

**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-7

**DOCKET**  
**09-AFC-7**

DATE SEP 08 2010

RECD. SEP 08 2010

**ISSUES STATEMENT  
INTERVEOR CENTER FOR BIOLOGICAL DIVERSITY**

September 8, 2010

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STATE OF CALIFORNIA

Energy Resources Conservation and Development Commission

In the Matter of:

APPLICATION FOR CERTIFICATION  
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PROJECT

DOCKET NO. 09-AFC-7

ISSUES STATEMENT  
INTERVEOR CENTER FOR BIOLOGICAL DIVERSITY

Pursuant to the August 30, 2010, notice of a Status Conference on September 9, 2010, Intervenor Center for Biological Diversity files this Issues Statement and proposed schedule. The Committee requested “a brief discussion of what obstacles may exist which would hinder completion of this proceeding by December, 2010.” The Center is unaware of any particular obstacles to completion of the proceedings by December, 2010. However, the Center is concerned that the very short timelines and rush to decision in this matter (and others) will undermine full and fair public participation. Moreover, the Center is unaware at this time of any pressing need for a decision by December, 2010. It is the Center’s understanding that it is highly likely that the applicant’s Blythe Solar Power Project (DOCKET NO. 09-AFC-6) will be approved at the full Commission hearing on September 15, 2010, and that the applicant intends to begin construction on the Blythe facility before the Palen facility at issue here. At this time, it is unclear whether the applicant is still seeking ARRA grant funds that depend on the December, 2010 deadline for this Palen project and whether under the current rules the applicant could obtain federal ARRA grant funds for **both** the Blythe project and this Palen project. As a result, it is unclear to the Center whether there is any need for a decision by December, 2010 in this matter.

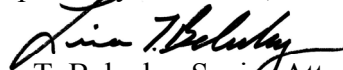
The evidentiary issues that the Center for Biological Diversity expects to primarily focus on for testimony and cross examination are biological resources (including the adequacy of mitigation measures), soil and water, alternatives, air quality, and land use. Of these, only air quality was included Part 1 of the RSA filed by staff on September 1, 2010, and Staff has stated that the remaining issues will be included in Part 2 of the RSA which staff has indicated it expects to file on September 16, 2010. On August 30, 2010 the Center filed a motion seeking a continuance of the hearing dates from October 11 and 12, due to an unavoidable conflict and also requested that the Committee maintain reasonable deadlines for testimony, specifically, “that the parties be provided at least 2 weeks after the RSA is issued before Opening Testimony is due and an additional 2 weeks to provide Rebuttal Testimony, and that the Evidentiary Hearings should not begin until at least 4 weeks after the Rebuttal Testimony is due.” The Center suggests the following schedule:

<i>ITEM</i>	<i>DATE</i>
Staff published Revised Staff Assessment, Part 1	9/1/10
Staff publishes Revised Staff Assessment, Part 2	9/16/10
Applicant and Intervenors file opening testimony on all issues	9/30/10
All parties file rebuttal testimony on all issues and submit exhibits organized numerically and by topic to the Hearing Office	10/14/10
All parties file Prehearing Conference Statements	10/21/10
Prehearing Conference	10/28/10
Evidentiary Hearings on all issues	11/10/10 – 11/12/10
Issuance of Presiding Member's Proposed Decision (PMPD)	12/15/10
Committee Conference on PMPD (if necessary)	12/22/10
End of 30-day comment period for PMPD	1/17/11
PMPD Errata (if necessary)	To Be Determined
Energy Commission Hearing--Final Decision	January 19, 2010

In the alternative, the Center notes that Staff filed a proposed schedule on September 3, 2010, that would bifurcate the hearings along the lines of the RSA Part 1 and 2, to accommodate a federal holiday and the Center's conflict. While the Staff's proposed schedule provides very little time for the parties to prepare for hearing, it would allow the Center to participate in the evidentiary hearings for all of the issues which the Center has identified as primary areas of concern. **If the Committee is inclined to adopt the Staff's proposal for bifurcated hearings, the Center requests that air quality testimony deadlines be included in the second set of testimony deadlines and the second set of evidentiary hearings.**<sup>1</sup>

Dated: September 8, 2010

Respectfully submitted,



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<sup>1</sup> This would be a minor change from the Staff's proposal and provide a more cohesive record by moving the testimony deadlines for air quality as well as the evidentiary hearing on air quality into the second set of deadlines.



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
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**APPLICATION FOR CERTIFICATION  
FOR THE PALEN SOLAR POWER  
PLANT PROJECT**

**Docket No. 09-AFC-7**

**PROOF OF SERVICE  
(Revised 8/27/10)**

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**DECLARATION OF SERVICE**

I, Lisa T. Belenky, declare that on September 8, 2010, I served and filed copies of the attached Issues Statement, dated September 8, 2010. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [\[http://www.energy.ca.gov/sitingcases/solar\\_millennium\\_palen\]](http://www.energy.ca.gov/sitingcases/solar_millennium_palen)

The documents have been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

**(Check all that Apply)**

**FOR SERVICE TO ALL OTHER PARTIES:**

- sent electronically to all email addresses on the Proof of Service list;
- by personal delivery;
- by delivering on this date, for mailing with the United States Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "email preferred."

**AND**

**FOR FILING WITH THE ENERGY COMMISSION:**

- sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (***preferred method***);

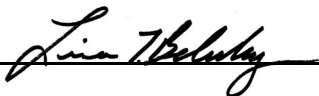
**OR**

- depositing in the mail an original and 12 paper copies, as follows:

**CALIFORNIA ENERGY COMMISSION**

Attn: Docket No. 09-AFC-7  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512  
[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

I declare under penalty of perjury that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

  
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