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Deny SPPE Exemption - Significant Adverse Environmental Impacts, Piecemealing, and Noncompliance with SB610

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California Energy Commission
Dockets Unit, MS-4
1516 Ninth Street
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Re: RB Inyokern Data Center “ Docket No. 26-SPPE-01 “ Comments of a Ridgecrest Resident in Support of Denial of Small Power Plant Exemption

Dear Commissioners:

My name is Jennifer Slayton. I have lived in Ridgecrest, California, in the Indian Wells Valley, for nearly twenty years, where I own a home and, with my husband, am raising three children, ages 15, 11, and 7. I hold a Bachelor's degree and a graduate degree in Economics, and also studied Community and Regional Development at the graduate level, so I have spent years following water policy, land use, and economic development issues in this valley. I am also a member of Taxpayers for Accountability for Our Groundwater, and I am writing today as a local resident and parent to add my personal voice to the concerns my community has raised regarding the proposed RB Inyokern Data Center, and my firm belief that this project does not meet the requirements of the Small Power Plant Exemption that is being requested.

I want to be clear that I am not opposed to technology or economic development. I understand the importance of both to the future of this region. But I am deeply, genuinely concerned that this project has been presented to the Commission in a way that obscures its true scale and impacts, and that approving a Small Power Plant Exemption here would shortchange both the community and the environment by allowing a major industrial facility to avoid the rigorous review it plainly requires. I respectfully ask the Commission to deny the requested SPPE and require the full Application for Certification process, including a comprehensive environmental review equivalent to a full Environmental Impact Report.

First off, I want to acknowledge that I am not an attorney, engineer, or any kind of technical expert. I have done my best to understand the legal and technical issues underlying the areas I am concerned about and to describe the project's impacts and justifications for those accurately, but I ask the Commission to evaluate the substance of my concerns on their merits. Ultimately, I am just a resident raising children in this valley, and I am asking that the state agency entrusted with protecting communities like mine look carefully at what is actually being proposed here in the submitted application, along with all reasonably foreseeable future phases to ensure that cumulative impacts are analyzed.

I. The Project Must Be Evaluated at Its True Scale - Unlawful Piecemealing

Above everything, I am deeply troubled by what appears to be a deliberate effort to artificially keep this project just below the threshold that would trigger full Commission review. The facility has been publicly described to investors as a multi-phase, AI-ready campus planned for 198 megawatts. Investor materials have identified specific parcels for a Phase 2 expansion and noted that a Method of Service determination from Southern California Edison for that expansion has already been requested. See the attached title slide of the investor presentation for this information, which also includes a map of the proposed parcels to be used, and please note that in other locations the developer states an MOS has already been requested, which is information the CEC may be able to confirm since we could not. And yet the application before the Commission describes a 99 MW project - precisely one megawatt below the 100 MW threshold for mandatory full certification review.

I find this pattern deeply concerning. California's environmental review laws exist precisely to prevent this kind of threshold manipulation to protect communities like ours from large projects being broken up to evade laws. Courts have consistently held that an environmental review must analyze the full, reasonably foreseeable scope of a project "not just the piece a developer chooses to apply for first. The developer's own investor-facing materials and his staff's comments on local social media make the full 198MW vision unmistakably clear, even if the published materials are now being walked back. Given the ample evidence of the developer's intent, the Commission should treat the full project "including the planned Phase 2 expansion" as the project for purposes of its review, and evaluate the cumulative water demand, generation infrastructure, emissions, and all other long-term impacts accordingly, as these would be significantly different at the full project completion.

There is also a separate threshold concern: the application concedes that the facility will have 120 MW of installed nameplate generation capacity "forty 3 MW diesel generators" held below the 100 MW limit only by a private contractual cap on interconnection. The physical footprint of forty large diesel generators, their fuel tanks, their emissions, their noise, and their fire risk still presents the same very real risks as any other 120MW facility, regardless of how many are permitted to run simultaneously on any given day because of their own business decisions. I do not think the Commission should allow a facility's physical environmental impacts to be disclaimed through a private contract it cannot itself enforce. If the project has 120MW of potential,

then it should be evaluated as a 120MW project, or else it should be limited to the size of the actual exemption it is requesting.

