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Energy Resources Conservation and Development Commission

California Energy Commission

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**11-AFC-2**

TN # 68693

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In the Matter of:

APPLICATION FOR CERTIFICATION FOR THE  
HIDDEN HILLS SOLAR ELECTRIC  
GENERATING SYSTEM

Docket No. 11-AFC-02

**MOTION TO TERMINATE APPLICATION FOR CERTIFICATION FOR THE  
HIDDEN HILLS SOLAR ELECTRIC GENERATING SYSTEM**

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## TABLE OF CONTENTS

I. INTRODUCTION AND SUMMARY OF RELIEF REQUESTED.....	1
II. HIDDEN HILLS SEGS AFC PROJECT SITING: SUBMISSION OF MATERIAL FALSE STATEMENTS AND MISREPRESENTATION.....	6
1. STATEMENT OF FACTS.....	6
2. ARGUMENTS.....	8
III. HHSEGS PUBLIC SAFETY HAZARDS: EVIDENCE OF SUBMISSION OF MATERIAL FALSE STATEMENTS AND OMISSION OF CRITICAL MATERIAL FACTS.....	10
1. STATEMENT OF FACTS.....	10
2. ARGUMENTS.....	15
IV. CRITICAL OMISSIONS OF SIGNIFICANT MATERIAL FACTS RELATED TO THE PROPOSED HHSEGS OPERATIONS.....	19
1. STATEMENT OF FACTS.....	19
2. ARGUMENTS.....	20
V. COMPANY REPRESENTATIVES PORTRAYING CITIZENS AT LARGE.....	22
1. STATEMENT OF FACTS.....	22
2. ARGUMENTS.....	23
VI. PRAYER FOR RELIEF.....	25

Exhibit I: Comment Letter, Law Offices of Briggs and Alexander, 7/31/12

Exhibit II: The Tsiamis Parcel in the HHSEGS Project Site

Exhibit III: BSE Preliminary Prospectus, June 9, 2011, p. 13/14

Exhibit IV: BSE Prospectus, March 21, 2012, p. 14/15

Exhibit V: BSE Preliminary Prospectus, June 9, 2011, p. 28

Exhibit VI: BSE Prospectus, March 21, 2012, p. 29

Exhibit VII: CA Dept. of Real Estate Records, Gabler

Exhibit VIII: CA Dept. of Real Estate Records, KEOL Resources International

Exhibit IX: KEOL Resources International, Introduction Letter, May 10, 2011

## **I. INTRODUCTION AND SUMMARY OF RELIEF REQUESTED**

On August 5, 2011, the Chief Executive Officer of Bright Source Energy, Inc., John M. Woolard, as the sole member of Hidden Hills Solar Holdings, LLC., filed two separate Applications For Certification (AFC) collectively referred to as “Hidden Hills Solar Electric Generating System” or “HHSEGS”. Upon filing, Mr. Woolard attested and declared under penalty of perjury that the contents of this Application were truthful and accurate to the best of his knowledge.

Within the AFC, Applicant stated in at least three separate sections that the land the proposed project was to be sited on “is owned by The Roland John Wiley Trust, The Mary Wiley Trust and Section 20, LLC.” Applicant continued by stating this land “is under options to lease with Bright Source.”

Applicant also provided the assessor parcel numbers “for the site”, which included a parcel owned by the Tsiamis family. However, approximately one year after filing the HHSEGS AFC, it was revealed that the status of the proposed project site was materially false as Applicant failed to accurately and truthfully present relevant and pertinent facts regarding ownership of all land within the proposed project site boundaries, the actual status of lease options and/or agreements with all landowners or that they had, in fact, not secured the proposed project site in its entirety as originally claimed.

Instead, the “Tsiamis parcel” was presented by the Applicant as a property “within 1,000 feet of the Hidden Hills SEGS”, thus providing demonstrable evidence of the Applicant’s intent to misrepresent, mislead and materially falsify information through the inclusion of the Tsiamis parcel in their description of secured property “for the site” in advance of coming to any type of agreement with the property owners.”

Additionally, on June 9, 2011, Bright Source Energy disclosed to investors significant and potential risks that may be associated with their proprietary technology, software, control systems, designs and heliostat/mirror functions, risks that may be extremely relevant to evaluating public safety hazards resulting from the deployment of the HHSEGS design. However, no disclosure of these risks were incorporated in the HHSEGS AFC, despite being filed nearly two months after the June 9, 2011 disclosure to investors.

On November 17, 2011, Applicant submitted responses to CEC Staff regarding Data Requests #29 and #30, which sought information regarding potential heliostat malfunctions that might result in potential public safety hazards to passing motorists, residents, and non-avian wildlife.

Yet even when presented with a direct opportunity to disclose potential risks to CEC Staff or the Commission, the Applicant continued to perpetuate their former omissions of material facts related to the unproven reliability of their systems and instead, submitted responses to Staff that were completely contrary to what had been disclosed to investors regarding the potential risks associated with their proprietary software, systems and designs.

Therefore, evidence indicates that when the AFC was filed for the HHSEGS on August 5, 2011, and throughout these proceedings, Applicant has knowingly and willfully conspired to misrepresent, mislead, omit and falsify material facts related to the proposed project as Applicant's statements have been neither truthful or accurate; thus, committing perjury through direct and provably violations of §§ 20 C.C.R. 1707<sup>(1)</sup> and Public Resource Code 25534(a)(1)<sup>(2)</sup>

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(1) § 1707. Authority and Verification. Every notice and application shall be dated and signed by each applicant attesting under penalty of perjury to the truth and accuracy of such notice or application.

(2) Pub. Resource Code, Section 25534 (a) The commission may, after one or more hearings, amend the conditions of, or revoke the certification for, any facility for any of the following reasons: (1) Any material false statement set forth in the application, presented in proceedings of the commission, or included in supplemental documentation provided by the applicant.

Furthermore, during the HHSEGS AFC process, independent research has discovered the Applicant's omissions of facts regarding critical components of the facility design, reliability, electrical production estimates, efficiency and potential costs of the proposed system to be deployed at the Hidden Hills SEGS.

Though the Applicant described these factors as "significant" and "substantial" to investors, to date, these same issues have still failed to be disclosed by the Applicant to the CEC or Staff, despite having potentially significant bearing and import in the decision making process regarding site certification for the facility.

For additional consideration, some of these factors were well known by the Applicant prior to filing the AFC on August 5, 2011. Others were discovered approximately a year ago in late November 2011, providing ample time for disclosure and potential resolution – none of which can now occur because of the Applicant's failure to exercise due diligence in the AFC process through appropriately informing the Commission and/or Staff in a timely manner.

Finally, in a comment letter submitted to the CEC Staff by Nicholas T. Gabler, (*See* Nicholas T. Gabler's Comments Regarding Inyo County's September 19, 2012, Comments To Hidden Hills SEGS Applicant's Motion In Limine, October 3, 2012), Mr. Gabler fails to disclose that not only is he a licensed California Corporate Real-Estate Broker, he is also the Designated Officer of KEOL Resources International, a company that was "appointed as the Hidden Hills SEGS Community Outreach Representative for Bright Source Energy" in February 2011.<sup>(3)</sup>

The failure of Mr. Gabler to disclose his direct corporate connection to Bright Source Energy or Bright Source Energy's failure to disclose that KEOL and Mr. Gabler were appointed by the company as representatives for the Hidden Hills SEGS, continues a traceable trend by the

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(3) KEOL Resources International, Inc., About Us, available at: <http://www.keolgroup.com/about-us.html>

Applicant of misrepresentation and critical omissions in addition to issuing at least two known and provable false statements during the AFC process thus far.

As a result, the truthfulness, credibility and accuracy of any past or future statements, data, responses or testimony provided by the Applicant has become suspect and cannot be relied upon with any reasonable degree of certainty.

Evidence indicates the Applicant has already committed perjury upon filing the Hidden Hills SEGS Application for Certification and in subsequent data responses. There is no reason to believe the Applicant would hesitate to do so again during the Evidentiary Hearings, any future proceedings or in the event the proposed project is approved.

As such, it fails to serve the public interest in any manner to continue to authorize the expenditure of public resources for the purposes of processing the Hidden Hills SEGS AFC when facts have been brought to light clearly demonstrating the Applicant's lack of credibility and failure to exercise due diligence through appropriate disclosure.

The Applicant has done this by not accurately or truthfully informing the Commission, Staff and interested parties of materially relevant facts, falsifying material facts, misrepresenting material facts, omitting key material facts, failing to disclose potential risks, possible public safety hazards, reliability and equipment issues associated with the proposed project's design that were self described by Applicant as "significant" and "substantial", has committed perjury in at least two verifiable instances, and has failed to disclose that comments submitted in these proceedings under the guise of a concerned independent businessman and citizen at large were, in fact, actually submitted by an officer of a company that has been retained by Applicant and has acted as their representative and consultant for the proposed Hidden Hills SEGS since February 2011.

Therefore, as a party in this proceeding and in accordance with the provisions granted pursuant to §§ 20 C.C.R. 1720.2(4), I hereby seek an Order by the Commission for the Termination of the Hidden Hills Solar Electric Generating System's Application For Certification for the reasons set forth in this Motion and for the Applicant's direct violations of §§ 20 C.C.R. 1707, and Public Resource Code 25534(a)(1)(4). (*Also see*, Public Resource Code 25210, 25216.5(a) and 25519(b)).

