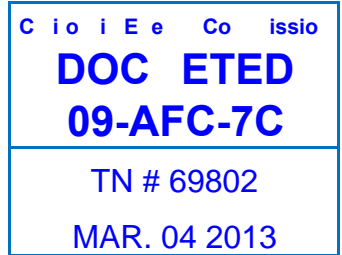


STATE OF CALIFORNIA
Energy Resources Conservation
and Development Commission



In the Matter of:

AMENDMENT FOR THE PALEN
SOLAR ELECTRIC GENERATING FACILITY

DOCKET NO. 09-AFC-7C

**PETITION TO INTERVENE BY HILDEBERTO SANCHEZ, EDDIE SIMMONS, AND
LABORERS' INTERNATIONAL UNION OF NORTH AMERICA,
LOCAL UNION NO. 1184**

March 4, 2013

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On behalf of Hildeberto Sanchez, Eddie Simmons,
and Laborers' International Union of North
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I. INTRODUCTION

Pursuant to Public Resources Code (PRC) section 25214 and sections 1207 and 1712 of Title 20 of the California Code of Regulations (CCR), Petitioners Hildeberto Sanchez, Eddie Simmons, and Laborers International Union of North America (LiUNA) Local Union No. 1184 (LiUNA Local 1184) (collectively, Petitioners or LiUNA) hereby petition to intervene in the above-captioned proceeding.

On December 17, 2012, applicant Palen Solar Holdings, LLC (Applicant or PSH) filed a Petition to Amend the December 15, 2010 Commission Final Decision for the Palen Solar Power Project (Palen Project). As originally permitted, the Project was to utilize parabolic trough technology to generate solar thermal energy. In June 2012, the Energy Commission received an Application for Change in Ownership and subsequently approved that request on July 11, 2012. Under new ownership, the project is now proposed to be amended to utilize solar tower technology. Heliostats, elevated mirrors mounted on a pylon guided by a tracking system, will be used to focus the sun's rays on a solar receiver steam generator (SRSG) located atop a 750-foot tall solar tower near the center of each solar field, to create steam (Modified Project).

The Modified Project would be located on approximately 3,794 acres of public land entirely within BLM right-of-way (ROW) #CACA 048810, and will be comprised of two adjacent solar fields and associated facilities with a total combined nominal output of approximately 500 MW. Each solar field will have an array of approximately 85,000 heliostats for a total of 170,000 heliostats for the project. Two natural gas-fired auxiliary boilers are proposed for each power block, for a total of four for the project. Each phase will also share common facilities, including a common area containing an administration building, warehouse, evaporation ponds, maintenance complex and a meter/valve station for incoming natural gas

service to the site, an onsite switchyard, and a single-circuit 230 kV generation tie-line to deliver power to the electricity grid. Other onsite facilities will include access and maintenance roads (either dirt, gravel or paved), perimeter fencing, tortoise fencing and other ancillary security facilities.

The proposed Amendment is being processed as an amendment to the Palen Solar Project Final Decision pursuant to Section 1769 of the Commission regulations. Commission Staff released its Issues Identification Report (Report) on February 15, 2013, and has issued a proposed schedule for the Project Modification proceedings. Report, p. 14. The Report identified at least five major areas of concern from the Modified Project that require further analysis and mitigation, including impacts to biological resources, cultural resources, soil and water resources, traffic and transportation, and visual resources.

Impacts of the Modified Project that are admittedly of heightened concern include impacts on federally and/or State-listed avian species, such as Bald and Golden Eagles, Swainson's Hawk, Gila woodpecker, and gilded flicker. Although the new facility does not propose to change the generating capacity or Red Bluff Substation interconnection of the previously approved Palen Project, the heliostat mirror technology proposed for the Modified Project will heat direct solar heat and energy (solar flux) from the mirrors directly to the center power tower generator. The intense heat is directed upward to the tower generator. The Report admits that Exposure to elevated levels of flux is likely to adversely affect feathers, tissue and eyes of avian species, or any animal exposed to elevated flux. Report at p. 9.

The Report also identified increased air quality emissions resulting from the Modified Project, specifically increased nitrogen oxide (NOx) emissions for the project from the use of

the auxiliary boilers, as well as impacts on local traffic, aviation, and transportation, and scenic vistas from the glint and glare associated with the tilted heliostat mirrors. Report at pp. 4, 10-13.

