

# hearing on proposed Calif. project centers on 'unmitigable' impacts to birds

Reporter, Environment and Energy Publishing, 11-6-13

California regulators reviewing a proposed utility-scale solar power project on an untouched strip of desert land during a recent public hearing that deaths to birds are essentially unavoidable but said the state will move forward with extensive mitigation measures.

The project is the proposed 500-megawatt Palen Solar Electric Generating System, which the California Energy Commission (CEC) has already concluded likely cannot be built and operated without harming eagles and other raptorial birds, and permanently affecting visual resources in Southern California's Chuckwalla Valley.

The project, which the Bureau of Land Management are conducting separate reviews of the Palen project, which would cover about 3,700 acres of BLM land in Riverside County and employ two 75-foot-tall towers and thousands of heliostat mirrors that would move with the sun, heat up water and create steam to drive electric turbines.

"We are doing the best we can to offset what we believe is going to be an unmitigable impact" to avian species, said John Huntley, a CEC biologist, according to a state transcript of the evidentiary hearing last week in California.

Regarding mitigation matters, a Fish and Wildlife Service official said at the CEC hearing that the Migratory Bird Treaty Act does not allow mitigation to offset deaths and injuries to migratory birds.

"We cannot, as an agency, accept mitigation at any take of migratory birds in violation of the MBTA," said John Dietsch, a migratory bird biologist with Fish and Wildlife, according to the transcript. "As far as we can, we make each and every effort to do positive things for migratory birds, we appreciate that."

The hearing is the latest twist in the ongoing efforts to permit the \$2 billion project, which would produce 1.5 million kilowatt-hours of electricity to power roughly 170,000 homes and businesses.

The project's five-member commission is expected to approve the Palen project despite the environmental concerns, as it has done in the past with other projects.

The project was left for dead two years ago when the original project proponent, Solar Trust of America, went bankrupt just months after BLM had issued a final EIS for the project in May 2011. Oakland-based NextEra Energy Inc. last year purchased the rights to the Palen project at a bankruptcy auction.

n" of the solar plant, according to the final staff assessment. Indirect impacts noted in the assessment include "collision, glare, electrocution, and death or injury from exposure to concentrated solar flux." It also noted that "heat" from the project's heliostat mirrors "may also adversely affect birds' use of the site.'

assessment noted that the direct impacts could be reduced to "less than significant" levels with mitigation, including the development of an "avian enhancement and conservation plan.'

Indirect impacts could remain significant

The probability is uncertain, given that the site and surrounding areas are suitable bald and golden eagle habitat, staff believes that operation of the [Palen] project could result in the take of bald or golden eagles due either to collision with project facilities or to injury or mortality caused by flying through concentrated solar energy over the heliostat field," the assessment said. "No mechanism is currently available to quantify potential mortality for bald or golden eagles, or any other avian species. Because bald and golden eagles are protected species, any take of bald or golden eagles is prohibited by law. The burden is on the project to avoid any such take.'

The construction and operation of the Palen solar plant as planned "would have cumulatively significant impacts to many biological resources within the Chuckwalla Valley and the Northern and Eastern Mojave Desert Coordinated Management Plan area," including desert tortoises and the Mojave fringe-toed lizard, a state-designated species of concern that is found only in the Southern California desert.

State and federal regulators are forming what is described as a technical advisory committee (TAC) composed of officials with BLM, Fish and Wildlife and the CEC, as well as representatives from the project. According to the transcript of last week's hearing,

"we will look at a host of ideas to mitigate impacts to bird species, and according to CEC officials, we will hammer out bird conservation plans and other mitigation measures. But when the TAC meets, whether those meetings will be open to the public are unclear

"The frustration for me is, you know, all future [proceedings are] going to be behind closed doors. I don't know exactly how this whole issue is going to be addressed," Ilene Anderson, a staff biologist at the Center for Biological Diversity, said at the hearing

"I understand your frustration," Huntley responded

The hearing also touched on impacts to the Mojave fringe-toed lizard, which is being affected by a number of power developments

Staff assessments have found that the latest layout proposal, which occupies less land, would avoid