there
11 any news?"

12 Okay, so at this point, ladies and gentlemen,
13 the closed session has completed. The Committee has
14 instructed me to draft an order with respect to the
15 motion --

16 Oh, all right. Okay, hang on. So, for the
17 record, Alana Mathews, our Public Adviser just came in
18 and said there are still people here who wanted to come
19 back and hear me close out.

20 So, I'm going to say I'm going to hold off until
21 everybody comes in the room. And, hopefully, they'll be
22 here in the next few minutes and we can -- we will
23 adjourn.

24 We're still on the record. This is Hearing
25 Advisor Kenneth Celli, C-e-l-l-i.

1 The closed session has completed itself. The
2 Committee instructed me to draft an order responding to
3 the motion to reopen.

4 That motion will be available as soon as
5 possible.

6 And with that we are adjourned. Thank you.

7 (Off the record at 4:27 p.m.)

8 (On the record at 4:27 p.m.)

9 HEARING OFFICER CELLI: Ladies and gentlemen,
10 this is Ken Celli. We're back on the record.

11 The Public Adviser just brought to my attention
12 that I misspoke.

13 I didn't mean to say that a motion would be
14 available as soon as possible; that a Committee order
15 ruling on the motion will be available as soon as
16 possible.

17 And with that we are adjourned. Thank you.

18 (Thereupon, the Hearing was adjourned at
19 4:27 p.m.)

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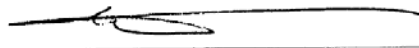
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REPORTER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of May, 2014.



PETER PETTY
CER**D-493
Notary Public

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I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified was under my supervision thereafter transcribed into typewriting.

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IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of May, 2014.



Barbara Little
Certified Transcriber
AAERT No. CET**D-520