II. The Water Supply Assessment Is Fundamentally Deficient

Groundwater is the issue that keeps me up at night, and which has led to my being involved in our local Groundwater grassroots group. I have watched our community struggle with SGMA compliance for years. I've watched in frustration as decisions were made that would have drastic impacts on my own family and home. I have seen neighbors reduce their water use, and I've taken out my own front and back lawns. I have watched agricultural operations prepare to phase out, valuable members of our community that we don't have the water to keep. Our valley is in overdraft "pumping more than the water that's recharged, a real term with real legal consequences for our entire valley, and very likely financial ones as well. Every drop matters. And the Water Supply Assessment (WSA) submitted for this project is, in my view, wholly inadequate to the gravity of that situation.

The most basic problem is that the WSA appears to measure the project's water demand against the wrong number. The document characterizes the project's 49.10 acre-feet per year of demand as a fraction of over 26,000 AFY of projected available supply "but that figure represents overdraft-level pumping that's happening now, not the sustainable yield we have yet to meet by decreasing our use or finding more water. The Groundwater Sustainability Agency, the Indian Wells Valley Groundwater Authority, has identified the basin's actual sustainable yield at 7,650 AFY. Even at the higher number that many of us consider a more appropriate sustainable yield, around 14,000 AFY, we are still using significantly more water than we can in the future without resorting to expensive solutions that many of us believe would bankrupt local families and businesses. Adding any new major industrial water user to a basin that, on paper, is already pumping at nearly three times sustainable yield is not a minor incremental impact; it is a significant one that demands honest analysis. And this analysis must include the fact that the impact on water infrastructure would result in an enormous cost borne by me and my neighbors, not the developer.

The WSA also attached the wrong basin's Groundwater Sustainability Plan "the Kern County Subbasin plan, for a different aquifer on the other side of the Sierra Nevada, around a hundred miles away, and also referenced that plan in multiple places throughout their WSA. That error alone speaks to the care, or lack of it, that went into this document. And the WSA's conclusion that adequate water will be available relies on an assumption that imported water will arrive around 2030 to resolve the overdraft. I oppose water importation as a solution to our groundwater challenges, and this assumption is something I am actively, and politically, fighting to stop. Even setting aside my policy views, that project is unfunded, unbuilt, and legally uncommitted. It is not a reliable water supply for purposes of any 20-year determination, and it's not even a promise of water because even if it is built, it would only decrease our overdraft and not provide enough water for new industries.

Further, the basin's water rights are actively being adjudicated. A trial to establish the

court's legally binding safe yield determination began earlier this week in Orange County Superior Court. The Indian Wells Valley Water District has also filed a Reverse Validation Action challenging the Groundwater Sustainability Plan itself. It would be a tremendous violation of both the intent and the letter of SB610 to approve a major new industrial water user while a court is actively deciding how much water can even legally be extracted from our shared aquifer, with actual water rights and allocations still entirely unknown. I urge the Commission to pause approval proceedings until the adjudication is complete and basin water allocations are finally established, so that a 20-year water supply can be accurately and legally assessed.

I am also concerned that the project's water demand projections significantly understate actual consumption. The Indian Wells Valley is a desert. We have extreme heat, very low humidity, and high evaporative demand. Industry data consistently show that desert-climate data centers operate at among the highest water usage rates globally - Microsoft's Arizona facilities, for example, operate at water usage effectiveness rates far higher than its facilities in cooler, more humid climates. The application does not provide independently verifiable cooling-system specifications, making it impossible for the Commission, the public, or any independent reviewer to confirm the 49.10 AFY demand figure, which, on its face, is suspiciously low for our desert climate. Even the most efficient systems using the cooling system described in the project require evaporative assist at temperatures over 90 degrees, which we exceed for a minimum of four months out of the year, and often closer to six. The water impacts also extend beyond just this project. Given the waste-heat that is generated by any data center, we can expect to see water use increase in the surrounding community, which relies heavily on evaporative cooling in the summer, meaning an even further cumulative impact that has not even been mentioned, much less addressed in the application.

Under any fair-argument standard, the Commission should evaluate this project against realistic, climate-adjusted worst-case consumption assumptions – not unverified projections that appear likely to be substantially understated, and should include the entire cumulative impact of this project on local water use. And if it does move forward, given the severity of water challenges in our basin, the project should be required to be water-neutral, have strict caps on usage based on the developer's stated projections, and have regular public reporting of water use mandated.

