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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-AFC-7C

**INTERVENOR CENTER FOR BIOLOGICAL DIVERSITY'S
SUPPLEMENTAL OPPOSITION TO PETITION FOR EXTENSION OF DEADLINE
FOR COMMENCEMENT OF CONSTRUCTION**

September 1, 2015

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The Center for Biological Diversity (“Center”) files this Supplemental Opposition in response to the Response Letter filed by applicant on August 27, 2015 (TN#205854). The Center continues to urge the Commission to deny the Petition for Extension of Deadline to Commence Construction based on the reasons provided in our Opposition filed on August 18, 2015 (TN#205773) and below.

As an initial matter, because the basis for the motion has significantly changed, the motion should be re-noticed and a new public comment period opened before the Commission considers acting on the request. The August 27 letter states the extension is needed: “to allow for the submission later this year of a petition for modification to update the design and incorporate energy storage into the solar trough project.” In contrast, the initial motion stated: “the Project Owner anticipates submitting a proposed amendment to the license in the near future that will address the issues and policy considerations discussed in the Revised PMPD” for a power tower with storage. (TN#205632 at 3.) These are significantly different reasons and the public should be given additional time to respond to the new basis for the request.

The Center’s opposition has never been based solely on the power tower design (despite the statements from the applicant). The Center’s opposition clearly stated it is also based on: the applicant’s lack of diligence in pursuing construction, new information and changed circumstances rendering the initial CEQA compliance stale, and the public interest.

The Center also provides the following additional information in opposition to the motion:

- the applicant’s newly stated goal to “update the design and incorporate energy storage into the solar trough project” still makes it clear they have no intention of building the permitted project. Therefore, it is clear that the new proposal will still be a substantially new and different project.
- the applicant previously stated at hearing that solar trough was “not a feasible alternative.”¹ Nothing in the August 27 letter provides any basis for the Commission now to accept that the trough technology is feasible for the applicant such that an extension is warranted.
- New information about the status of terrestrial species and habitats affected by the originally permitted trough project requires additional CEQA review, including but not

¹ “[I]t’s always been our position that the solar trough, as originally licensed, was not a feasible alternative for us.” TN # 202871, Transcript of July 30, 2014 hearing at 121. See also *id.* at 122 noting Abengoa has access to trough technology with storage [“Abengoa, a partner in the Palen Solar Holdings Partnership is the owner of Solana and, therefore, there is access to that technology.”].)

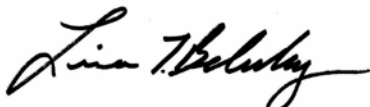
limited to: Mojave fringe-toed lizard, sand habitats, desert tortoise, and habitat connectivity.

- New information about impacts of large scale solar projects (both trough and PV) on avian species including the state and federally endangered Yuma clapper rail requires additional CEQA review for a trough project.
- New information about impacts to surface hydrology from nearby large scale solar projects including Genesis (solar trough) and Desert Sunlight (PV) require additional CEQA review of the impacts to surface hydrology at this site.
- Additional cumulative projects have been approved, including the Eagle Crest pump storage project, that significantly change the circumstances for water resources in this area and, therefore, additional CEQA review of cumulative impacts to water resources is needed. Notably, a solar trough project with storage would likely use even more water than the amount estimated initially for the trough project, therefore, additional CEQA review of direct and indirect impacts to water resources will be needed as well.

In light of the above, and the previous documents submitted in this matter, the Center again urges the Commission to **deny** the Petition for Extension of Deadline to Commence Construction.

Dated: September 1, 2015

Respectfully submitted,



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