

Memorandum

Date: June 10, 2013
Telephone: (916) 654-4745
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To: **Commissioner Karen Douglas**, Palen Amendment Presiding Member
Commissioner David Hochschild, Palen Amendment Associate Member
Kenneth Celli, Hearing Officer

California Energy Commission

DOCKETED
09-AFC-7C

TN 71208

JUN 10 2013

From: **California Energy Commission** - **Christine Stora**, Compliance Project Manager
1516 Ninth Street Siting, Transmission and Environmental Protection Division
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Subject: **Palen Solar Electric Generating System Amendment (09-AFC-7C)**
STATUS UPDATE No. 3 (June 2013)

Data Requests

In response to Data Request Set No. 2 (19-39), Data Response Set No. 2 was docketed on May 20, 2013. Data Request Set No. 3 (40-72) was docketed on May 15, 2013 and Data Response Set No. 3 is due from the project owner by June 14, 2013. The project owner docketed responses to Workshop Queries on May 13, 2013 (TN 70785). Staff will be issuing Data Request No. 4 in the areas of Worker Safety, Socioeconomics, and Paleontological Resources. More detail is provided below for each technical area needing a data request. Staff anticipates docketing this request shortly after the PSA is published and will incorporate this information into the FSA.

Staff Workshops

No workshops have occurred since Staff's Status Report published on May 15, 2013.

Staff Issues/Comments

The May 15, 2013 Status Report outlined Staff issues regarding schedule and content of the Preliminary Staff Assessment (PSA). In addition to those issues, Staff has the following comments:

1. Secondary Emergency Access Road

Staff and the Project Owner agreed during the May 1, 2013 workshop that a secondary emergency access road would need to be retained as part of the amendment (the project owner had proposed eliminating it in the Petition to Amend). Upon further review, Staff determined that it is no longer desirable to keep the secondary emergency access road in the same location as the original project since the project boundary has changed. The old proposed route for this road would be built in an area that will no longer be developed by the proposed modified project. The applicant has suggested constructing this road in the natural gas line corridor, since this area had already been surveyed. This area is

in a wash and may have biological and soil and water resource concerns. Staff is collaborating with the BLM and other agencies on where the best location is to accommodate worker safety, biology, soil and water resources, and traffic and transportation. A Secondary Emergency Access Road workshop may be needed in the future. The PSA will not identify a location for the Secondary Emergency Access Road. The subject will be discussed in the Final Staff Assessment (FSA).

2. Biological Resources

In addition to the concerns raised in the May 15, 2013 Status Report regarding biological issues, Staff provides the following update on information needed.

a) Survey data needs include the following:

- i) Results of acoustic bat surveys conducted during 2013, per Staff's Data Request Set No. 3 (40-72) (TN 70824).
- ii) Results of the spring 2013 avian point count surveys and spring 2013 raptor surveys. Protocols were transmitted to the project owner by the USFWS and BLM on March 15, 2013 and were provided to the applicant in draft form and discussed at the May 6 workshop. These were formalized in Data Request Set No. 3 (TN 70824). The results of the spring golden eagle surveys flown by helicopter in early April are also outstanding.
- iii) Results of rare plant surveys conducted in spring 2013. A summary was sent to Staff on May 21, 2013, but this did not include all information requested in Data Request Set No. 1 (1-18) (TN 69756) and Staff requires the remaining information to complete their analysis. This includes a complete survey report consistent with CDFW and BLM guidelines including a complete floral inventory from the surveys. The results of cacti, yucca and trees surveys protected by the California Desert Native Plant Act should also be included, including a species list and maps for this effort.
- iv) The results of vegetation and special habitat mapping, as well as weed mapping, as requested in Data Request Set No.1 (1-5) (TN 69756), including calculations of acreages of permanent and temporary disturbance by vegetation type. The project owner has submitted preliminary information and, per Data Request Set No.1 (1-18) (TN 69756), vegetation was to be re-mapped during the spring 2013 surveys to verify changes since the original mapping (Palen 2013f).
- v) A complete report of all spring wildlife survey efforts on the linears, including desert tortoise surveys, burrowing owl, other special status wildlife, including a full wildlife inventory as requested in Data Request Set No.1 (TN 69756).
- vi) A preliminary bat survey methods report covering the work efforts performed by the project owner during the week of May 6th and discussed at Staff's May 6, 2013 workshop.