III. The ICSD Will-Serve Letter Is Not Sufficient to Ensure SB610 Compliance

The project's water supply assumptions depend on a will-serve letter from the Inyokern Community Services District. There are serious doubts locally, across Kern County, and even in Sacramento about whether ICSD can credibly serve as a long-term water provider for a major industrial facility. The 2023–2024 Kern County Grand Jury found ICSD financially insolvent and facing multiple critical operational deficiencies that it had been unwilling or unable to remedy despite outside assistance. Among other things, the Grand Jury found that ICSD had failed to report water production data to the Indian Wells Valley Groundwater Authority since 2018. And in fact, they are currently in litigation with the Indian Wells Valley Groundwater Authority. The state is actively pursuing the district's consolidation, with negotiation letters regarding a massive

reorganization of the district with the neighboring Indian Wells Valley Water District ongoing. This is not an entity that can meaningfully commit to being a 20-year water supply partner for a large industrial data center, as it cannot even meaningfully commit to existing in the short term. Additionally, when local residents attended the May Inyokern Community Services District meeting, the board was asked what would happen if the ICSD did not receive sufficient water in the comprehensive adjudication process to meet the proposed data center's additional demand. The attorney answered for the board, but his answer was clear and public – they would then rescind the will-serve letter and issue a denial of service. Additionally, following the meeting, one board member revealed that he hadn't understood what they were agreeing to in the letter and has doubts that they should have issued it at all. This clearly indicates that the letter is speculative, issued by a small district with limited capacity and no realistic expectation of being able to meet the duties it has committed to. The Commission should require a full, independent assessment of ICSD's long-term capacity, financial stability, and the reliability of its water allocation before placing any weight on its will-serve commitment.

IV. Localized Groundwater Impacts in the Inyokern Area Deserve Independent Analysis
My concern about water is not only at the basin level. The Inyokern area – where this project would draw water – is already among the most severely impacted portions of the overdrafted basin. While many of us may believe that there is more water available than the IWV Groundwater Authority, no one disputes that groundwater elevations in the area immediately around this project have been declining. Water quality has been deteriorating, with increasing sediment and dissolved solids. Existing wells are under stress, with local well owners reporting that their wells are declining by a foot per year, a trend verified on the local Groundwater Sustainability Plan website. This may not be a basin-wide issue, but concentrated industrial pumping at this project's scale, focused at just a few extraction points in this same area, could create a localized cone of depression that further and more immediately causes nearby wells to fail and accelerates existing water quality problems – harms that imported water would do nothing to address. The local newspaper reported that the Inyokern CSD is pumping 108 af and that they have one well that provides this, with another hopefully coming online soon. Adding another 50% of the community's total pumping through two wells, when there are already localized problems, is not just asking for trouble – it's asking for disaster. And while the applicant has not provided an explanation for the on-site well in his own documents, the ICSD will-serve letter shares that it's for emergency use, meaning that in an emergency, with a large amount of water being drawn, local well owners might find themselves suddenly and unexpectedly without any water at all - a significant health and safety concern for an isolated rural community. The Commission should require detailed hydrogeologic modeling of localized drawdown impacts, including worst-case summer peak-demand scenarios, before this project advances.

V. Wastewater and Water Quality Concerns Have Not Been Adequately Analyzed
The project's cooling systems will produce concentrated blowdown wastewater containing elevated dissolved solids, arsenic, which occurs naturally in local water sources, heavy metals, phosphates, organic biocides, and potentially PFAS

compounds, which recent research is tying to data center wastewater under cooling methods similar to the minimal details provided in the applicant's materials. The EPA has concluded there is no safe level of exposure to certain PFAS compounds. It is not clear that ICSD, a small district with documented compliance challenges, has the capacity to safely treat this waste stream and ensure that these contaminants don't end up in our local soil, or much worse, in our local water. The Commission should require a detailed, independent analysis of the chemical composition, volume, and disposal method of the project's cooling system blowdown before any approval is considered.