This Motion is in compliance with the conditions set forth under Public Resource Code Section 25534(a)(5) as represented by the Commission regarding the Hidden Hills SEGS Application for Certification when a Public Informational Hearing was held on November 3, 2011.

It is also hereby respectfully requested that in the event the Commission seeks to hold public Hearings on this Motion To Terminate the Application For Certification of the Hidden Hills Solar Electric Generating System, they do so at a location in proximity to the proposed project site. Potential locations include Tecopa or Shoshone in California and Pahrump or Las Vegas in Nevada.

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(4) § 1720.2. Termination of NOI, AFC, and SPPE Proceedings. (a) The committee or any party may, based upon the applicant's failure to pursue an application or notice with due diligence, file a motion to terminate the notice or application proceeding. Within 30 days of the filing of such a motion, the committee may hold a hearing and provide an opportunity for all parties to comment on the motion. Following the hearing, the committee shall issue an order granting or denying the motion. (b) A committee order terminating a proceeding must be approved by the full commission.

(5) Pub. Resource Code, Section 25534 (a) The commission may, after one or more hearings, amend the conditions of, or revoke the certification for, any facility for any of the following reasons: [emphasis added]

## **II. HIDDEN HILLS SEGS AFC PROJECT SITING: SUBMISSION OF MATERIAL FALSE STATEMENTS AND MISREPRESENTATION**

### **1. STATEMENT OF FACTS**

On August 5, 2011, the Chief Executive Officer of Bright Source Energy, Inc., John M. Woolard, as the sole member of Hidden Hills Solar Holdings, LLC., filed two separate Applications For Certification (AFC) to construct and operate the Hidden Hills Solar Electric Generating System plants 1 and 2 and the common area (collectively referred to as “Hidden Hills Solar Electric Generating System” or “HHSEGS”).

Upon filing, Mr. Woolard attested and declared under penalty of perjury that the contents of this Application were truthful and accurate to the best of his knowledge. (*See HHSEGS Cover Letter, August 5, 2011*).

In the HHSEGS AFC, Applicant described the proposed project site in multiple locations as:

“The Applicant intends to acquire a leasehold estate in privately held land located in the Mojave Desert between Death Valley and the California-Nevada border as the site for their respective plants and the common area. The land is owned by The Roland John Wiley Trust, The Mary Wiley Trust and Section 20, LLC and is under options to lease with BrightSource.” (*See HHSEGS AFC 1.0 Executive Summary, p. 1-1*) [emphasis added.]

“HHSEGS is located on land owned by The Roland John Wiley Trust, The Mary Wiley Trust, and Section 20, LLC. The project site is undeveloped, and therefore, has no postal address. However, Tecopa Road (also known as the Old Spanish Trail Highway) passes along the southern edge of the site. As shown in Figure 1.5-1, the land area (project boundary) consists of Township 22 North, Range 10 East, Sections (or portions thereof) 15, 16, 20, 21, 22, 23, 26, 27, and 28. The property boundary encompasses 3,277 acres.



The assessor parcel numbers (APNs) for the site are: 048-110-002, 048-120-010 and all parcels in Book 048 pages 50, 60, 61, and 64 through 71.” (See HHSEGS AFC, 1.0 Executive Summary, Facility Location, p. 1-5)

“Hidden Hills Solar I, LLC, and Hidden Hills Solar II, LLC, will each own its respective solar plant individually, and together the entities will own the shared facilities located on the common area as tenants in common. Hidden Hills Solar I, LLC, and Hidden Hills Solar II, LLC, will hold leasehold interests in privately held land located in the Mojave Desert between Death Valley and the California-Nevada border as the site for their respective solar plants and the common area. The land is owned by The Roland John Wiley Trust, The Mary Wiley Trust, and Section 20, LLC, and is currently under options to lease with Bright Source.” (See HHSEGS AFC, 2.0 Project Description, Project Ownership, p. 2-6) [emphasis added].

The Applicant also stated that;

“Assessor parcel numbers and the names of the private landowners within 1,000 feet of the HHSEGS site are included in Appendix 1A.” (See HHSEGS AFC, 1.0 Executive Summary, p. 1-5)

Within the above referenced Appendix 1A, the Applicant listed the “Tsiamis Parcel” as a property owner within 1000 feet of the Hidden Hills SEGS. (See HHSEGS Appendix 1A, Landowner Information, Property Owners within 1000 Feet of Hidden Hills SEGS, Landowner, Parcel #048-690-08-00, Tsiamis, p. A-12).

The Applicant also provided a map depicting the Townships, Sections and Ranges of the proposed HHSEGS project site. (See HHSEGS AFC, 1.0 Executive Summary, Figure 1.5-1, Property Boundary).

On July 31, 2012, a letter from the Law Offices of Briggs and Alexander was sent to the California Energy Commission representing the Tsiamis family, which outlined how the Applicant had included “the Tsiamis parcel in their application in advance of coming to any type of agreement with the property owners.” (*See* Exhibit I, July 31, 2012 Comment Letter to the California Energy Commission Re: HHSEGS [11-AFC-02] from the Law Offices of Briggs and Alexander, TN-66487).

## **2. ARGUMENTS**

Throughout the HHSEGS AFC and Applicant’s multiple descriptions of the proposed project site, its landowners, the lease options the Applicant had secured, and maps depicting the project site boundaries - not once did the Applicant depict, describe, announce, disclose or inform to the Commission that the proposed project site had additional landowners within its boundaries that had yet to reach an agreement with the Applicant outside those described in the HHSEGS AFC.

Applicant also provided the assessor parcel numbers “for the site”, which included a parcel owned by the Tsiamis family. However, approximately one year after filing the HHSEGS AFC, it was revealed that the status of the proposed project site was materially false as Applicant failed to accurately and truthfully present relevant and pertinent facts regarding ownership of all land within the proposed project site boundaries, the actual status of lease options and/or agreements with all landowners or that they had, in fact, not secured the proposed project site in its entirety as originally claimed.

Instead, the “Tsiamis parcel” was presented in the AFC as a property “within 1,000 feet of the Hidden Hills SEGS” despite the fact that the Tsiamis parcel is located directly within the proposed project boundaries. (*See* Exhibit II, The Tsiamis Parcel in the HHSEGS Project Site.)

The Applicant could have easily provided an accurate and truthful description of landowner information in the AFC files and its status through issuing such statements as, “The majority of the land is owned by X with the following exception(s)” or “Applicant has secured lease options and/or agreements with all landowners except X and is currently negotiating with X”, etc.

In other words, Applicant had a wide range of options that would have provided accurate and truthful facts regarding the status of landowners within the project site boundary – options they willfully chose to ignore. Instead, they included the assessor parcel number in the description “for the site” in advance of coming to any type of agreement with the Tsiamis family.

Therefore, evidence indicates that when the Applicant filed the HHSEGS AFC on August 5, 2011, they did so with the intent to misrepresent, inaccurately characterize and falsify material facts with respect to the actual status of the landowners and agreements associated with the proposed project site as Applicant’s statements and presentation in the AFC files were neither truthful or accurate.

Applicant then compounded this falsehood by perpetuating it for an entire year without voluntary disclosure to the Commission, despite Applicant being engaged in negotiations with the Tsiamis family since June 2011 and obviously having significant difficulty reaching an agreement.

For further consideration, the letter submitted to the CEC on behalf of the Tsiamis family paints the Applicant actions over the course of the negotiations in a particularly ugly light, casting further doubt with respect to the Applicant’s integrity, credibility and “good faith efforts”.

In fact, because of the Applicant’s actions, which included the omission of the Tsiamis parcel within the proposed project site’s boundaries as well as false and inaccurate statements regarding its actual status in relation to the Applicant securing the proposed site, the Tsiamis family was

forced to secure legal assistance and incur potentially significant costs in terms of both time and money in efforts to protect themselves from what they perceived as threatening and coercive strategies described as, “tactics being implemented by [the Applicant] in an attempt to strong arm the citizens of the area out of their property at unfair prices” in order to “gain a monopoly on all the surrounding real estate.”

The experience described by the Tsiamis family has also raised concerns that Applicant might be inclined to repeat similar kinds of tactics on additional local stakeholders and/or property owners in the proposed project site’s vicinity as well.

The letter also accused the Commission of “ignoring the tactics used by Bright Source to obtain the necessary property for their proposed project.”

Regardless of the validity of this accusation, what cannot be ignored is Applicant’s provable intent to present inaccurate and material false statements within the AFC, the act of committing perjury upon filing the AFC, failure to apply due diligence by withholding relevant material facts related to the siting location of the proposed project for an entire year that was never voluntarily disclosed and that Applicant is demonstrably guilty of direct violations of §§ 20 C.C.R. 1707 and Public Resource Code 25534(a)(1).

