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File No: 19/36.1

June 4, 2012

VIA U.S. & ELECTRONIC MAIL

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Commissioner Karen Douglas, Presiding Member
Commissioner Carla Peterman, Associate Member
California Energy Commission Docket Unit
Hidden Hills Solar Electric Generating System (Docket No. 11-AFC-2)
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Re: Hidden Hills Solar Electric Generating System, Applicant Docket Number 11-AFC-02; Initial Review of Draft Fire and Emergency Services Assessments by Interested Party, Southern Inyo Fire Protection District

Dear Commissioners Douglas and Peterman:

This communication sets forth the *initial* review by the Southern Inyo Fire Protection District (the "District") of the Draft Fire and Emergency Services Risk Assessment (the "Risk Assessment") and Draft Fire Protection and Emergency Services Needs Assessment (the "Needs Assessment") of the Hidden Hills Solar Electric Generating System Project (the "Project"), Docket No. 11-AFC-2, filed with the California Energy Commission by Hidden Hills Solar I, LLC and Hidden Hills Solar II, LLC (collectively, the "Applicant") on May 9, 2012 in a document entitled "Data Response 1C-3."

STANDARD OF REVIEW

In review of the Risk and Needs Assessments, the District relies on the definition of "feasible" for both the substantive content of the Commission's analysis, as well as its review under the California Environmental Quality Act (Public Resources Code section 21000 *et seq.*, "CEQA")¹, which is as follows:

¹ See, Public Resources Code section 21080.5; CEQA Guidelines sections 15250-15253. The Guidelines are to be given great weight in interpreting CEQA statutory provisions. *City of Santa Ana v. City of Garden Grove* (1979) 100 Cal.App.3d 521, 530.

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“Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors. CEQA Guidelines section 15365 Commission Regulation, Title 20 California Code of Regulations section 1702.

The District maintains it is significant that both definitions of “feasible” bear on the adequacy of the Risk and Needs Assessments.

ANALYSIS

The District observes that there is no mention of financing for District services which have been characterized as the most essential of governmental services² for the Project. This issue was raised previously by the District³ referencing specific forms of District financing within the discretion of the Project Applicant as the District does not receive a share of the one percent (1%) property tax levied on the Project site. Stated plainly, there must be provisions for on-going financing of fire and emergency services.

Also, to the extent that the representation is made that there can be a bill for services rendered whether with respect to incidents during the construction period or operation is inadequate as it fails to recognize the lack of addressing financing for fire and emergency services for the Project.

Factually and legally, the representation concerning a potential District Mutual-aid Agreement with respect to the City (Town) of Pahrump is inaccurate and incorrect⁴. There is no authorization in the Fire Protection District Law of 1987 (Health and Safety Code section 13800 *et seq.*), the enabling legislation for the District, for mutual-aid agreements with a municipality of another state. Further, the representation that emergency medical services can be provided by agencies in Nevada, the Town of Pahrump, etc.⁵ is incorrect and inaccurate as different standards for the provision of basic life services and advanced life services exist in California as opposed to Nevada. *See*, Health and Safety Code section 1797.100 *et seq.* and implementing regulations.⁶

With respect to the assessment of existing conditions as to traffic⁷, the District maintains that the

2 *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal. App. 3d 521.

3 *See*, Docket No. 11-AFC-2, dated February 15, 2012. Among the forms of financing are voter approval special taxes, a Mello-Roos Special Tax, a fire protection suppression services assessment.

4 Needs Assessment pp. 7-1, 7-4, 8-1, 8-2, and 9-1.

5 *Id.*

6 Needs Assessment, p. 8-2. The statement referencing Health and Safety Code section 13009 is misplaced. First, that statute is only applicable to agencies within the State of California and secondly, only has to do with issues associated with claims for reimbursement based on negligence. The statement “therefore, no significant impact to fire protection service providers would be anticipated.” Is simply contrary to *any* assessment of both the construction and operational aspects of the Project. Respectfully, it is a completely unsupported opinion.

7 Risk Assessment, p. 6-9.

information needs to be supplemented based on the *projected conditions* associated with the Project. Stated differently, the baseline criteria for analyzing traffic should be based upon the projected conditions associated with both the construction and operation of the Project rather than a summary of existing conditions in the location. Such an approach was recently authorized in *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2012) 205 Cal.App.4th 552, 569. (“*Neighbors for Smart Rail*”).

These following comments and questions have been prepared based on a review of the Risk and Needs Assessment by Mr. Ronny Coleman, expert consultant to the District:

1. Under the heading "Worker Safety and Fire Protection," the Risk Assessment indicates there exists the risk of impacting local fire protection and emergency services, and thus the local population, due to possible "drawdown" of emergency response resources and extended response times. (Risk Assessment Introduction p. 2).

Q1: Did the Applicant consider the possibility of establishing an on-site industrial fire brigade at the Hidden Hills Power Plant (the "Plant") to help mitigate this potential burden?

2. We are informed that the property owner offered the District a 2.5 acre site immediately adjacent to the Project site, contingent upon licensing, for use as a fire station. There is a small community called "Calvada Springs" located adjacent to the Project site that is currently underserved. District Fire Chief Larry Levy indicates that he had provided a document to the Applicant that discussed this option, but no reference to it was made in the Applicant Assessments.

