

DOCKETED

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Project Title:	Palen Solar Power Project - Compliance
TN #:	202422
Document Title:	Petition to Intervene By The Sierra Club
Description:	Petition
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STATE OF CALIFORNIA

**Energy Resources Conservation
and Development Commission**

In the Matter of:

APPLICATION FOR CERTIFICATION
FOR THE PALEN SOLAR POWER
PROJECT

DOCKET NO. 09-AFCD-7(C)

**PETITION TO INTERVENE BY
THE SIERRA CLUB**

June 4, 2014
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Pursuant to Rules of Procedure Section 1207 and 1712 of Title 20 of the California Code of Regulations, the Sierra Club petitions to intervene in this proceeding. Rule 1207(c) allows the presiding member to grant leave to intervene to any petitioner to the extent he deems reasonable and relevant, and may grant a petition to intervene filed after the deadline upon a showing of good cause by the petitioner.

Petitioner Sierra Club requests leave to intervene, as it wishes to participate in these proceedings to cross-examine applicant's witnesses on matters of particular importance to Sierra Club.

The Sierra Club is a nonprofit organization whose mission is to protect public lands and their habitats. The Sierra Club has also participated in the approval process for many site-specific renewable energy projects and in the planning processes for public lands throughout the California Desert Conservation Area ("CDCA"), including for the Northern and Eastern Colorado Desert Coordinated Management Plan amendments to the CDCA which include the area where the proposed project is proposed.

The interests of the members of the Sierra Club are directly affected by the project at issue in this matter. Sierra Club has supported a broad variety of renewable energy projects—solar and wind. However, Sierra Club opposes this project based on the effects on avian mortality of the solar technology employed.

Sierra Club is a national nonprofit organization of approximately 1.3 million members and supporters, over 250,000 of whom live in California. Sierra Club's goals include energy conservation and rapidly increasing use of renewable energy to reduce climate disruption and displace fossil fuels. With that said, it is Sierra Club's belief that energy development in California can and should occur thoughtfully and sustainably to avoid or minimize impacts to sensitive plants and wildlife. Members of Sierra Club care deeply about the unique wildlife of the California desert, including sensitive migratory and resident avian species.

Sierra Club submitted comments to the Bureau of Land Management on the original Palen and modified Palen project as well as comments supporting the Presiding Member's Proposed Decision (PMPD) denying the Petition for Amendment of the December 15, 2010 Commission Decision approving the Application for Certification for the Palen Solar Electric Generating System (PSEGS).

Sierra Club has gone on record strongly supporting the PMPD. Sierra Club concurs with the evidence and expert opinion on the record indicating impacts to avian species from the PSEGS' technology would be of a greater magnitude than those for solar trough and photovoltaic technologies. . This is especially true given the proximity of the site to Joshua Tree National Park (JTNP) and the Colorado River, which heightens the potential for the project to cause take of protected Golden Eagles that are resident in JTNP and of protected avian species migrating along the Pacific Flyway.

Now, however, since the evidentiary hearing has been reopened, Sierra Club believes it is necessary in light of its interests and previous participation in this proceeding to participate as a party intervenor. Sierra Club believes it has shown good

cause to become a formal party through intervention, and requests the Presiding Member to grant its request.

Sierra Club concurs with the expert opinion, including from Commission staff, advising the Commission that injury and mortality data should be systematically gathered in and around the Ivanpah SEGS for several years in order to properly assess the level of take caused to avian species by power towers of this scale, and to determine if there are feasible mitigation measures to address such take. To date, appropriate statistically valid monitoring for Ivanpah take has yet to be designed, much less implemented. Sierra Club believes it critical to its interests to be able to demonstrate through cross examination that applicant's evidence cannot demonstrate appropriate data collection to prove this project will not have significant impacts on avian species and that proposed modalities for reducing mortality through hazing and other techniques will not succeed or are unduly speculative.

The key issue for Sierra Club is that solar power tower technology creates new and extremely serious environmental concerns for protected avian species and migration along the Pacific Flyway. Tens of thousands of mirror arrays covering six square miles are proposed and would focus greatly intensified solar radiation and heat up to 1000 degrees in a giant cone called "solar flux" around the 130 foot high "receiver" located high on the 75 story high power towers. It is now known that this large cone of solar flux threatens any living thing that enters its field. At Ivanpah, large numbers of birds are being taken by outright incineration, melting of keratin in their wings, and potentially damage to their eyesight and muscle fibers. Moreover, it has become evident that these

towers are intense magnets for flying insects, luring avian insectivores, and in turn larger birds preying on the smaller ones, into the danger zone.

Sierra Club's ultimate environmental goal is to protect sensitive and irreplaceable desert resources, especially avian species and ecosystem processes that would be put at risk from this project. To further those interests Sierra Club wishes to participate in the reopened evidentiary proceedings and in any subsequent proceedings prior to a final decision in this matter, and therefore, seeks leave to intervene for good cause.

Given the extended schedule set for the reopened evidentiary hearing, Sierra Club's petition, if granted, will not prejudice any existing party, and will better protect the wildlife public trust resources that are jeopardized by this project.

For the foregoing reasons, the Sierra Club respectfully requests that the Commission grant its petition to intervene in this proceeding, and allow the Sierra Club to participate as a party.

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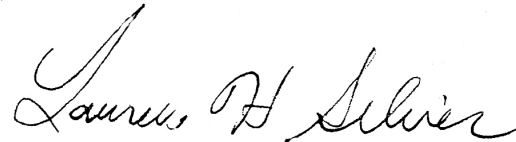
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Filings should be served on Larry Silver at the addresses listed below. Email service is preferred.

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Dated: June 4, 2014

Respectfully submitted,

A handwritten signature in black ink that reads "Laurens H. Silver". The signature is written in a cursive style with a large initial 'L'.

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PROOF OF SERVICE

I declare that I am employed in the County of Marin, California. I am over the age of eighteen years and not a party to the within cause; my business address is P.O. Box 667, Mill Valley, California, 94942. On June 4, 2014, I served the within:

1. Petition to Intervene by Sierra Club

in said cause, by placing a true copy thereof, enclosed in a prepaid sealed envelope, addressed as follows:

X (BY E-MAIL) By transmitting a true copy thereof by electronic mail to the interested party(ies) or their attorney(s) of record to said action at the electronic e-mail address(es) shown below:

jennifer.martin-gallardo@energy.ca.gov; christine.stora@energy.ca.gov;
efilingPOSarchive@energy.ca.gov; publicadviser@energy.ca.gov; sgalati@gb-llp.com; mflaming@gb-llp.com; tgulesserian@adamsbroadwell.com; eklebaner@adamsbroadwell.com; e-recipient@caiso.com; lbelenky@biologicaldiversity.org; cjensen@brightsourceenergy.com; cturlinski@brightsourceenergy.com; andrea@agrenier.com; tnorth@co.riverside.ca.us; mnazemi1@aqmd.gov; atomictoadranch@netzero.net; bluerockiguana@hughes.net; lacunadeaztlan@aol.com; richard@lozeaudrury.com; christina@lozeaudrury.com; ianderson@biologicaldiversity.org; rloudbear@critdoj.com; king@smwlaw.com; clark@smwlaw.com; matt.stucky@solar.abengoa.com; Sobia.Naqvi@solar.abengoa.com

X (BY MAIL): by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Sacramento, California addressed as set forth below.

Chief Counsel
Energy Resources Conservation and Development
Commission
1516 9th Street
Sacramento, CA 95814

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this document was executed on June 4, 2014.

/s/ Amy Kauba

Amy Kauba