VI. Land Use and Zoning Compatibility Has Not Been Demonstrated

This is a rural community. The people who live in Inyokern chose to live there because of its quiet, open character. The project site is approximately 370 feet from residential properties - a distance which we physically measured from survey markers placed by the developer, which is closer than even the applicant's own materials acknowledge - and Inyokern School is less than 1,400 feet away. Kern County's M-2 Medium Industrial zoning requires that "Uses may not produce fumes, odor, dust, smoke, gas or vibrations extending beyond zoning district boundaries." In this case, the zoning district boundaries are the project parcel boundaries. It is completely impossible that a facility of this scale " forty large diesel generators, extensive cooling infrastructure, continuous security lighting, years of construction " could contain all of its impacts within its parcel lines. These are evident in the description of air quality impacts and dust within the application, as well as in the assessment of noise, which notes that the cooling system alone would result in noise and vibrations beyond the boundary, even before considering the addition of forty giant generators. The applicant also confirms that a discretionary Conditional Use Permit is required and pending for this zone. Given the zoning, the adverse environmental impacts listed in the zoning ordinance for the adjacent parcels must be considered significant if they exceed the legal threshold of "not" as stated in the ordinance... A standard that this project cannot meet.

Additionally, the planned Phase 2 expansion map details that it would be built on land zoned Estate and surrounded entirely by residentially zoned parcels. That expansion should be found inherently incompatible with its surroundings and should be denied on that basis, as any environmental impacts of this project in that location would be significant and adverse.

VII. Noise and Air Quality Impacts on Nearby Homes and a School Are Unacceptable

As a parent, I feel very strongly that one of our primary goals must be the health and safety of our children. Inyokern School is less than 1,400 feet from this facility. Residential homes are approximately 370 feet away. The facility would include forty 3-megawatt diesel generators. Even if those generators are intended primarily for backup use, the applicant's own Noise Analysis modeled all forty operating simultaneously and continuously for 24 hours " confirming that the facility is physically capable of running its entire 120MW generation fleet at once. The noise impacts from that kind of industrial operation, in close proximity to homes and a school, would be devastating to the community's character, not to mention to children's health and well-being.

Air quality concerns are equally serious in our valley. The project would add diesel particulate emissions and construction dust to an airshed that the applicant's own Air Quality Impact Analysis concedes already exceeds state and federal PM10 and PM2.5 standards. Our valley's residents, many already facing disproportionate health burdens, should not have to endure further air-quality degradation from an inadequately reviewed industrial project. The Commission should require independent air-quality and acoustic analyses that evaluate cumulative worst-case conditions under our desert environment's unique meteorological and acoustic characteristics, and require that all impacts be fully mitigated locally within the airshed.

VIII. Waste Heat, Light Pollution, Grid Reliability, and Other Impacts

Our summers are already dangerous. The Indian Wells Valley regularly sees temperatures well over 100 degrees, temperatures that can threaten public health, especially for those who are most vulnerable. A large-scale data center discharging substantial waste heat into this environment could create measurable localized temperature increases that worsen heat-related health risks for nearby residents. This would increase their need for cooling, especially evaporative cooling, which even further worsens the water impacts of this project. The Commission should require independent thermal modeling of the facility's heat discharge and microclimate impacts, as well as secondary water impacts caused by localized heat impacts.

Our dark skies are one of the things I love most about living here. They are part of what makes this valley special – for quality of life, for recreation, for tourism, for our local scientific community, for testing at China Lake and beyond. Continuous industrial lighting from a large data center campus, operating 24 hours a day, 365 days a year, would materially and permanently degrade those conditions. This impact deserves rigorous analysis, not dismissal. An analysis of light pollution from this facility should be required, and if the project proceeds required to be fully mitigated to prevent negative impacts to both our local tourism economy and quality of life.

I am also incredibly concerned about electricity costs. National data show that data center-driven grid upgrades are increasingly being passed on to residential ratepayers, with some communities reporting a tripling of their utility costs after data centers come in. Utility rate increase requests are accelerating across the country, driven in significant part by new large industrial loads. With our summer bills upwards of \$600, any significant increase would be untenable. Additionally, the Indian Wells Valley already experiences grid reliability challenges during extreme heat events. I have significant questions about the service this project is going to receive, the upgrades required to do that, and how those might impact my own family and community. But the project's electrical service information has been designated confidential, making it impossible for the public to evaluate infrastructure upgrade requirements or ratepayer cost impacts. The Commission should require a full, publicly available infrastructure and ratepayer impact analysis so that this information can be made available for meaningful public review.