Q2: Did the Applicant consider the Fire Chief's input by evaluating a fire station adjacent to the facility and staffing it with volunteers from the surrounding community and Plant employees when they are available?

3. The Project will incorporate a Natural Gas transmission line which will deliver natural gas to the Project site. (Risk Assessment p. 2-1, first paragraph). The linear corridors of this transmission line and the electrical transmission lines leaving the site are not addressed in the Risk Assessment.

Q3: Who will assess the potential impact of these two transmission lines?

4. The Risk Assessment indicates there will be six (6) groundwater supply wells drilled to provide water to the site. These wells will provide 250,000 gallons of water, of which 100,000 are for Plant operation and the remaining amount reserved for "fire water." (Risk Assessment p. 2-6).

Q4: Have there been any calculations to determine what the fire flow requirements for the Plant will be?

5. When addressing the management of hazardous waste, the Risk Assessment indicates that containment pits and piping will be provided for the storage of hazardous Waste, which will be transported off-site by trucks at various intervals. (Risk Assessment p. 2-9, Section 2.4.6). The Inyo County designated Certified Unified Program Agency ("CUPA") will be receiving the Hazardous Materials Business Plan and provide a copy of the materials stored on site to the designated fire authority.

Q5-1: How often will the materials be removed from the site and what impact will the transportation of these "hazardous materials" have on traffic on the existing transportation corridors within the area?⁸

Q5-2: Are there any chemicals present on the site that could have a detrimental effect on the surrounding population should a spill occur, and if so, are there any plans for any type of public warning system?

Q5-3: Has the Applicant contacted the designated Inyo County CUPA regarding the planned Hazardous Materials that will be located on the site?

6. Section 3.2 on pages 3-5 and 3-6 of the Risk Assessment lists the various National Consensus Standards ("NFPA"), but there is no reference to the NFPA 1620 Standard for Pre-Incident Planning.

Q6: While the Risk Assessment considers an Emergency Action Program and Plan on page 5-2, why was there no specific mention of "Pre-Fire" or "Pre-Incident" Planning"?

7. Section 4.0 on Page 4-1 of the Risk Assessment outlines the fire protection system planned for the Plant, and indicates that on-site personnel will be trained in the use of fire protection equipment and will be the first responders to a fire and or medical emergency incident.

Q7: Will these personnel comprise a fire brigade? What type of fire protection equipment will be provided? Are there plans to have an engine/ambulance on site? What will the level of training be for the providers of emergency medical services?⁹

8. Section 5.2 on page 5-5 of the Risk Assessment concerns Operations Safety and Health Programs. Under the Fire Protection and Prevention Program it addresses issues relative to fire suppression. However, it does not address the issue of communications outside the Project site.

Q8-1: Will there be a means of direct communications with the local fire authority (the District). If so what will that method be?

⁸ Again, as discussed earlier this analysis should be accomplished with respect to projected traffic volumes associated with the Project, not history.

⁹ This relates to the established criteria for EMS set forth in Health and Safety Code section 1797.100 and implementing regulations.

Q8-2: Will there be radio communications? If so, will the Plant have access to the surrounding fire authority radio frequency?

9. It is understood that during construction the County Building Department will enforce the California Building Code Standards, leaves the local fire authority (here, the District) to enforce the California Fire Code requirements. While the Fire Code is typically a maintenance document, if there is no coordination during construction there can be problems later due to issues in the Fire Code being overlooked or misinterpreted during the construction phase. That is, the fire authority and the building official may differ in their interpretation of a particular requirement. Uniformity and consistency is also important when complying with Articles 79 and 80 of the Fire Code when dealing with fire and explosion hazards and the accidental release of hazardous materials. While the CUPA and the Hazardous Materials Management Plan will discuss this, the Fire Chief is the enforcement authority for the Fire Code.

Q9: Has there been any coordination between the County Building Department and the local fire authority regarding the application of these codes, both during construction as well as after construction is complete?

10. The Risk Assessment's discussion of off-site traffic accidents beginning on page 6-8. The Risk Assessment uses data from Caltrans and California Highway Patrol Traffic Records Systems to formulate Tables 6-3 and 6-4 on page 6-10. While the incident rate may still be considered relatively low, the report does not take into account the nature and types of accidents that may occur. For example, when construction begins there will be construction equipment and trucks on the road, as well as a considerable amount of hazardous materials. Due to the involvement of more personnel and equipment, there is an increased potential for severe accidents and a longer time required to clean up accidents.¹⁰

Q10: Has there been, or will there be, an analysis of the affects of construction on traffic accidents and the potential for increased severity of property damage or injuries caused by accidents?

11. A chart on page 6-12, section 7.0 of the Risk Assessment addresses the conclusions related to risks of the Project. Of the 9 items listed, they are all indicated as being "Extremely Low." However, this Chart appears incomplete with respect to fire protection, in that the methodology focuses solely on frequency and lacks any description of the "consequence". It is our understanding that most risk assessment models result in an assessment of consequence as well as frequency. Even though the chart indicates that the chances of the various hazards being an issue, the consequences, if they do occur, may be very significant.

