

Memorandum

Date: May 15, 2013
Telephone: (916) 654-4745
File: 09-AFC-7C

To: **Commissioner Karen Douglas**, Palen Amendment Presiding Member
Commissioner David Hochschild, Palen Amendment Associate Member
Kenneth Celli, Hearing Officer

From: **California Energy Commission -** Christine Stora, Compliance Project Manager
1516 Ninth Street Siting, Transmission and Environmental Protection Division
Sacramento, CA 95814-5512

Subject: **Palen Solar Electric Generating System Amendment (09-AFC-7C)**
STATUS UPDATE No. 2 (May 2013)

California Energy Commission
DOCKETED
09-AFC-7C
TN 70827
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Data Requests

Data Request Set No. 2 (containing Biological Resources, Cultural Resources, Socioeconomics and Visual Resources) was published on April 19, 2013, and staff is awaiting Data Responses from the applicant. Data Request Set No. 3 (containing Traffic and Transportation- Glint and Glare, Biological Resources, Cultural Resources, and Waste) was issued on May 15, 2013. Staff took the opportunity at the April 30th, May 1st and May 6th workshops to discuss these requests with the applicant prior to issuing them.

Staff Workshops

Staff has had four workshops since the status report filed on April 4, 2013, and a summary of each is provided below.

The workshop held on April 17, 2013, covered issues in Data Request Set No. 1 (Biological Resources, Soil and Water Resources, Traffic and Transportation, and Transmission System Engineering).

The workshop held on April 30, 2013, covered issues related to Air Quality, Public Health Hazardous Materials and Traffic and Transportation-Glint and Glare. A brief discussion was also held on methods used for determining environmental justice issues for Socioeconomics at the request of Center for Biological Diversity. Staff and the applicant came to a quick agreement on proposed changes to conditions of certification for the proposed Palen Solar Power Project and had no issues to discuss on Water Resources, Land Use, Socioeconomics, Noise and Vibration, Facility Design, Transmission System Engineering and Transmission Line Safety and Nuisance. These topics were summarily addressed at the start of the meeting.

The workshop held on May 1, 2013, covered Cultural Resources, Worker Safety and Fire Needs Protection, Biological Resource issues including avian surveys, bats, vegetation management, solar flux, and the applicant's proposed mitigation package. Representatives of Riverside County attended and made a presentation of

the their Public Safety Enterprise Communication System and asked that the applicant have a 24-hour phone number they could call in the event that the Palen Solar Power Project interfered with their communication system. Cultural Resource survey methods and timing concerns were discussed at length. (More information is provided under Staff Issues/Concerns-Cultural Resources, below.) Alfredo Acosta Figueroa with Californians for Renewable Energy made a presentation regarding the need to preserve our Cultural and tribal sites. The applicant and staff agreed to continue the discussion of the draft biological data request on May 6, 2013. The workshop was continued to May 6, 2013.

The continuance workshop held on May 6, 2013, focused mostly on Biological Resource survey methodology. The applicant provided an update on avian and bat surveys that were ongoing. Staff discussed the draft biology data request in the Draft Data Request Set No. 3 with the applicant. Waste was also discussed and staff has included a Waste data request to Data Request Set No. 3.

Staff Issues/Comments

There are a few issues that may impact the current schedule of the project and/or the content in the Preliminary Staff Assessment (PSA).

1. Air Quality

The applicant has submitted a new permit application to the South Coast Air Quality Management District (SCAQMD). The application has been reviewed by SCAQMD and determined to be incomplete. Staff needs the information in the Preliminary Determination of Compliance to complete staff's analysis. Because this information will not be available before staff needs to publish the PSA, the Air Quality analysis will cover construction Air Quality impacts only. Operational impacts will be discussed in the Final Staff Assessment (FSA) once SCAQMD finalizes the Preliminary Determination of Compliance for the Palen Solar Power Project.