- vii) Results of supplemental burrowing owl surveys conducted to support the linear facilities as requested in Data Request Set No.1 (1-18) (TN 69756).
 - viii) Results of all Northern and Eastern Colorado Desert Management Plan (NECO) required surveys (including Couch's Spadefoot toad) per the protocol included in Data Response Set No.1 (1-18) (TN 69756), and bat surveys, per Data Request Set No. 3 (40-72) (TN 70824).
- b) Staff is still waiting for the amended Lake and Streambed Alteration Agreement (LSAA) Notification to be submitted to CDFW and Staff as discussed during the April 17 workshop and requested via email to Alice Karl on April 18, 2013 and April 24, 2013.
 - c) In the Petition to Amend, the project owner stated that the Amended 2081 Permit Application (Incidental Take Permit) would be provided in early 2013. Staff is still awaiting the permit application.
 - d) Staff also expects a complete sand transport study as requested in Data Request No. 2 (19-39), and acknowledges that a summary of report was docketed within Data Response Set No. 2 (TN 70404). However, Staff is awaiting receipt of the final and full report.

3. Paleontological Resources

The Revised Staff Assessment Part 1 (RSA Part 1) for the approved project stated that significant paleontological resources have been documented in the same or similar deposits that are present in the general area of the project. The RSA Part 1 further stated that construction of the project would include site grading, foundation excavation, utility trenching and possibly drilled shafts. Staff considered the probability of encountering paleontological resources during these excavations to be generally high. The RSA Part 1 also points out that "the science of paleontology is advanced by the discovery, study and curation of new fossils. These fossils can be significant if they represent a new species, verify a known species in a new location and/or if they include parts of similar specimens that had not previously been found preserved." It continued stating that "in general, most fossil discoveries are the result of excavations, either purposeful in known or suspected fossil localities or as the result of excavation made during earthwork for civil improvements of mineral extraction." The RSA Part 1 concluded that "proper monitoring of excavations conducted in accordance with an approved Paleontological Monitoring and Mitigation Plan could result in discoveries which would enhance the understanding of the prehistoric fossil record, or the climate, geology and geographic setting of the region for the benefit of current and future generations."

The approved Conditions of Certification were based on the construction methodologies proposed in the original project. Realizing the potential destruction of fossils in areas where drilled shafts were proposed, the RSA Part 1 stated "the proposed mitigation (COCs) cannot avoid or reduce fossil disturbance associated with drilled shaft foundations. However, the volume of disturbance

and probability of encountering fossil resources would be low in comparison to the grading and excavation activities. For these reasons, there would still be a net gain to the science of paleontology.”

The currently proposed project amendment would greatly reduce site grading and excavation thereby precluding the discovery and collection of fossils. The applicant’s proposed heliostat foundation construction methodology (predrilling and vibratory pedestal insertion) would crush or break any fossils that might be present within the soil column throughout the penetration depth interval. The pedestal insertion would not allow for any recovery of remaining fragments of fossils. This foundation construction method would preclude an opportunity for identification, recovery or scientific interpretation of these significant paleontological resources. In addition, the applicant proposes to install a significantly greater number of pedestals than the previously approved drilled shaft foundations. The volume of sensitive fossil-bearing sediment that can be impacted could therefore, be greater than the approved project.

Staff believes the project owner should be required to identify and delineate (areal extent and thickness) the fossil bearing unit(s) in accordance with a Paleontological Resources Delineation Plan. A properly designed plan could provide the necessary data to determine whether there is significant increased potential to encounter sensitive paleontological resources and identify whether any monitoring or mitigation beyond that required in the current Energy Commission license would be required.

Using the recent Rio Mesa Solar Electric Generating Facility project as an example, it is likely that acquiring and presenting the information required by a Paleontological Resource Delineation program could result in a delay in completing the Staff Assessment of the proposed project amendment.

The Paleontological Resources Delineation Plan will be requested in Data Request No. 4.

4. Socioeconomics

The Petition to Amend presents the number of construction workers needed for the project during peak construction and the average number of construction workers needed. The Petition provides the peak and average construction workforce numbers for the approved Palen Solar Power Plant project (approved project) which is helpful to staff’s analysis. However, with the change in technology, staff will be requesting more details on the workforce including specific information about positions, schedules and workforce relocation in Data Request No. 4.

5. Worker Safety

Recent incidents at the Ivanpah Solar Project (07-AFC-5C) have raised concerns about operating procedures within the tower, worker conditions, and emergency response to incidents in the solar power tower. Staff needs further information and clarification regarding how the project owner proposes to operate the two proposed PSEGS towers in order to properly assess worker safety and fire protection and will be requesting additional information in Data Request No. 4.

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***PALEN SOLAR ELECTRIC
GENERATING SYSTEM AMENDMENT***

**Docket No. 09-AFC-7C
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(Revised 05/23/2013)**

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DECLARATION OF SERVICE

I, Christine Stora, declare that on June 10, 2013, I served and filed copies of the attached Palen Solar Electric Generating System Amendment Status Update No. 3, dated June 10, 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: June 10, 2013

Christine Stora