### **III. HHSEGS PUBLIC SAFETY HAZARDS: EVIDENCE OF SUBMISSION OF MATERIAL FALSE STATEMENTS AND OMISSION OF CRITICAL MATERIAL FACTS**

#### **1. STATEMENT OF FACTS**

During the discovery period of the HHSEGS AFC process, CEC Staff submitted data requests concerning potential public safety hazards resulting from heliostat positioning, potential heliostat/mirror malfunctions, excessive solar radiation exposure, and glint and glare impacts to

passing motorists, residents and non-avian wildlife. Some of the Applicant's responses to these requests included:

“While it is theoretically *possible* for a malfunctioning heliostat to concentrate solar radiation on a position outside the perimeter of the plant, this possibility will be eliminated in practice by adding any known sensitive point, such as a road or residence to the list of forbidden areas within each heliostat's controller. This way, each heliostat individually will avoid aiming reflected sunrays at the sensitive area which ensures that there will be no concentration of solar radiation on it. Therefore, there is no potential solar radiation exposure hazards and the reflected luminance for normal and emergency operation modes to motorists, residents and non-avian wildlife.” (See 2011-11-17 Data Response Set 1A, Data Request #29, p. 23).

“To ensure that the heliostats will be operated in a way that avoids the possibility for inadvertent direction of unacceptable levels of light toward ground level locations surrounding the project site, Applicant could prepare a Heliostat Positioning Plan (HPP) similar to that implemented for the Ivanpah Solar Electric Generating System. The HPP would identify heliostat movements and positions, including those that would occur during reasonably possible malfunctions, which could lead to potential exposure of observers at locations outside the site. The HPP would include a description of how the programmed heliostat operation would avoid potential exposure of viewers outside the site to unacceptable levels of reflected light. (*Id.*)

“As stated above, neither heliostat movements nor malfunctions will pose a hazard to motorists, residents or non-avian wildlife”. (See 2011-11-17 Data Response Set 1A, Data Request #30, p. 24).

On June 9, 2011, Bright Source Energy Inc., filed a preliminary prospectus for investors with the United States Securities and Exchange Commission<sup>(6)</sup> prior to filing the HHSEGS AFC on August 5, 2011. (*See* Exhibit III: BSE Preliminary Prospectus, June 9, 2011, p. 13/14)

This prospectus contained disclosures and risk factors associated with their business, industry and facility designs as well as the following disclaimer, which stated, “Neither the Securities and Exchange Commission nor any other regulatory body has approved or disapproved of these securities or passed upon the accuracy or adequacy of this prospectus”.

The following excerpt described how their proprietary technology had a limited history and may perform below expectations when implemented on utility-scale projects.

**“Our proprietary technology has a limited history and may perform below expectations when implemented on utility-scale projects.** We use proprietary technology that has not been previously implemented on utility-scale projects of the size and complexity of the Ivanpah Solar Electric Generating System, or Ivanpah, and Ivanpah may experience technological problems that neither we nor any of the third-party independent engineers that have reviewed our projects are able to foresee. The systems that we will implement on utility-scale projects include a solar field with heliostats controlled by advanced software systems that concentrate sunlight onto a receiver to produce high-temperature steam. If the implementation of our proprietary technology is unsuccessful, it could negatively impact the successful operation of projects using our systems and may result in additional payments, deductions or defaults under key project

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(6) Amendment No. 2 To Form S-1 Registration Statement, available at: [http://www.faq.s.org/sec-filings/110609/BrightSource-Energy-Inc\\_S-1.A/](http://www.faq.s.org/sec-filings/110609/BrightSource-Energy-Inc_S-1.A/), downloaded on 2/07/12.

documents, including our PPAs or other financing arrangements.”

“In addition, there is a lack of long-term reliability data for our proprietary system. Actual long-term performance of these parts, including heliostats in the field, may fall short of expectations. Heliostats may be susceptible to damage from weather-related or other unforeseen events. Equipment performance issues at our projects could result in significant operational problems for our company, including increased maintenance costs, decreased revenue, inability to meet energy delivery requirements or defaults under project or financing documents”. p. 13/14

On March 21, 2012, Bright Source Energy Inc., again filed an amendment with the United States Securities and Exchange Commission.<sup>(7)</sup> (*See* Exhibit IV: BSE Prospectus, March 21, 2012, p. 14/15). Though similar to the June 2011 description, a new fact had been published that described a system failure at the Coalinga facility in late November 2011 as outlined below.

**“Our proprietary technology has a limited history and may perform below expectations when implemented on utility-scale projects.** We use proprietary technology that has not been previously implemented on utility-scale projects of the size and complexity of the Ivanpah Solar Electric Generating System, or Ivanpah, and Ivanpah may experience technological problems that neither we nor any of the third-party independent engineers that have reviewed our projects are able to foresee. The systems that we will implement on utility-scale projects include a solar field with heliostats controlled by advanced software systems that concentrate sunlight onto a receiver to

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(7) United States Securities and Exchange Commission, Amendment No. 8 To Form S-1 Registration Statement Under the Securities Act of 1933, Registration No. 333-173686, Bright Source Energy, Filed March 21, 2012, Risk Factors, p. 24/25, downloaded on 9/05/12, available at: [http://www.nasdaq.com/markets/ipos/filing.ashx?filingid=8116961#D173853DS1A\\_HTM\\_TOC173853\\_2](http://www.nasdaq.com/markets/ipos/filing.ashx?filingid=8116961#D173853DS1A_HTM_TOC173853_2)

produce high-temperature steam. If the implementation of our proprietary technology is unsuccessful, it could negatively impact the successful operation of projects using our systems and may result in additional payments, deductions or defaults under key project documents, including our PPAs or other financing arrangements.”

“In addition, there is a lack of long-term reliability data for our proprietary systems and technology. Actual long-term performance of these parts, including heliostats in the field, may fall short of expectations. Heliostats may be susceptible to damage from weather-related or other unforeseen events. For example, a severe windstorm in late November 2011 at the Coalinga Solar-to-Steam for EOR project resulted in movement in some of the pylons on which the heliostats are mounted. We are completing modifications to prevent any future pylon movement at Coalinga and are deploying redesigned pylons in much of the Ivanpah project and modifying some plant operating guidelines to reduce the risk of a similar occurrence in the future and enable the heliostats to operate at higher wind loads. However, we cannot be certain that these modifications or revised guidelines will prevent similar occurrences in the future.” p. 14/15 [italicized emphasis added.]

The following system components are solely defined by Bright Source as “proprietary”.<sup>(8)</sup>

- Solar Receiver/Boiler: Concentrated sunlight converts water in a boiler to high-temperature steam.
- Heliostats: Software-controlled field of mirrors concentrate sunlight on a boiler mounted on a central tower.
- Optimization/Control Software: Optimization software and solar field integrated control system manage heliostat positioning to optimize concentrated sunlight on the boiler.

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(8) Available at: <http://www.brightsourceenergy.com/elements-of-a-breakthrough>



## **2. ARGUMENTS**

On June 9, 2011, Bright Source Energy disclosed to investors significant and potential risks that may be associated with their proprietary technology, software, control systems, designs and heliostat/mirror functions.

On August 5, 2011, the Chief Executive Officer of Bright Source Energy, Inc., John M. Woolard, as the sole member of Hidden Hills Solar Holdings, LLC., filed two separate Applications For Certification (AFC) to construct and operate the Hidden Hills Solar Electric Generating System plants 1 and 2 and the common area (collectively referred to as “Hidden Hills Solar Electric Generating System” or “HHSEGS”).

Upon filing, Mr. Woolard attested and declared under penalty of perjury that the contents of this Application were truthful and accurate to the best of his knowledge. However, no disclosure of these risks were incorporated in the HHSEGS AFC filed on August 5, 2011, nearly two months after the June 9, 2011 disclosure to investors.

On November 17, 2011, Applicant submitted responses to CEC Staff regarding Data Requests #29 and #30, which sought information regarding potential heliostat malfunctions that might result in potential public safety hazards to passing motorists, residents, and non-avian wildlife through excessive exposure to solar radiation, luminance, glint and glare.

Applicant’s responses provided a glowing account of the safety and reliability of the proprietary software system that would be used to prohibit any potential malfunction of the heliostat/mirror assemblies. Applicant also extolled the virtue of additional backup and safety nets that would prevent system wide failures in the remote event that even a solitary heliostat/mirror assembly malfunctioned.

According to Applicant's responses to Data Request #29 and #30, the sole means of insuring heliostat/mirror assemblies will be incapable of focusing radiation, luminescence, glint or glare outside the project's perimeter will rest on their proprietary software.

Applicant described how they would accomplish insuring public safety "by adding any known sensitive point, such as a road or residence to the list of forbidden areas" and "through the preparation of a Heliostat Positioning Plan (HHP)." Applicant went on further by adding, "The HPP would include a description of how the programmed heliostat operation would avoid potential exposure of viewers outside the site to unacceptable levels of reflected light. [emphasis added]

Applicant's confident response to Staff's data requests provides no indication of the actual experimental and wholly unproven status of this same proprietary software system. When comparing Applicant's description of this same proprietary system to investors, a much different picture emerges regarding its potential reliability, safety and risks.

"If the implementation of our proprietary technology is unsuccessful, it could negatively impact the successful operation of projects using our systems."

"Actual long-term performance of these parts, including heliostats in the field, may fall short of expectations."

"Equipment performance issues at our projects could result in significant operational problems for our company."

As described above, the proprietary technology and related systems Applicant described to Staff, the singular source of public protection from potential exposure hazards, may be "unsuccessful, fall short of expectations and result in significant operational problems."

Evidence shows that, not only did Applicant fail to accurately and truthfully disclose material facts they clearly had knowledge of prior to filing the HHSEGS AFC, when presented with a direct opportunity during the discovery period to disclose potential risks to public safety and exposure hazards resulting from the heliostat/mirror assemblies and the proprietary software that controls them, Applicant failed again to appropriately present, disclose, inform or provide an accurate or truthful response.