2. Biological Resources

- a. All the biological surveys (avian, wildlife, plants, and state waters) to be completed by the applicant may not be completed in time to be incorporated into the PSA. Staff intends to continue workshopping issues as survey data and analyses are received from the applicant.
- b. Staff requires that the new project configuration be modeled to determine indirect impacts to sand transport. This modeling effort may not be completed in time to incorporate into the PSA.
- c. A Biological Opinion (BO) is needed before any ground disturbance occurs on the project site. The Bureau of Land Management (BLM) intends to reinstate consultation to amend the original BO that was issued for the Palen Solar Trough Project. In order to start that process, the applicant needs to submit a Biological Assessment (BA) to the BLM which the BLM will review and then in turn submit a Revised Biological Assessment (BA) to the U.S. Fish and Wildlife Service (USFWS). The applicant has not yet submitted the BA to the BLM.

3. Cultural Resources

Staff and the applicant reached general consensus on the scale and approach for obtaining the additional information needed for cultural resources. However, the applicant expressed concern with BLM's required process for completing the requested fieldwork.

Since the project is on BLM land, the BLM is requiring the applicant to obtain Fieldwork Authorizations (FA) to complete the tasks required by the Energy Commission. To obtain the FA, the applicant has been directed to submit a proposed Study Work Plan to the BLM for review and approval. Once BLM has approved the work plan, BLM will provide the work plan for a 45-day review and comment period to the interested federally-recognized Native American tribes and signatories to the October 2010 Programmatic Agreement (PA) for the project executed between the BLM and the California State Historic Preservation Officer. The process that the BLM believes is required by the PA presents a severe scheduling challenge, based on the Committee's adopted schedule for the Palen Amendment PSA publish date of May 22, 2013, and FSA publish date of July 23, 2013.

At present, the applicant's archaeologist has submitted the work plan, which BLM has reviewed and provided recommended changes back to the applicant. As of Tuesday, May 14, 2013, the applicant has responded to BLM's request for additional information. Even under ideal circumstances, meaning the BLM rapidly approves the revised work plan and distributes it for review and comment by the signatories and interested tribes, the soonest approval of a FA would be in early July.

The applicant's archaeologist and Energy Commission staff have preliminarily estimated the time required to actually accomplish all of the work described in the Data Requests could run through early October. This schedule is further constrained by BLM's requirement that the requested studies be presented as a single report product, rather than a series of deliverables where initial phase work items could be reviewed while later, more time-consuming work is being done.

Staff is currently reviewing the PA, and conferring with BLM managers to see if there is any flexibility in the process for obtaining the apparently requisite FAs, which would allow the applicant to proceed with the necessary work to respond to Data Request Set No. 2. Staff will apprise the Committee of any progress in this regard in a future Project Status Report.

4. Traffic and Transportation

To complete the Traffic and Transportation impacts analysis, staff needs information from the applicant regarding the glint and glare produced by the heliostats and solar power towers, which could potentially impact motorists and pilots near the project site. Data Request Set No.3 requested this information. The applicant would need to provide detailed responses, which staff would then analyze in order to assess the project's glint and glare impacts. These steps cannot be completed in time for a PSA. A complete Traffic and Transportation

analysis, including a discussion of glint and glare impacts, would need to be published in the FSA.

5. Alternatives

Project alternatives are currently being developed and are anticipated to be published with the FSA.

Schedule

Staff has put a priority on the Palen Solar Electric Generating System Amendment and works diligently to incorporate the new information that is being provided by the applicant. In order to have a thorough analysis of a majority of the project in the PSA, staff will publish a PSA by June 28, 2013. Staff notes that there may still be data gaps in the PSA that will be filled in the FSA, particularly in the technical areas discussed above.

cc: Docket (09-AFC-7C)
Proof of Service List
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**AMENDMENT
FOR THE PALEN SOLAR ELECTRIC
GENERATING SYSTEM**

**Docket No. 09-AFC-7C
PROOF OF SERVICE
(Revised 05/09/2013)**

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DECLARATION OF SERVICE

I, Christine Stora, declare that on May 15, 2013, I served and filed copies of the attached Palen Status Report No.2 (May 2013), dated May 15, 2013. This document is accompanied by the most recent Proof of Service, which I copied from the web page for this project at: <http://www.energy.ca.gov/sitingcases/palen/compliance/>.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am over the age of 18 years.

Dated: May 15, 2013

Christine Stora