Q11: Has there been or will there be any consideration given to the potential consequences of

¹⁰ See, *Neighbors for Smart Rail, supra*.

*any of the hazards listed?*¹¹

12. Section 3.0 on page 2 of Exhibit B to the Risk Assessment discusses Codes and Standards, including the possibility of "Code Clarifications" of "Design Variances."

Q12: Who is involved in these "Clarifications" and/or "Variances"? If the District is not involved in these issues and variances are given during construction, problems which may have been avoidable may arise after the construction is complete and operation of the facility begins. The District should be included in all issues related to code clarification or interpretation, as well as any variances given.

13. Section 4.0 on Page 3 of Exhibit B to the Risk Assessment addresses the various fire protection systems that will be located throughout the complex.

Q13: While these systems will be announced on site, are there any plans to send any signals off site to allow for automatic notification of the fire authority?

14. Section 7.0 on page 7-1 of the Needs Assessment discusses fire resources. While the report considers the staffing and engine compliment of the District, it does not indicate the specific staffing levels of the Pahrump Valley Fire-Rescue Service ("PVFRS"). Further, the laws, ordinances, regulations, and statutes ("LORS") enumerated in Risk Assessment section 3.1 on page 3-1 focus on California authority, not Nevada authority, to which the PVFRS is subject.

*Q14: What is the specific staffing level of the PVFRS, in terms of Fire/EMS personnel and Paid and/or Volunteer? What separate LORS is PVRS subject to?*¹²

15. The Fourth paragraph of section 7.1 on page 7-1 of the Needs Assessment indicates that the District is in the process of "finalizing" a Mutual Aid agreement with PVFRS¹³. Assuming there is authority for such an agreement, a "Mutual Aid" agreement differs from an "Automatic Aid" agreement under California law. Whereas a Mutual Aid agreement is evoked when resources have been totally depleted, an Automatic Aid agreement is to respond in lieu of the fire authority having jurisdiction for providing first due response.

Q15: What specifically does the agreement entail and what is the status of the agreement?

16. Section 9.0 ("Recommendations") on page 9-1 of the Needs Assessment indicates that cellular devices will be used to contact the fire protection and emergency medical and technical rescue providers. Since the 911 dispatch is handled by the County Sheriff in Nevada (whereas California utilizes the Highway Patrol), 911 calls could go to Nye County, Clark County, or the

11 Related to this identification would be the substantive and environmental requirement for *feasible* mitigation.

12 Again, the legal authority of PVRS to provide fire and emergency services in California consistent with *California* standards is questioned.

13 See commentary on p. 2, *supra*.

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California Highway Patrol, depending on what cellular phone tower is being used.

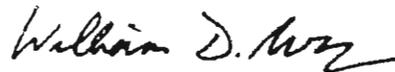
Q16: Is it the intent to use cellular devices to contact the local fire authority or medical responders directly? It seems this would result in not having one central emergency number for contact. Has there been any thought given to going through Cal Fire dispatch with a single number, allowing the appropriate responders to be contacted by pager, cell phone, radio etc.

17. Section 7.2 of the Needs Assessment describes Pahrump Nevada's resources for providing emergency medical services. Also, Needs Assessment section 8.1.3 discusses an on-site nurse.

Q17: Has the Applicant interacted with the Inland Counties Emergency Medical Agency (ICEMA) regarding the legal aspects regarding the allowing a Nevada medic to function within California?¹⁴

In summary, this communication sets forth the initial review and comments of the District on the Risk and Needs Assessment.

Very truly yours,



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¹⁴ Again, see Health and Safety code section 1797.100 *et seq.* and implementing regulations.

DECLARATION OF SERVICE

I, Le Chaune Metoyer, declare that on June 4, 2012, I served and filed a copy of the attached Letter to Commissioner Karen Douglas and Commissioner Carla Peterman Initial Review of Draft Fire and Emergency Services Assessments by Interested Party, dated June 4, 2012. This document is accompanied by the most recent Proof of Service list, located on the web page for this project at: [www.energy.ca.gov/sltincases/hydrogen_energy/index.html].

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

(Check all that Apply)

For Service to all other parties:

Served electronically to all e-mail addresses on the Proof of Service list;

Served by delivering on this date, either personally, or for mailing with the U.S. Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date of those addresses **NOT** marked "e-mail preferred."

AND

by sending an electronic copy to the e-mail address below (preferred method); **OR**

by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

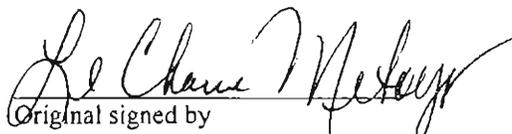
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OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:

Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

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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.


Original signed by
Le Chaune Metoyer



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**APPLICATION FOR CERTIFICATION
FOR THE *HIDDEN HILLS SOLAR ELECTRIC
GENERATING SYSTEM***

DOCKET NO. 11-AFC-02
PROOF OF SERVICE
(Revised 5/15/2012)

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