Instead, Applicant chose to mislead, misinform and issue materially false statements that failed to accurately characterize the untested and experimental nature of their proprietary software and heliostat/mirror system, a system with an unproven track record regarding safety, reliability or potentially serious exposure hazards via excessive solar radiation, glint and/or glare.

If Applicant had chosen to disclose these potential risks in the AFC, in their responses to Staff's Data Requests or in any timely manner throughout these proceedings, suggestions for potential mitigation measures may have been possible.

But the fact of the matter is, the Applicant never chose to disclose these risks and instead, issued material false statements regarding the actual reliability and status of their proprietary systems as well as omitting potentially critical risk factors from the AFC review process.

Available evidence indicates Applicant is completely willing to allow passing motorists, residents, visitors to the area and/or non-avian wildlife to be put at risk, to be victims of potential malfunctions and to live with the consequences if their system or equipment "falls short of expectations" or is "unsuccessful".

Furthermore, shortly after Applicant submitted their responses to Staff's Data Requests #29 and #30, a major wind event at the Coalinga facility caused a previously unforeseen shifting of

the pylons the heliostat/mirrors are attached to. While Applicant disclosed these facts to investors in March 2012, again they remained silent to the Commission and CEC Staff charged with reviewing the HHSEGS AFC – and have continued to stay silent throughout these proceedings.

Applicant has claimed they have since engaged in completing modifications to both pylons and plant operating guidelines to reduce the risk of a similar occurrence in the future. However, Applicant has not even been willing to disclose these facts during the HHSEGS AFC process, much less have these modifications reviewed for accuracy, adequacy or within the context of analyzing public safety hazards in a more transparent or public arena such as the current siting process and regulatory review for the HHSEGS.

Evidence indicates that when the Applicant filed the HHSEGS AFC on August 5, 2011, they knowingly and willfully conspired to omit material facts about their proprietary technology, systems and designs regarding its potential risks, reliability and unproven safety features.

Applicant then committed direct violations of §§ 20 C.C.R. 1707 and Public Resource Code 25534(a)(1) during the discovery period through the responses provided to Data Request #29 and #30, which clearly shows the Applicant's intent to inaccurately characterize and mislead Staff and the Commission regarding the actual unproven status of their proprietary systems, its potential public safety hazards or any potential environmental considerations that may render Applicant's control of the heliostat/mirror positioning as "moot".

Finally, Applicant had ample opportunity over the course of these proceedings to act with due diligence and attempt to remedy the omission of critical and/or material facts, correct former misstatements, and accurately disclose the potential risks and hazards that may be associated with the deployment of their proprietary technology and design– opportunities Applicant continually ignored in favor of hiding these facts from any potential outside scrutiny or review.

#### IV. CRITICAL OMISSIONS OF SIGNIFICANT MATERIAL FACTS RELATED TO THE PROPOSED HHSEGS OPERATIONS

##### 1. STATEMENT OF FACTS

On June 9, 2011, Bright Source Energy Inc., filed a preliminary prospectus for investors with the United States Securities and Exchange Commission<sup>(6)</sup>. (See Exhibit V: BSE Preliminary Prospectus, p. 28). Within it were certain disclosures of risk factors associated with their business and designs, one of which was:

**“Our largely unproven mirror cleaning equipment may perform below our expectations.** The primary maintenance activity for solar thermal projects using our systems will be the routine and continuous washing of reflective mirror surfaces. We anticipate each mirror may need to be cleaned every two weeks to prevent a buildup of dust which would **significantly** degrade the system performance. Mirrors will be washed at night by a dedicated crew using specialized mobile equipment. A truck is being designed that will bring purified water simultaneously to a number of mirrors. We are still designing and testing the specialized equipment to be used in this process. If the mirror washing equipment and process are not effective, actual operating costs may be **substantially higher than forecasted or total electrical production may fall short of estimates**.” p. 28

[italic emphasis added].

On March 21, 2012, Bright Source Energy Inc., filed an additional amendment with the SEC. (See Exhibit VI: BSE Prospectus, March 21, 2012, p. 29). An identical statement regarding the potential risks associated with the mirror cleaning equipment was re-published as was the disclaimer regarding the accuracy or adequacy of the prospectus.

## **2. ARGUMENTS**

### **Mirror Washing Machines, Mirror Degradation And System Performance**

While Applicant disclosed critical and pertinent information regarding the actual status of their Mirror Washing Machines to investors, evidence shows Applicant did not believe a similar disclosure in the HHSEGS AFC was necessary, despite clearly being aware of these facts at least two months prior to filing the AFC on August 5, 2011.

On June 9, 2011, Applicant stated they were still engaged in both designing and testing of the “specialized equipment to be used in this process”. Failure by the Applicant to disclose the experimental nature of this specialized equipment in the AFC or the fact that it was still in the design phase prevented Staff or other interested parties from seeking additional information during the discovery period of the AFC process.

As a result, opportunities to obtain data regarding the current status of the design, potential test results thus far, blueprints or photos depicting how the Mirror Washing Machines would operate or reviewing the feasibility of this specialized equipment and/or processes in relation to facility design, electrical output, efficiency and/or reliability were prevented.

According to the Applicant, the primary risk associated with this experimental equipment is, if this equipment and/or the mirror washing process fails to adequately perform as projected, it will “significantly degrade the system performance”. This in turn, may induce actual operating costs to be substantially higher or that total electrical production may fall short of estimates.

Knowledge and disclosure by the Applicant of critical information related to several key factors regarding the proposed projects feasibility, design, performance, costs, output, efficiency and reliability should be considered by the CEC as essential elements for adequate review of the AFC as well as necessary to meet the requirements and duties of informed decision making.

Failure by the Applicant to exercise due diligence in the AFC process through the disclosure of relevant facts, data and/or critical information to the Commission, in the AFC or subsequent documents when these potential impacts to the facility's performance were clearly acknowledged and self-described by Applicant as both "significant" and "substantial" is wholly inappropriate.

The fact that Applicant had publicly disclosed this information at least two months prior to filing the HHSEGS AFC clearly demonstrates the Applicant's intent to omit highly relevant material facts and information from consideration during these proceedings.

A traceable trend of the Applicant's intent continues when again, Applicant published these identical risk factors on March 21, 2012 – but still fails to disclose these potential risks and omits material facts to the CEC, Staff or interested parties engaged in the HHSEGS AFC review process.

To date, the Applicant has still failed to communicate or disclose to the CEC, Staff, parties or the interested public in any manner risks deemed by the Applicant as "significant" and potentially "substantial" concerning the proposed HHSEGS system, performance, facility, design, output, electrical production, reliability, efficiency, equipment, and/or processes.

This provides clear evidence that the Applicant's intent has consistently been to omit relevant material facts regarding the proposed project's design and systems from the Commission's consideration and throughout the AFC review process.

Finally, with respect to the disclaimer issued by the Securities and Exchange Commission (or any other regulatory body) regarding the accuracy or adequacy of the information contained in Bright Source Energy's preliminary prospectus to investors, one appropriate avenue for determining accuracy and adequacy of the Applicant's claims is through the AFC regulatory review of their systems, designs and projects.

Rigorous scrutiny and analysis by the CEC during the HHSEGS AFC review process would help make determinations regarding the accuracy and adequacy of Bright Source's statements to investors. This in turn would add a layer of protection to investors, the financial markets, the ratepayer and ultimately, to the public at large.

The Applicant may have also benefited through suggestions, ideas, and potential mitigation measures over the course of the AFC review that might have helped increase reliability, output, performance, reduce costs, etc. resulting in a better end product for their business as a whole.

However, because of the Applicant's intentional withholding and omissions of critical facts, information and/or risks relevant to the proposed project, it has ensured no accuracy or adequacy review was possible nor could any relevant evidence be gathered over the course of these proceedings for the Commission's consideration during the Evidentiary Hearings.

## **V. COMPANY REPRESENTATIVES PORTRAYING CITIZENS AT LARGE**

### **1. STATEMENT OF FACTS**

On October 3, 2012, a comment letter was submitted to CEC Staff by Nicholas T. Gabler and docketed as a public record submission for the HHSEGS AFC. (*See* Nicholas T. Gabler's Comments Regarding Inyo County's September 19, 2012, Comments To Hidden Hills SEGS Applicant's Motion In Limine, October 3, 2012),

Mr. Gabler described himself as "a licensed California Corporate Real-Estate Broker" [that] "represents a company that, among others, promotes investment opportunities in Inyo County (Charleston View)." Mr. Gabler identified his California Real-Estate Broker license as #01788774.



An internet search of the State of California's Department of Real Estate records on November 6, 2012, disclosed Mr. Gabler's real estate license number is affiliated with the licensed corporation of KEOL Resources International Corporation, #01482396. (*See* Exhibit VII: CA Dept. of Real Estate Records, Gabler).

An internet search of of KEOL Resources International Corporation through the State of California's Department of Real Estate records on November 6, 2012, disclosed Mr. Gabler is the licensed and Designated Officer of KEOL, which lists one salesperson, Mr. Kelly B. Bradley. (*See* Exhibit VIII: CA Dept. of Real Estate Records, KEOL Resources International).

However, according to KEOL's website, Mr. Bradley is identified as CEO and President while Mr. Gabler is identified as the Corporate Secretary.

