

## VIII. OVERRIDE FINDINGS

Our analysis of the Palen Solar Power Project (PSPP) finds that it will have some significant unmitigated environmental impacts. If we are to approve the project, the California Environmental Quality Act (CEQA) requires that we make certain findings.

The applicable CEQA requirement is contained in Public Resources Code Section 21081:

“21081. Pursuant to the policy stated in Sections 21002 and 21002.1, no public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

(a) The public agency makes one or more of the following findings with respect to each significant effect:

(1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

(2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

(b) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.”

### 1. Significant Project Impacts

As identified and discussed in the specific topic sections of this Decision we find that PSPP will have the following significant environmental impacts:

- **Cultural Resources.** The project may permanently change and/or result in the destruction of cultural resources, both known and as yet unknown,

contributing to a cumulatively considerable impact which will be mitigated to the extent possible, but may not be fully mitigated. (PMPD, Cultural Resources section, pp. 33, paragraph 4; 34, findings of fact 5 and 7.)

- **Land Use.** The contribution of PSPP, in combination with the other renewable energy projects proposed in the region, to the loss of desert lands, is cumulatively significant. Lands formerly available for multiple uses—habitat, open space, grazing, and recreation—would no longer be available for those uses once a power plant is constructed. (PMPD, Land Use section, pp. 14, paragraph 5; 16, findings of fact 11 and 13 and conclusions of law 2 and 3.)
- **Visual Resources.** PSPP would result in the installation of a large, industrial facility in the I-10 corridor. We find significant visual impacts from several Key Observation Points in the Chuckwalla Valley, the Palen McCoy Wilderness, and along I-10. A significant cumulative impact to visual resources in eastern Riverside County is identified from the combination of PSPP and other existing and proposed energy projects. The PSPP transmission line will result in a substantial contribution to cumulative visual impacts in the context of existing cumulative conditions. PSPP's contribution to visible industrialization of the desert landscape also constitutes a substantial contribution to a significant visual impact when considering existing and foreseeable projects, both within the immediate project viewshed and in a broader context encompassing the whole of the I-10 corridor. (PMPD, Visual Resources section, pp. 1, paragraph 2; 28, paragraph 5; 30, finding of fact 13; 31, findings of fact 14, 15 and 16 and conclusions of law 1, 3 and 4.)

## 2. Project Benefits

The PSPP, if constructed and operated as proposed, will provide the following benefits to California and its residents:

- PSPP will provide 500 MW of renewable energy power, which will assist in meeting California's Renewable Portfolio Standard, which specifies that retail sellers of electricity serve 20 percent of their load with renewable energy by 2010. (Pub. Util. Code, § 399.11 et seq.) Gubernatorial Executive Orders increase the requirement to 33 percent by 2020. (Governor's Executive Order S-14-08.)
- Producing electricity from renewable resources provides a number of significant benefits to California's environment and economy, including improving local air quality and public health, reducing global warming emissions, developing local energy sources and diversifying our energy supply, improving energy security, enhancing economic development and creating green jobs. (2009 CEC *Integrated Energy Policy Report*, p. 231.)

- Scientific studies quantify the negative impacts of global climate change to California's and the world's population, environment, food supplies, flora and fauna, coastal regions, and public health. In order to reduce the impact, the State has adopted goals to reduce greenhouse gas emissions through renewable energy development. (PMPD, Greenhouse Gases Emissions section, p. 3, paragraph 2.)
- PSPP will assist the state in meeting its ambitious greenhouse gas reduction targets by generating 500 MW of electricity with vastly lower greenhouse gas emissions than existing fossil fuel burning generating facilities. (PMPD, Greenhouse Gases Emissions section, pp. 12; 14, findings of fact 14 and 16.)
- By generating electricity with the use of only a small amount of fossil fuels, PSPP will reduce California's dependence on fossil fuels, a diminishing energy source. (PMPD, Greenhouse Gases Emissions section, p. 6, final paragraph.)
- PSPP will provide construction jobs for an average and peak workforce of 566 and 1,145, respectively, and approximately 134 jobs during operations. The construction work force is expected to be drawn from the Riverside/San Bernardino County region. Most of those jobs will require highly trained workers. (PMPD, Socioeconomics section, p. 3, paragraphs 2 and 4.)
- Construction and operation of PSPP will provide a boost to the economy from the purchase of major equipment, payroll, and supplies, increased sales tax revenue, and property taxes. Additional indirect economic benefits, such as employment in local service industry jobs and induced employment, will result from these expenditures as well. (PMPD, Socioeconomics section, p. 5.)

### 3. Comparison of Project Alternatives

As is discussed in the Alternatives section, none of the project alternatives will significantly reduce the above-referenced project impacts while still meeting the defined project objectives, even though Reconfigured Alternatives #2 and #3, which we have adopted and recommend, reduce other significant impacts of the proposed project below the level of significance. The no-project alternative, which would eliminate the project's impacts, would also eliminate its benefits. The distributed solar energy (photovoltaic or thermal) generation and other renewable technologies are required *in addition to* large scale projects such as this in order to meet our renewable energy and GHG policy goals; the two complement, rather than compete with each other. (PMPD, Alternatives section, pp. 39 – 40, findings of fact 2, 4, 5, 6, 7, 8, 9, 10, 11 and 12.)