LiUNA is concerned about the impacts of the Modified Project, and has a direct interest in ensuring that the Project's impacts are mitigated to the full extent feasible. LiUNA Local 1184 participated in the February 20, 2013 public hearing and environmental scoping meeting hosted by the Commission, and submitted written comments requesting that the Commission carefully consider the proposed Project amendment in accordance with all applicable law, including the California Environmental Quality Act, PRC §§ 21000 et seq. ("CEQA") and any certified regulatory program.¹

Petitioners seek to more fully protect their interests by intervening as parties in this proceeding in order to ensure that both the approval and the implementation of the project comply with applicable law. Petitioners seek to participate fully in the approval process for this Project as parties in this proceeding.

II. REPRESENTATION

Hildeberto Sanchez, Eddie Simmons, and LiUNA Local 1184 will be represented in this proceeding by the counsel identified below. All filings should be served on Petitioners' counsel:

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¹ The Commission's site certification program is the procedural equivalent to CEQA and required to satisfy CEQA's requirements as a certified regulatory program. PRC § 21080.5(d); §§25500-25543; 14 CCR § 15251(j).

Petitioners wish to participate fully as parties in all phases of this proceeding, and are not members of a group or organization already a party to this proceeding.

III. PROCEDURAL POSTURE

20 CCR section 1207(a) grants "any person" the right to file a petition to intervene in any CEC proceeding. The petition must set forth "the grounds for the intervention, the position and interest of the petitioner in the proceeding, the extent to which the petitioner desires to participate in the proceedings, and the name, address, and telephone number of the petitioner." 20 CCR § 1207(a). Intervention is liberally granted to "any petitioner" to the extent the presiding Commissioner deems "reasonable and relevant." *Id.* at subs. (c).

This petition to intervene is timely, as the Commission has reopened the environmental review and hearing process for the proposed Amendment to the Palen Project, and this petition is being filed before both the prehearing conference on the Amendment and more than 30 days prior to the first evidentiary hearing on the Amendment. The Evidentiary Hearing has been tentatively scheduled by the Commission for August 7, 2013. No date has yet been identified for a prehearing conference. *See* 20 CCR § 1207(b); *see also* Staff's Proposed Schedule for the Palen Solar Project Amendment, Report at p. 14, available at http://www.energy.ca.gov/sitingcases/palen/documents/2009-12-17_Issue_ID_Report_TN-54474.pdf.

LiUNA is complying with the procedural requirements for presenting this Petition by serving the petition upon the Applicant, as well as all other parties. A Proof of Service and Declaration of Service are attached. 20 CCR § 1207(b). LiUNA further agrees that if a document is served upon it via electronic mail ("email") in this proceeding, that an additional paper copy by mail is not necessary. Email service is preferred.

IV. BASIS FOR INTERVENTION

A. Petitioners.

Petitioner Hildeberto Sanchez is a resident of Indio, California. Mr. Sanchez lives less than 60 miles from the Project site, and travels regularly along the Interstate 10 highway (I-10), in the direct view and direct vicinity of the Project site, which is located just one-quarter mile north of I-10. Mr. Sanchez frequently visits and enjoys the Riverside County, California inland desert areas that host numerous sensitive plant and wildlife species that are likely to be adversely impacted by the Project. Mr. Sanchez also purchases utility services in California, and is a residential utility customer who will be impacted by the proposed generation and transmission of power by the Palen Project.

Petitioner Eddie Simmons is a resident of Coachella, California. Mr. Simmons lives less than 60 miles from the Project site, and travels regularly along the Interstate 10 highway (I-10), in the direct view and direct vicinity of the Project site, which is located just one-quarter mile north of I-10. Mr. Simmons frequently visits and enjoys the Riverside County, California inland desert areas that host numerous sensitive plant and wildlife species that are likely to be adversely impacted by the Project. Mr. Simmons also purchases utility services in California, and is a residential utility customer who will be impacted by the proposed generation and transmission of power by the Palen Project.