The KEOL website also states that, "In February 2011, KEOL was appointed as the Hidden Hills SEGS Community Outreach Representative for Bright Source Energy."<sup>(9)</sup>

On May 10, 2011, KEOL Resources International sent landowners in the HHSEGS project vicinity a letter signed by Kelly Bradley announcing KEOL's appointment as the Community Outreach Consultant for Bright Source Energy. Included within the letter was a map and promotional material for the HHSEGS published by Bright Source Energy, a.k.a., Applicant. (*See* Exhibit IX: KEOL Resources International, Introduction Letter, May 10, 2011).

## **2. ARGUMENTS**

When Mr. Gabler submitted his comment letter to CEC Staff on October 3, 2012, he failed to identify the fact that he is the licensed designated officer of KEOL Resources International Corporation, a company that has been retained by Applicant as a Community Outreach Consultant regarding the proposed HHSEGS since February 2011.

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(9) KEOL Resources International Corporation, About Us, available at: <http://www.keolgroup.com/about-us.html>

Mr. Gabler's comment letter intentionally omitted his and/or his company's position with respect to serving as Applicant's representative and/or consultant for the proposed HHSEGS for nearly the last two years. Instead, evidence clearly demonstrates his comment letter intentionally misrepresented his role by portraying himself merely as "a citizen at large" and concerned, but independent businessman.

Once Mr. Gabler's direct corporate connection to Applicant is revealed, it becomes easy to see the possibility that Mr. Gabler's comment letter regarding Inyo County may be little more than a thinly veiled attempt by Applicant to find an alternative forum to carry forward and support legal arguments set forth in Applicant's Motion In Limine.

The failure of Mr. Gabler to disclose his direct corporate connection to Bright Source Energy and Applicant's failure to disclose that KEOL and Mr. Gabler have been appointed and serving Applicant as representatives and/or consultant for the Hidden Hills SEGS for almost two years, continues a traceable trend of misrepresentation, critical omissions of material facts, and misleading and/or false submissions during the HHSEGS AFC review process.

Given the facts of this matter, it can be reasonably assumed that one potential purpose of both parties failing to disclose their direct corporate connections to each other in conjunction with Mr. Gabler's sudden submission of voluntary statements, comments and quasi-legal arguments submitted after the Commission's response to Applicant's Motion In Limine is to set the stage for Applicant to introduce Mr. Gabler as an "independent real estate broker" with a history in the area capable of providing supportive testimony for positions and legal arguments to be presented at the upcoming Evidentiary Hearings in favor of the Applicant.

While the scenario outlined above cannot be proven beyond a shadow of a doubt because it speculates on future events, the evidence clearly indicates this is a reasonable possibility given

the fact that Mr. Gabler has already submitted statements to the CEC that also argue in favor of, and support positions outlined by the Applicant's Motion In Limine in every conceivable manner.

However, what can be proven is Mr. Gabler's credibility as a concerned independent expert, independent businessman, or independent citizen at large in these proceedings is virtually non-existent.

Furthermore, Applicant's credibility to diligently and accurately disclose direct conflicts of interest with those who have, or may, participate in these proceedings has become highly suspect.

While there may not be a specific set of regulations for power plant siting purposes that mandate Applicant disclose the fact that a comment letter submitted for consideration in the HHSEGS AFC under the guise of an independent individual is actually an appointed representative/consultant of the company, common business ethics should make it readily apparent that such direct conflicts of interests need to be voluntarily, immediately and publicly disclosed to regulators, decision makers and interested parties reviewing the HHSEGS AFC to avoid the obvious appearance of conspiracy to commit fraud.

## **VI. PRAYER FOR RELIEF**

The truthfulness, credibility and accuracy of any past or future statements, data, responses or testimony provided by the Applicant has become suspect and cannot be relied upon with any reasonable degree of certainty.

Evidence indicates the Applicant has already committed perjury upon filing the Hidden Hills SEGS Application for Certification and in subsequent data responses. Therefore, there is no reason to believe the Applicant would hesitate to do so again during the Evidentiary Hearings, any future proceedings or in the event the proposed project is approved.

Applicant has also already repeatedly demonstrated they will not voluntarily disclose pertinent or critical information to the Commission, will omit critical material facts, and will misrepresent, mislead, misinform and falsify material facts in efforts to leverage positions that will favor and/or advance their goals. Furthermore, Applicant's credibility to duly, diligently and accurately disclose direct conflicts of interest with those who have, or may, participate in these proceedings has become highly suspect.

As such, it fails to serve the public interest in any manner to continue to authorize the expenditures of public resources for the purposes of processing the Hidden Hills SEGS AFC when facts have been brought to light clearly demonstrating the Applicant's lack of credibility and failure to exercise due diligence through appropriate disclosure during the AFC process.

In the event the proposed project should be approved, evidence indicates residents in the proposed project site's vicinity can expect nothing more but a continuation of misrepresentation, falsification, omissions, non-disclosure, lack of honesty, accuracy and/or credibility.

Our water, our air, our soil, our wildlife, our environment, our homes and our quality of life will be subjected to monitoring and reporting requirements placed primarily in the hands of an Applicant that cannot be trusted to exercise due diligence, to honestly or accurately report events, who has already engaged in "strong arm tactics" against local property owners, issued veiled threats against Inyo County<sup>(10)</sup>, as well as demonstrating blatant disregard, recklessness and a complete willingness to sacrifice public safety in pursuit of their industrial and financial goals.

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(10) On March 2, 2012, the Applicant submitted a letter to Inyo County, which stated, in part: "In addition, should the County be unable to approve the General Plan Amendment or Rezoning, or if the County is unable to complete its review in accordance with a schedule mutually agreed between the County and the Commission, or should the County require the Applicant to make payments or take actions which are not authorized under existing law, or should the County's approval be subject to legal challenge by any third party, the Applicant reserves its right to request that the Commission approve the project pursuant to Public Resources Code section 25525." (See 2012-03-02 Bright Source Letter To Inyo County, TN-64139.)

Therefore, as a party in this proceeding and in accordance with the provisions granted pursuant to §§ 20 C.C.R. 1720.2, I hereby seek an Order from the Commission for the Termination of the Hidden Hills Solar Electric Generating System's Application For Certification for the reasons set forth in this Motion and for the Applicant's direct violations of §§ 20 C.C.R. 1707, and Public Resource Code 25534(a)(1) (*Also see*, Public Resource Code 25210, 25216.5(a) and 25519(b)).

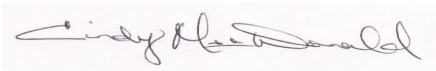
This Motion is in compliance with the conditions set forth under Public Resource Code, Section 25534(a) as represented by the Commission regarding the Hidden Hills SEGS Application for Certification when a Public Informational Hearing was held on November 3, 2011.

Finally, it is also hereby respectfully requested that in the event the Commission seeks to hold public Hearings on this Motion To Terminate the Application For Certification of the Hidden Hills Solar Electric Generating System, they do so at a location in proximity to the proposed project site. Potential locations include Tecopa or Shoshone in California and Pahrump or Las Vegas in Nevada.

The reason for this request is to help alleviate the enormous burdens participating in this process has created on me personally and financially. Holding public hearings in the proximity of the proposed project site would help alleviate additional burdens that may be associated with a Hearing on this Motion.

Dated: November 20, 2012

Respectfully submitted by,

A handwritten signature in black ink, appearing to read "Cindy R. MacDonald", is written over a light pink rectangular background.

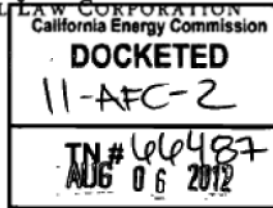
Cindy R. MacDonald/Intervenor  
3605 Silver Sand Court  
North Las Vegas, NV 89032

**EXHIBIT I**  
**Comment Letter, Law Offices of Briggs and Alexander, 7/31/12**

**BRIGGS ALEXANDER**

A PROFESSIONAL LAW CORPORATION  
California Energy Commission

ROBERT W. BRIGGS, RET.  
LEON C. ALEXANDER  
SUE ANN IBRAHIM  
PETER SUNUKJIAN  
NATHALIE ADOURLAN  
JEFFREY WEBER



OF COUNSEL  
BRIAN C. OSTLER, SR.  
ANDREW H. DO

**\*URGENT RESPONSE REQUESTED IN REGARD TO THE HIDDEN  
HILLS SOLAR PROJECT\***

July 31, 2012

**Sent Via U.S. Mail**

Mike Monasmith  
Project Manager  
Siting, Transmission and Environmental Protection (STEP) Division  
California Energy Commission  
1516 Ninth Street, MS-2000  
Sacramento, CA 95814

**Re: Hidden Hills Solar Electric Generating System**  
**Application Docket Number: 11-AFC-2**  
**Parcel No.: 048-690-08**

Dear Mr Monasmith:

This office serves as legal counsel for Peggy Tsiamis and her parents who are owners of a twenty acre parcel located in Hidden Hills, Section 27, Inyo County, APN# 048-690-08. ("Tsiamis Parcel") The Tsiamis family has owned the parcel for almost fifty years. On June 6, 2011 BrightSource approached our client in an attempt to purchase the Tsiamis parcel in conjunction with the solar energy project they are attempting to construct in Hidden Hills, California. The application for this project is currently before your commission for approval.

