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FORMAL COMPLAINT OF ENVIRONMENTAL REGULATORY VIOLATIONS & DECEPTIVE SUBMISSIONS

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TO: The California Energy Commission (CEC) & The Eastern Kern Air Pollution Control District (EKAPCD)

REGARDING: Docket No. 26-SPPE-01 (RB Inyokern Data Center)

SUBJECT: Notice of Intent to Challenge Small Power Plant Exemption (SPPE) Based on Fraudulent Project Segmentation, Deceptive Health Risk Assessment Modeling, and Violations of State Public Safety Codes

1. LEGAL DEFICIENCY: FRAUDULENT PROJECT PIECEMEALING

The Applicant, R&L Capital Inc., has engaged in fraudulent project piecemealing by intentionally segmenting a unified, 130-acre master-planned project into separate phases to artificially bypass strict environmental thresholds. This constitutes an explicit violation of the California Environmental Quality Act (CEQA) under California Public Resources Code (PRC) Â§ 21000 et seq. and 14 California Code of Regulations (CCR) Â§ 15378.
Under established CEQA case law (Laurel Heights Improvement Assn. v. Regents of University of California), an Environmental Impact Report (EIR) must consider the environmental effects of a full master plan if the future expansion is a reasonably foreseeable consequence of the initial project. By seeking a Small Power Plant Exemption under PRC Â§ 25541 for an artificially capped 99 MW "Phase I," the applicant is deliberately concealing a cumulative 198 MW, 80-generator footprint from full regulatory oversight. Securing an exemption via intentional concealment of full project scope constitutes a regulatory fraud upon the state and the local community.

2. PUBLIC HEALTH & SAFETY CODES VIOLATED

The Health Risk Assessment (HRA) submitted by the applicant is fundamentally deficient, misleading, and non-compliant with state public health protections. This deceptive rendering creates an unlawful risk of exposure, directly violating:

â€¢ California Health & Safety Code Â§ 41700 (Public Nuisance Law): No person shall discharge from any source quantities of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health, or safety of any such persons

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- **California Public Resources Code § 21083:** Mandates a finding of a "significant effect on the environment" if the environmental effects of a project are individually limited but cumulatively considerable.

3. STATUTORY ENFORCEMENT: CRIMINAL AND CIVIL PENALTIES

Any operational discharge resulting from a flawed regulatory submission that violates **HSC § 41700** triggers substantial personal and corporate liabilities enforced under **California Health and Safety Code Division 26, Chapter 4, Article 3**:

A. Criminal Misdemeanor Penalties (HSC § 42400 et seq.)

- **General Nuisance Violations (§ 42400):** Any person or corporate officer who violates air pollution control laws or **HSC § 41700** is guilty of a misdemeanor, punishable by a fine of up to **$5,000**, imprisonment in the county jail for up to **six months**, or both.
- **Public Nuisance with Actual Injury (§ 42400(c)):** If an owner or operator operates a source that violates **HSC § 41700** and causes physician-verified physical injury to a considerable number of persons or the public (such as localized toxic plumes reaching Inyokern School), the offense is elevated to a misdemeanor punishable by a fine up to **$15,000**, up to **nine months in jail**, or both.
- **Per-Day Offense Mandate:** Under **HSC § 42400(e)**, **each individual day** during any portion of which a violation occurs constitutes a separate, cumulative criminal offense.

B. Civil Penalties (HSC § 42402 et seq.)

- **Strict Liability Civil Penalties (§ 42402):** General violations or unauthorized emissions face strict liability penalties ranging from **$5,000 to $10,000 per day**. If a violation of **HSC § 41700** results in actual health injuries to the public, civil liability escalates to a maximum of **$15,000 per day**.
- **Negligent Emissions Risk (§ 42402.1):** If the applicant negligently emits toxic contaminants in violation of **HSC § 41700** causing great bodily injury or death to any person, they face civil liability up to **$100,000 per day**.

- **Knowing and Intentional Concealment (§ 42402.3):** Any person or corporation who willfully and intentionally emits air contaminants, or violates **HSC § 41700** while posing an active risk of injury, faces extreme civil statutory penalties. Individuals are liable for up to **$125,000 per day**, while corporations (such as R&L Capital Inc.) are liable for an amount up to **$500,000 per day**. If the intentional omission causes great bodily injury or death, corporate penalties escalate up to **$1,000,000 per day**.

4. THE MODELING FLAW AS A FRAUDULENT MISREPRESENTATION
The mathematical modeling submitted on behalf of the applicant utilizes a highly restrictive, artificial scenario that actively misrepresents real-world operational hazards to the citizens of Kern County and the students of Inyokern School. This constitutes **fraudulent misrepresentation and omission** to state authorities under the following parameters:

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- **Knowing Concealment of Cumulative Impacts:** The HRA calculates toxic air contaminants (TACs) based on the isolated, sequential testing of a *single* engine. This completely ignores the cumulative load required under **14 CCR § 15130**, which mandates an analysis of cumulative impacts. Supplying an isolated model while holding public intent to build a dual-phase site constitutes a material omission of fact.
- **Deceptive Exclusion of Emergency Blackout Scenarios:** The applicant fails to model a worst-case emergency blackout or Public Safety Power Shutoff (PSPS) event where all 80 generators fire up simultaneously. Omitting standard regional emergency power disruptions from an emergency backup assessment is fundamentally deceptive.
- **Misrepresentation of Emissions Control Efficiency ("Cold Start" Spikes):** The HRA assumes that the Selective Catalytic Reduction (SCR) and Diesel Particulate Filters (DPF) will function at optimal control efficiency at all times. This represents a severe engineering omission. In a rapid grid failure, 80 industrial engines will experience a simultaneous "cold start." Until the exhaust systems reach peak catalytic operating temperature, un-scrubbed Diesel Particulate Matter (DPM) and Nitrogen Oxides (NO_x) will be released directly into the local airshed without filtration. Presenting hot-running emissions profiles as baseline protection while omitting cold-start spikes is a material misrepresentation of data.

CONCLUSION

Presenting single-engine maintenance testing as the baseline for maximum public health risk, while omitting the predictable, simultaneous operation of an 80-engine network, constitutes a deceptive submission to the California Energy Commission and the people of California. This pattern of intentional fragmentation and data omission constitutes structural fraud against CEQA compliance safeguards. We demand that the CEC deny the Small Power Plant Exemption, recognize the full 130-acre scope of this project, and order a complete, non-exempt Environmental Impact Report.