Both Mr. Sanchez and Mr. Simmons have a direct interest in ensuring that the Palen Project is adequately analyzed and that its environmental and public health impacts are mitigated to the fullest extent feasible.

LiUNA Local 1184 is a non-profit laborers and public service employees union with approximately 3,000 members residing and working in Riverside County, and over 500,000

members in LiUNA nationally. LiUNA Local 1184 members purchase utility services in California, and many of these members are residential utility customers who will be impacted by the proposed generation and transmission of power by the Palen Project.

LiUNA Local 1184 represents construction workers and public service employees in many settings, including collective bargaining, seeking employment, training programs, legal rights, job safety, and workplace fairness. LiUNA Local 1184 advocates for programs and policies that promote good jobs and a healthy natural and working environment for workers and their families. While LiUNA supports the development of clean, renewable energy technology, including the use of solar energy where feasible, an important part of LiUNA Local 1184's ongoing advocacy involves participating in and, where appropriate, challenging Projects that would result in harmful environmental effects, or the violation of environmental laws, to the detriment of the interests of LiUNA's members.

Members of LiUNA Local 1184 live, work, and recreate in Riverside County in the immediate vicinity of the proposed Palen Project site. These members will suffer the impacts of a poorly executed or inadequately mitigated Project, just as would the members of any nearby homeowners association, community group, or environmental group. Members of LiUNA Local 1184 live and work in areas that will be affected by the construction and operation of the Project, and frequently visit the southern California inland desert areas that host numerous sensitive plant and wildlife species that are likely to be adversely impacted by the Project, including the recently identified avian species Bald and Golden Eagles, Swainson's Hawk, Gila woodpecker, and gilded flicker, as well as threatened species identified during both the original Palen Project proceedings and current Report, such as Mojave desert tortoise, listed as threatened under the Federal Endangered Species Act. It is in Local 1184's immediate interest to ensure that these

species are appropriately protected, and that the direct and cumulative impacts of the Project are mitigated to the fullest extent feasible.

Construction workers and project workers such as Local 1184 members will suffer many of the most significant impacts from the Project as currently proposed, such as exposure to excess air pollution resulting from the Project construction and operation, such as increased nitrogen oxide (NO_x) emissions for the project from the use of the auxiliary boilers. As both local residents and visitors to the project area, Local 1184 members will also suffer the impacts on local traffic, aviation, and transportation, and scenic vistas from the glint and glare associated with the Modified Project's proposed tilted heliostat mirrors.

Therefore, LiUNA Local 1184 and its members have a direct interest in ensuring that the Palen Project is adequately analyzed and that its environmental and public health impacts are mitigated to the fullest extent feasible.

B. Potential Impacts of The Palen Project.

As proposed intervenors, Petitioners seek to ensure that the Project will comply with all applicable laws including, without limitation, CEQA, the National Environmental Policy Act (NEPA), the State and Federal Endangered Species Act (ESA), and the Bald and Golden Eagle Protection Act (BGEPA), among other laws.

For example, the Report admits that the Modified Project could result in take of bald and golden eagles, and states that multi-year survey data may be required to adequately evaluate direct, indirect, and cumulative effects on these species. Report, p. 10. The Report also admits that, while a Biological Opinion on impacts to the Mojave desert tortoise was issued for the originally approved project, the BLM will likely need to reinitiate consultation with the USFWS

for the modified project. Report, p. 8. Commission Staff have also acknowledged a need to obtain detailed information on direct and indirect impacts to state waters. Report, p. 8.

Petitioners seek to participate fully as a party in these proceedings to ensure that evidence of these impacts is fully presented to, and considered by, the Commission, during the Project certification process, so that the Project's impacts are adequately mitigated, and the interests of Petition and other members of the public are adequately protected.

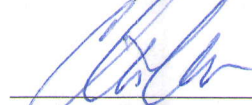
V. CONCLUSION

For the foregoing reasons, LiUNA Local 1184 respectfully requests that the Commission grant its petition to intervene in this proceeding, and allow LiUNA Local 1184 to participate as a party.

Dated: March 4, 2013

Respectfully Submitted,

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**AMENDMENT
FOR THE PALEN SOLAR ELECTRIC
GENERATING SYSTEM**

**Docket No. 09-AFC-7C
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(Revised 3/1/13)**

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