This correspondence is to inform you that we are of the option that BrightSource is not dealing in good faith with property owners in the area. We are informing your office because as the civil agency responsible for approving the proposed project you should be aware of the tactics being implemented by your applicant in an attempt to strong arm the citizens of the area out of their property at unfair prices. In a brief review of their proposal to your office it is apparent that BrightSource has included the Tsiamis parcel in their application in advance of coming to any type of agreement with the property owners. Further, BrightSource has threatened to remove our clients parcel from their application if we do not accept their unreasonable offer. With this large project in the area pending, and the prospect of solar panels being directly adjacent to the Tsiamis parcel, we feel the parcel will be almost useless unless it is sold to BrightSource. This dilemma has led our client to explore their legal options, including but not limited to an inverse condemnation lawsuit.

It seems BrightSource is attempting to low-ball the individual property owners in the area of the project and gain a monopoly on all of the surrounding real estate. We are of the opinion that at this point the California Energy Commission is inadvertently supporting BrightSource's coercive strategy to monopolize real estate in the area and provide an artificial market place for the purchase of property, by ignoring the tactics used by BrightSource to obtain the necessary property for their proposed project.

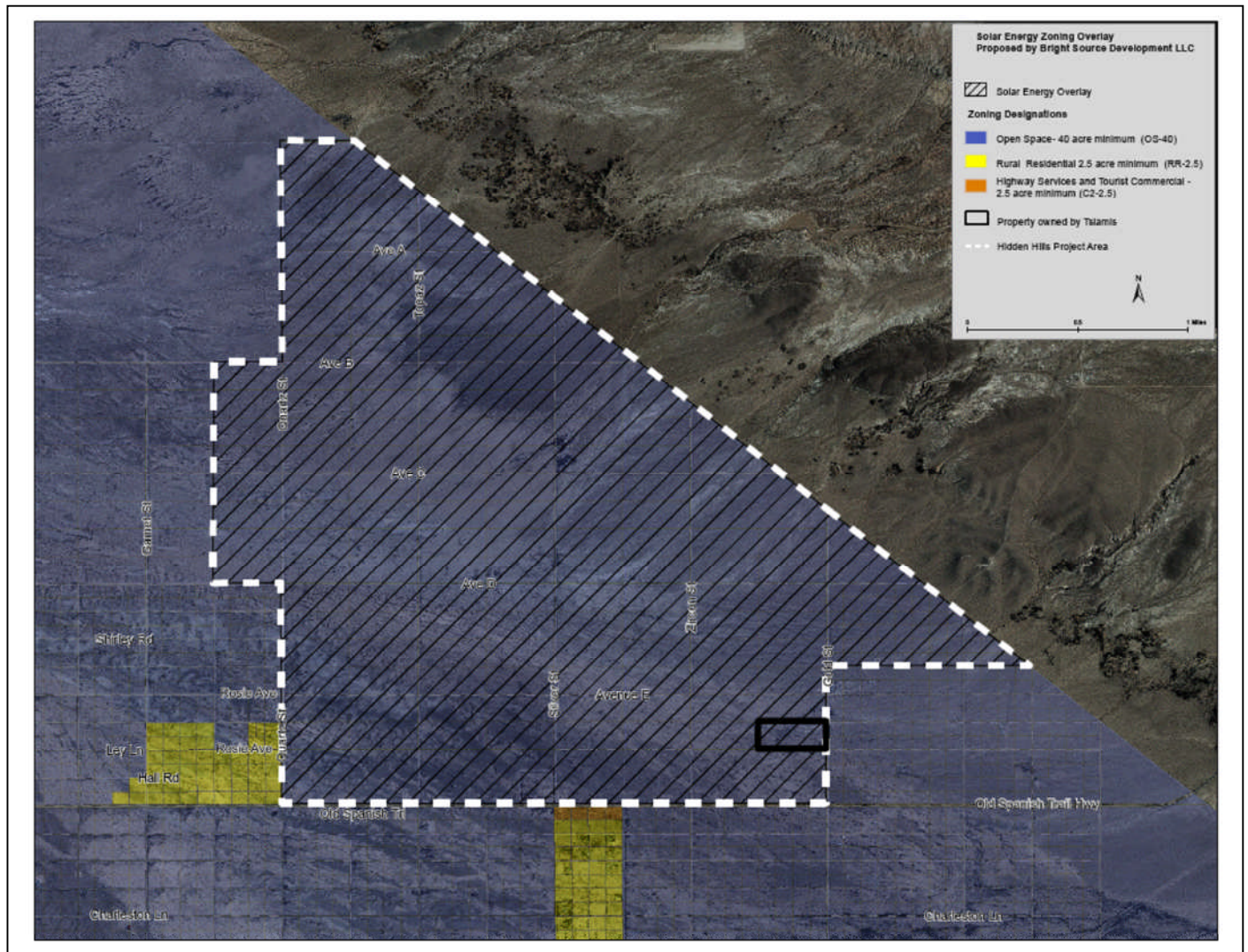
Again, this letter is merely to update you on the position that BrightSource is placing citizens of the area surrounding the project in with a hope you will choose to take action to remedy the situation. Please respond within fifteen days with any feedback and if necessary we are open to an informal meeting to go over the situation.

If you have any questions feel free to contact my office.

Sincerely yours,

Law Offices of Briggs & Alexander  
A Professional Law Corporation  
**DICATED BUT NOT READ**  
Leon Alexander, Esq.

**EXHIBIT II**  
**The Tsiamis Parcel in the HHSEGS Project Site**





# EXHIBIT III

## BSE Preliminary Prospectus, June 9, 2011, pg. 13/14

BrightSource Energy Inc - FORM S-1/A - June 9, 2011

Page 16 of 209

### [Table of Contents](#)

#### RISK FACTORS

*This offering involves a high degree of risk. You should carefully consider the risks and uncertainties described below and the other information in this prospectus before deciding whether to invest in shares of our common stock. If any of the following risks actually occur, our business, financial condition or operating results could be materially adversely affected. This could cause the trading price of our common stock to decline, and you may lose part or all of your investment.*

*This prospectus also contains certain forward-looking statements that involve risks and uncertainties. These statements refer to our future plans, objectives, expectations and intentions. These statements may be identified by the use of words such as "expects," "anticipates," "intends," "plans" and similar expressions. Our actual results could differ materially from those discussed in these statements. Factors that could contribute to these differences include those discussed below and elsewhere in this prospectus.*

#### **Risks Relating to Our Business and Industry**

***We have generated substantial net losses and negative operating cash flows since our inception and expect to continue to do so for the foreseeable future as part of the development and construction of solar thermal energy projects using our systems.***

We have generated substantial net losses and negative cash flows from operating activities since we commenced operations. We have incurred losses of approximately \$204.1 million from our inception through March 31, 2011. For the year ended December 31, 2010 and three months ended March 31, 2011, we incurred a net loss of \$71.6 million and \$28.8 million, respectively, and our operating activities used cash of \$64.1 million and \$28.8 million, respectively.

We expect that our net losses and our negative operating cash flows will continue for the foreseeable future, as we increase our development activities and construct solar thermal energy projects. Solar thermal energy projects typically accumulate negative cash flow during development prior to commercial operation at which point the projects generally are expected to begin to generate positive operating cash flow. Currently, our project development generally begins approximately three to seven years before commercial operation. We also expect to incur the incremental costs of operating as a public company, contributing to our losses and operating uses of cash. Our costs may also increase due to such factors as higher than anticipated financing and other costs; non-performance by third-party suppliers or subcontractors; increases in the costs of labor or materials; and major incidents or catastrophic events. If any of these or similar factors occur, our net losses and accumulated deficit could increase significantly and the value of our common stock could decline.

***Our proprietary technology has a limited history and may perform below expectations when implemented on utility-scale projects.***

We use proprietary technology that has not been previously implemented on utility-scale projects of the size and complexity of the Ivanpah Solar Electric Generating System, or Ivanpah, and Ivanpah may experience technological problems that neither we nor any of the third-party independent engineers that have reviewed our projects are able to foresee. The systems that we will implement on utility-scale projects include a solar field with heliostats controlled by advanced software systems that concentrate sunlight onto a receiver to produce high-temperature steam. If the implementation of our proprietary technology is unsuccessful, it could negatively impact the successful operation of projects using our systems and may result in additional payments, deductions or defaults under key project documents, including our PPAs or other financing arrangements.

Furthermore, given the size and complexity of Ivanpah and other utility-scale projects' solar field construction and the fact that third-party contractors will be assembling systems using new and

13

BrightSource Energy Inc - FORM S-1/A - June 9, 2011

Page 17 of 209

### [Table of Contents](#)

unproven processes, there may be potential construction delays and unforeseen cost overruns. Delays at any single phase of construction may significantly impact the overall timing of commencing operations at Ivanpah.

In addition, there is a lack of long-term reliability data for our proprietary system. Actual long-term performance of these parts, including heliostats in the field, may fall short of expectations. Heliostats may be susceptible to damage from weather-related or other unforeseen events. Equipment performance issues at our projects could result in significant operational problems for our company, including increased maintenance costs, decreased revenue, inability to meet energy delivery requirements or defaults under project or financing documents.