#### 4. Site Characteristics

The Palen Project site is adjacent to, and in the vicinity of, extensive existing and planned development, including Interstate 10 (I-10), and existing electricity infrastructure, including major transmission lines and other proposed solar power projects. (PMPD, Land Use section, pp. 2, final paragraph; 3, paragraph 1.)

#### 5. Testimony of Terrence O'Brien

Terrence O'Brien, Deputy Director of the California Energy Commission Siting, Transmission and Environmental Protection Division, representing the Energy Commission staff, submitted written testimony entitled Comments Regarding a Possible Energy Commission Finding of Overriding Considerations. Mr. O'Brien testified that in Staff's opinion it would be appropriate for the Commission to approve the project and find that the project is required for public convenience and necessity, and that there are no more prudent and feasible means of achieving such public convenience and necessity. (Ex. 301; 10/13/10 RT, 10:1–23.)

#### 6. In arriving at the following findings, we have taken official notice of the following documents:

- Climate Action Team Report to Governor Schwarzenegger and the Legislature. CalEPA, March 2006.
- AB 32 Scoping Plan. CARB, December 2008.
- Integration of Renewable Resources. CAISO, Nov. 2007.
- 2007 Integrated Energy Policy Report. CEC, Nov. 2007.
- 2009 Integrated Energy Policy Report. CEC. Nov. 2009.
- Draft Final Opinion on Greenhouse Gas Regulatory Strategies: Joint Agency Proposed Final Opinion. CPUC/CEC 2008.
- Framework for Evaluating Greenhouse Gas Implications of Natural Gas-Fired Power Plants in California. CEC (MRW and Associates). May 2009.

Based upon the above evidence and Staff recommendations, we find that overriding considerations warrant the approval of the project as mitigated through the Conditions of Certification we adopt herein. We further find that the project is required for public convenience and necessity and that there are no more prudent and feasible means of achieving such public convenience and necessity.

## FINDINGS OF FACT

Based on the evidence and the conclusions drawn in other sections of this Decision, we make the following findings and conclusions:

1. Climate change poses a serious threat to the economic well-being, public health, natural resources, and the environment of California.
2. The proposed project will have the following significant impacts which cannot be mitigated to insignificant levels:
  - a. The cumulative loss of federally administered multiple use lands in the Chuckwalla Valley and Colorado Desert due to the project's cumulatively considerable contribution of impacts when considered in combination with other energy projects proposed in the Southern California desert.
  - b. Permanent change and/or destruction of cultural resources, both known and as yet unknown, contributing to a cumulatively considerable impact which will be mitigated to the extent possible, but may not be fully mitigated.
  - c. Degradation of scenic vistas for motorists, recreationists, hikers, and others from various points in the Chuckwalla Valley, McCoy Mountains, and I-10 corridor.
3. This Decision imposes all feasible mitigation measures to reduce the significant impacts of the project to the lowest possible, though still significant, levels.
4. The project will provide the following benefits:
  - a. Contribution of 500 MW of renewable energy power toward meeting California's Renewable Portfolio Standard and our renewable energy and GHG policy goals.
  - b. A significant reduction in greenhouse gas emissions when compared with existing fossil fuel-burning generating facilities.
  - c. Other important benefits to California's environment and economy include improving local air quality and public health, developing local energy sources, and diversifying our energy supply.
  - d. Reduction of California's dependence on fossil fuels.
  - e. Creation of construction jobs for an average and peak workforce of 566 and 1,145, respectively, and approximately 134 jobs during operations, most requiring highly trained workers.

- f. Provide a boost to the economy from the purchase of major equipment, payroll, and supplies, increased sales tax revenue, and property taxes. Additional indirect economic benefits, such as indirect employment, and induced employment, will result from these expenditures as well.
  - g. The PSPP is adjacent to, and in the vicinity of, extensive existing development, Interstate 10, and existing electricity infrastructure, including major transmission lines and other proposed solar power projects.
5. The project is required for public convenience and necessity and that there are no more prudent and feasible means of achieving such public convenience and necessity.

### **CONCLUSIONS OF LAW**

1. The above described project benefits outweigh the significant impacts identified above.
2. It is appropriate to approve the PSPP despite its remaining significant environmental impacts.
3. It is the intent of this Commission to take all reasonable measures to preserve the continued existence of the desert special-status species. This Commission believes that this project, and other renewable energy projects, will result in the reduction of greenhouse gases which will help curb or reduce the impact of climate change to California, thereby allowing for the continued existence of the desert special-status species.
4. Therefore, we exercise our authority to override the remaining significant unavoidable impacts that may result from this project, even with the implementation of the required mitigation measures described in this Decision.



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, RoseMary Avalos, declare that on December 1, 2010, I served and filed copies of the attached PROPOSED OVERRIDE FINDINGS, . The original documents, filed with the Docket Unit, are accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at:  
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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.

Original Signed By: \_\_\_\_\_  
ROSEMARY AVALOS  
Hearing Adviser's Office