IX. Seismic Risk and Hazardous Materials Deserve Serious Attention

I remember the 2019 earthquake. We all do. A major M7.1 earthquake and an extensive aftershock sequence are not abstractions here – they are lived experience. My own house was without gas for several days as a result, and we sustained damage to both the walls and the furniture. A facility of this complexity, with 600,000 gallons of diesel fuel in aboveground storage tanks, battery systems, cooling chemicals, hazardous materials, and extensive electrical infrastructure, poses real secondary risks in a seismic event: spills, fires, groundwater contamination, and utility failures. Our local emergency response resources are limited for the kind of emergency this project might cause. A major industrial fire near a school and residential neighborhood, in a rural area with a constrained firefighting water supply, could be catastrophic. It could also leave the rest of the community without any protection at all in such a serious emergency. The Commission should require comprehensive analyses of seismic hazards, hazardous materials, and emergency response before this project advances.

X. Environmental Justice

More than 80% of local students are classified as socioeconomically disadvantaged in the school that sits just 1400 feet from the project site. According to the CalEnviroScreen tool, the surrounding community already faces disproportionate levels of asthma, cardiovascular disease, low birth weights, and other health conditions that could be worsened by this project's emissions, noise, and stress. Families with fewer resources are least able to absorb rising utility costs, drill deeper wells when theirs fail, or relocate if conditions become intolerable. I am not in that situation – my family has the means to cope – but many local families, especially because of the higher levels of poverty in the areas immediately surrounding this project, are not so fortunate. The Commission's environmental justice obligations require more than a passing acknowledgment of these realities. A full environmental justice analysis of cumulative and disproportionate impacts on disadvantaged and sensitive populations is required before any approval is considered so that mitigations can be applied that will ensure the negative impacts are not disproportionately borne by the most disadvantaged members of our community.

Summary of Requests

For all of the reasons described above, I respectfully join my community in asking the California Energy Commission to:

1. Find that this project has “significant adverse environmental impacts”, and thus deny the requested Small Power Plant Exemption and require the full Application for Certification process, including a comprehensive environmental review equivalent to a full Environmental Impact Report, based on the multiple significant adverse environmental impacts identified here and in the group comment letter; and
2. Additionally, find that it does not qualify for the SPPE based on the facility's 120 MW of installed generation capacity and the clear evidence that a 198MW facility is reasonably foreseeable, given that “regardless of the applicant’s attempts to walk back his publication of his plans” an SCE MOS has purportedly been requested

and public statements made to this effect;

3. Pause all review of the project and any associated proceedings or approval “ specifically any determination of a 20-year water supply as required under SB610 “ pending final resolution of the comprehensive adjudication of the Indian Wells Valley Groundwater Basin and pending Reverse Validation Action challenging the Groundwater Sustainability Plan “ so that any water supply determination rests on final, court-established water allocation data and is not speculative in nature;
4. Require a comprehensive, independent, basin-specific Water Supply Assessment that correctly references the Indian Wells Valley Groundwater Basin (Basin No. 6-054); measures demand against the basin's sustainable yield rather than overdraft-level pumping; is completed after adjudication establishes final water allocations; provides specifications of a system that justify the numbers claimed for water use; provides climate-adjusted, worst-case desert water consumption; addresses cumulative water impacts of this project; and is verified by an independent third party with demonstrated expertise in this basin;
5. Require a full, independent assessment of ICSD's long-term infrastructure capacity, financial stability, and water allocation reliability before any will-serve determination is accepted;
6. Require comprehensive, independent analyses of all significant impacts identified in this letter and in the group comment letter, including localized hydrogeologic and water quality impacts; wastewater treatment capacity; land use and zoning compatibility; electrical grid and ratepayer impacts; air quality; noise and vibration; waste heat and thermal plume effects; fire safety and hazardous materials; seismic resilience; traffic safety; light pollution; and environmental justice; and
7. Hold at least one public hearing or workshop within the Indian Wells Valley community, extend the public comment period commensurate with the volume and complexity of the issues raised, and direct the Commission's Public Adviser's Office to assist affected residents in participating in this proceeding.

I appreciate the Commission's careful consideration of these concerns. I have lived in this valley for twenty years and am raising my family here. The Indian Wells Valley's groundwater, its air, its dark skies, its quiet rural character, and its long-term viability as a place to live and raise a family are not abstractions to me. They are the fabric of my daily life. I ask the Commission to give this project the rigorous, honest review it requires to protect my community and me from the significant adverse environmental impacts it would clearly cause.

Respectfully submitted,
Jennifer Slayton