***Our future growth is dependent upon the successful implementation of Ivanpah, our first utility-scale solar thermal power project, as well as the Coalinga Solar-to-Steam for EOR project.***

Our future success depends on our ability to construct Ivanpah, our first utility-scale solar thermal power project, in a cost-effective and timely manner. Our ability to complete Ivanpah and the planning, development and construction of all three phases are subject to significant risk and uncertainty, including:

- Ivanpah is being primarily financed by a U.S. Department of Energy, or DOE, guaranteed loan facility, which requires the project companies to remain in compliance with numerous financial, construction and operational covenants to draw funds under the loan facility, compliance with which are within the control of NRG Solar, the majority equity owner and operator of Ivanpah;
- the construction of any of our projects will be subject to the risks inherent in the construction of solar thermal projects that have never been built on the scale of Ivanpah, including risks of delays and cost overruns as a result of a number of factors, many of which may be out of our control, such as delays in government approvals, burdensome permit conditions and delays in the delivery of materials and equipment that we manufacture or obtain from suppliers;
- our customized system and equipment may take longer and cost more to engineer and build than expected and may never operate as required to meet our production plans, which production plans are guaranteed pursuant to our construction and supply contracts with Ivanpah;
- we depend on third-party relationships to produce components in our system, which may subject us to risks that such third parties do not fulfill their obligations to us under our arrangements with them;
- once implemented at utility-scale, our solar thermal technology may perform below expectations, which may implicate the production guarantees in our construction and supply contracts with Ivanpah; and
- construction of Ivanpah commenced in October 2010. However, continued construction of portions of the second and third phases of Ivanpah require further approvals or opinions from the U.S. Bureau of Land Management, or BLM, the California Energy Commission, or CEC, and the U.S. Fish & Wildlife Service, or FWS. Any delay by the BLM, CEC and/or FWS in delivering required approvals or opinions could have a material adverse effect on the schedule for Ivanpah's second and third phases and our business.

Once construction is completed, Ivanpah will be operated by NRG Solar, and therefore we will have limited influence over Ivanpah's future operations. If the construction and operation of Ivanpah are not successful, we may be unable to grow our business to a sufficient scale necessary to improve our results of operations and achieve profitability.

14



## EXHIBIT IV

### BSE Prospectus, March 21, 2012, p. 14/15

BrightSource Energy Inc (Form: S-1/A, Received: 03/21/2012 17:04:05)

Page 25 of 355

#### Table of Contents

#### RISK FACTORS

*This offering involves a high degree of risk. You should carefully consider the risks and uncertainties described below and the other information in this prospectus before deciding whether to invest in shares of our common stock. If any of the following risks actually occur, our business, financial condition or operating results could be materially adversely affected. This could cause the trading price of our common stock to decline, and you may lose part or all of your investment.*

*This prospectus also contains certain forward-looking statements that involve risks and uncertainties. These statements refer to our future plans, objectives, expectations and intentions. These statements may be identified by the use of words such as "expects," "anticipates," "intends," "plans" and similar expressions. Our actual results could differ materially from those discussed in these statements. Factors that could contribute to these differences include those discussed below and elsewhere in this prospectus.*

#### Risks Relating to Our Business and Industry

***We have generated substantial net losses and negative operating cash flows since our inception and expect to continue to do so for the foreseeable future as part of the development and construction of solar thermal energy projects using our systems.***

We have generated substantial net losses and negative cash flows from operating activities since we commenced operations. We have incurred losses of approximately \$288.2 million from our inception through December 31, 2011. For the years ended December 31, 2010 and 2011, we incurred net losses of \$71.6 million and \$111.0 million, respectively, and our net cash provided by (used in) operating activities was \$(64.1) million and \$83.9 million, respectively.

We expect that our net losses and our negative operating cash flows will continue for the foreseeable future, as we increase our development activities and construct solar thermal energy projects. Solar thermal energy projects typically accumulate negative cash flow during development prior to commercial operation, at which point the projects generally are expected to begin to generate positive operating cash flow. Currently, our project development generally begins approximately three to seven years before commercial operation. We also expect to incur the incremental costs of operating as a public company, contributing to our losses and operating uses of cash. Our costs may also increase due to such factors as higher than anticipated financing and other costs, non-performance by third-party suppliers or subcontractors, increases in the costs of labor or materials, and major incidents or catastrophic events. If any of these or similar factors occur, our net losses and accumulated deficit could increase significantly and the value of our common stock could decline.

***Our proprietary technology has a limited history and may perform below expectations when implemented on utility-scale projects.***

We use proprietary technology that has not been previously implemented on utility-scale projects of the size and complexity of the Ivanpah Solar Electric Generating System, or Ivanpah, and Ivanpah may experience technological problems that neither we nor any of the third-party independent engineers that have reviewed our projects are able to foresee. The systems that we will implement on utility-scale projects include a solar field with heliostats controlled by advanced software systems that concentrate sunlight onto a receiver to produce high-temperature steam. If the implementation of our proprietary technology is unsuccessful, it could negatively impact the successful operation of projects using our systems and may result in additional payments, deductions or defaults under key project documents, including our PPAs or other financing arrangements.

Furthermore, given the size and complexity of Ivanpah and other utility-scale projects' solar field construction and the fact that third-party contractors will be assembling systems using new and



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**Table of Contents**

unproven processes, there may be potential construction delays and unforeseen cost overruns. Delays at any single phase of construction may significantly impact the overall timing of commencing operations at Ivanpah or other projects.

In addition, there is a lack of long-term reliability data for our proprietary systems and technology. Actual long-term performance of these parts, including heliostats in the field, may fall short of expectations. Heliostats may be susceptible to damage from weather-related or other unforeseen events. For example, a severe windstorm in late November 2011 at the Coalinga Solar-to-Steam for EOR project resulted in movement in some of the pylons on which the heliostats are mounted. We are completing modifications to prevent any future pylon movement at Coalinga and are deploying redesigned pylons in much of the Ivanpah project and modifying some plant operating guidelines to reduce the risk of a similar occurrence in the future and enable the heliostats to operate at higher wind loads. However, we cannot be certain that these modifications or revised guidelines will prevent similar occurrences in the future. Furthermore, our SolarPLUS solar thermal power plant solution, which combines our solar power tower technology with two-tank molten-salt storage capabilities, may not perform as expected. Equipment performance issues at our projects could result in significant operational problems for our company, including increased maintenance costs, decreased revenue, inability to meet energy delivery requirements or defaults under project or financing documents.

***Our future growth is dependent upon the successful implementation of Ivanpah, the first utility-scale solar thermal power project using our technology, as well as the Coalinga Solar-to-Steam for EOR project.***

Our future success depends on the ability to construct Ivanpah, the first utility-scale solar thermal power project using our technology, in a cost-effective and timely manner. The ability to complete Ivanpah and the planning, development and construction of all three phases are subject to significant risk and uncertainty, including:

- Ivanpah is being primarily financed by a U.S. Department of Energy, or DOE, guaranteed loan facility, which requires the project companies to remain in compliance with numerous financial, construction and operational covenants to draw funds under the loan facility, compliance with which are within the control of NRG Solar, the majority equity owner and operator of Ivanpah;
- the construction of any of our projects will be subject to the risks inherent in the construction of solar thermal projects that have never been built on the scale of Ivanpah, including risks of delays and cost overruns as a result of a number of factors, many of which may be out of our control, such as delays in government approvals, burdensome permit conditions and delays in the delivery of materials and equipment that we manufacture or obtain from suppliers;
- our customized system and equipment may take longer and cost more to engineer and build than expected and may never operate as required to meet our production plans, which production plans are guaranteed pursuant to our construction and supply contracts with Ivanpah;
- we depend on third-party relationships to produce components in our system, which may subject us to risks that such third parties do not fulfill their obligations to us under our arrangements with them;
- the timely completion of upgrades by SCE to the existing transmission interconnection to accommodate the increased electrical production from Ivanpah, which if delayed could limit the amount of electricity produced at Ivanpah;
- once implemented at utility scale, our solar thermal technology may perform below expectations, which may implicate the production guarantees in our construction and supply contracts with Ivanpah; and



**EXHIBIT V**  
**BSE Preliminary Prospectus, June 9, 2011, p. 28**

**Table of Contents**

***Our largely unproven mirror cleaning equipment may perform below our expectations.***

The primary maintenance activity for solar thermal projects using our systems will be the routine and continuous washing of reflective mirror surfaces. We anticipate each mirror may need to be cleaned every two weeks to prevent a buildup of dust which would significantly degrade the system performance. Mirrors will be washed at night by a dedicated crew using specialized mobile equipment. A truck is being designed that will bring purified water simultaneously to a number of mirrors. We are still designing and testing the specialized equipment to be used in this process. If the mirror washing equipment and process are not effective, actual operating costs may be substantially higher than forecasted or total electrical production may fall short of estimates.

***Our headquarters and some of our development sites are located in active earthquake zones, and an earthquake or other types of natural disasters affecting us or our suppliers could cause resource shortages and disrupt and harm our results of operations.***

We conduct our executive and administrative operations in the San Francisco Bay Area, which is an active earthquake zone, and certain of our project companies, development sites and suppliers conduct their operations in the same region or in other locations that are susceptible to natural disasters. In addition, California and some of the locations where certain of our suppliers are located, from time to time, have experienced shortages of water, electric power and natural gas. The occurrence of a natural disaster, such as an earthquake, drought, flood or localized extended outages of critical utilities or transportation systems, or any critical resource shortages, affecting us or our suppliers, could cause a significant interruption in our business, damage or destroy our facilities or those of our suppliers or the manufacturing equipment or inventory of our suppliers, and cause us to incur significant costs, any of which could harm our business, financial condition and results of operations. The insurance we maintain against fires, earthquakes and other natural disasters may not be adequate to cover our losses in any particular case.

***Risks Related to This Offering and Ownership of Our Common Stock***

***Our share price may be volatile and you may be unable to sell your shares at or above the initial public offering price.***

The initial public offering price for our shares will be determined by negotiations between us and representatives of the underwriters and may not be indicative of prices that will prevail in the trading market. The market price of shares of our common stock could be subject to wide fluctuations in response to many risk factors listed in this section, and others beyond our control, including:

- actual or anticipated fluctuations in our financial condition and operating results;
- unanticipated development or construction delays or other changes in our project plans;
- announcements of technological innovations or new products by us or our competitors;
- adverse announcements regarding systems performance;
- reductions in the retail price of electricity, to the extent projects are negotiating PPAs;
- additions or departures of key personnel;
- the failure of securities analysts to cover our common stock after this offering or updates or changes in financial estimates or recommendations by securities analysts;
- the inability to meet the financial estimates of securities analysts;
- fluctuations in the valuation of companies perceived by investors to be comparable to us;
- disputes or other developments related to our intellectual property rights, including litigation, and our ability to obtain and maintain patent protection for our technology;



**EXHIBIT VI**  
**BSE Prospectus, March 21, 2012, p. 29**

**Table of Contents**

***We are not able to insure against all potential risks and may become subject to higher insurance premiums.***

Our business is exposed to the risks inherent in the development, construction and operation of solar thermal energy projects, such as breakdowns, manufacturing defects, natural disasters, terrorist attacks and sabotage. We are also exposed to environmental risks. We have insurance policies covering certain risks associated with our business. Our insurance policies, however, do not cover losses as a result of force majeure, natural disasters, terrorist attacks or sabotage, among other things. We generally do not maintain insurance for certain environmental risks, such as environmental contamination. In addition, our insurance policies are subject to annual review by our insurers and may not be renewed at all or on similar or favorable terms. A serious uninsured loss or a loss significantly exceeding the limits of our insurance policies or the failure to renew our insurance policies on similar or favorable terms could have a material adverse effect on our business, financial condition and results of operations.

***Our ability to use our net operating losses to offset future taxable income may be subject to certain limitations.***

In general, under Section 382 of the Code, a corporation that undergoes an "ownership change" is subject to limitations on its ability to utilize its pre-change net operating losses, or NOLs, to offset future taxable income. Our existing NOLs may be subject to limitations arising from previous ownership changes, and if we undergo an ownership change in connection with or after this offering, our ability to utilize NOLs could be further limited by Section 382 of the Code. Future changes in our stock ownership, some of which are beyond our control, could result in an ownership change under Section 382 of the Code. Furthermore, our ability to utilize NOLs of any companies that we may acquire in the future may be subject to limitations. For these reasons, we may not be able to utilize a material portion of the NOLs reflected on our balance sheet, even if we attain profitability.

***Our largely unproven mirror cleaning equipment may perform below our expectations.***

The primary maintenance activity for solar thermal projects using our systems will be the routine and continuous washing of reflective mirror surfaces. We anticipate each mirror may need to be cleaned every two weeks to prevent a buildup of dust which would significantly degrade the system performance. Mirrors will be washed by a dedicated crew using specialized mobile equipment. We are still designing and testing the specialized equipment to be used in this process. If the mirror washing equipment and process are not effective, actual operating costs may be substantially higher than forecasted or total electrical production may fall short of estimates.

***Our headquarters and some of our development sites are located in active earthquake zones, and an earthquake or other types of natural disasters affecting us or our suppliers could cause resource shortages and disrupt and harm our results of operations.***

We conduct our executive and administrative operations in the San Francisco Bay Area, which is an active earthquake zone, and certain of our project companies, development sites and suppliers conduct their operations in the same region or in other locations that are susceptible to natural disasters. In addition, California and some of the locations where certain of our suppliers are located, from time to time, have experienced shortages of water, electric power and natural gas. The occurrence of a natural disaster, such as an earthquake, drought, flood or localized extended outages of critical utilities or transportation systems, or any critical resource shortages, affecting us or our suppliers, could cause a significant interruption in our business, damage or destroy our facilities or those of our suppliers or the manufacturing equipment or inventory of our suppliers, and cause us to incur significant costs, any of which could harm our business, financial condition and results of operations. The insurance we maintain against fires, earthquakes and other natural disasters may not be adequate to cover our losses in any particular case.

**EXHIBIT VII**  
**CA Dept. of Real Estate Records, Gabler**

Page 1 of 1

**STATE OF CALIFORNIA**  
**DEPARTMENT OF REAL ESTATE**

The license information shown below represents public information taken from the Department of Real Estate's database at the time of your inquiry. It will not reflect pending changes which are being reviewed for subsequent database updating. Also, the license information provided includes formal administrative actions that have been taken against licensees pursuant to the Business and Professions Code and/or the Administrative Procedure Act. All of the information displayed is public information. Although the business and mailing addresses of real estate licensees are included, this information is not intended for mass mailing purposes.

License information taken from records of the Department of Real Estate on 11/6/2012 9:13:07 PM

<b>License Type:</b>	BROKER
<b>Name:</b>	Gabler, Nicholas Thilo Layag
<b>Mailing Address:</b>	9184 EGDEWORTH PLACE LAS VEGAS, NV 89123
<b>License ID:</b>	01788774
<b>Expiration Date:</b>	08/16/15
<b><u>License Status:</u></b>	LICENSED
<b><u>Broker License Issued:</u></b>	08/17/07
<b>Former Name(s):</b>	NO FORMER NAMES
<b>Main Office:</b>	461 N SERRANO AVENUE LOS ANGELES, CA 90004
<b>DBA</b>	NO CURRENT DBAS
<b>Branches:</b>	NO CURRENT BRANCHES
<b>Affiliated Licensed Corporation(s):</b>	<u>01482396</u> - Officer Expiration Date: 02/25/13 Keol Resources International Corporation
<b><u>Comment:</u></b>	NO DISCIPLINARY ACTION  NO OTHER PUBLIC COMMENTS  >>>> Public information request complete <<<<



**EXHIBIT VIII**  
**CA Dept. of Real Estate Records, KEOL Resources International**

Page 1 of 1

**STATE OF CALIFORNIA**  
**DEPARTMENT OF REAL ESTATE**

The license information shown below represents public information taken from the Department of Real Estate's database at the time of your inquiry. It will not reflect pending changes which are being reviewed for subsequent database updating. Also, the license information provided includes formal administrative actions that have been taken against licensees pursuant to the Business and Professions Code and/or the Administrative Procedure Act. All of the information displayed is public information. Although the business and mailing addresses of real estate licensees are included, this information is not intended for mass mailing purposes.

License information taken from records of the Department of Real Estate on 11/6/2012 9:11:30 PM

<b>License Type:</b>	CORPORATION
<b>Name:</b>	Keol Resources International Corporation
<b>Mailing Address:</b>	4566 SPENCER ST LAS VEGAS, NV 89119
<b>License ID:</b>	01482396
<b>Expiration Date:</b>	02/25/13
<b><u>License Status:</u></b>	LICENSED
<b>Corporation License Issued:</b>	02/26/05
<b>Former Name(s):</b>	NO FORMER NAMES
<b>Main Office:</b>	28134 HOTSPRINGS AVE CANYON COUNTRY, CA 91351-1419
<b>Licensed Officer(s):</b>	DESIGNATED OFFICER <u>01788774</u> - Expiration Date: 02/25/13 Gabler, Nicholas Thilo Layag  <u>00843727</u> - Expiration Date: 02/25/09 Rago, Erlinda Tagamolila OFFICER LICENSE EXPIRED AS OF 02/26/09
<b>DBA</b>	NO CURRENT DBAS
<b>Branches:</b>	NO CURRENT BRANCHES
<b>Salespersons:</b>	<u>01481240</u> - Bradley, Kelly Boone
<b><u>Comment:</u></b>	NO DISCIPLINARY ACTION  NO OTHER PUBLIC COMMENTS  >>>> Public information request complete <<<<

**EXHIBIT IX**  
**KEOL Resources International, Introduction Letter, May 10, 2011**

**KEOL Resources International Corporation**

May 10, 2011

Dear \_\_\_\_\_,

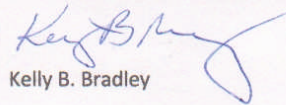
I would like to take this opportunity to formally introduce myself. My name is Kelly Bradley, and in addition to being a Pahrump Valley land owner like yourself, my company, KEOL Resources International Corporation, has been appointed as the Community Outreach Consultant for BrightSource Energy, Inc., one of the world's proven leaders in solar energy development.

I am contacting you today to let you know that BrightSource Energy, Inc. is planning a new solar power plant, **The Hidden Hills Solar Electric Generating System (SEGS)**, on a portion of the Old Hidden Hills Ranch, just north of Tecopa Road. Although, you will eventually receive formal notice from a permitting agency, we wanted to take this opportunity to introduce BrightSource to community residents and make you aware of the Hidden Hills proposed solar development.

Attached, I have included a location map and a description of the Hidden Hills SEGS, for your reference. I would love to personally meet with you sometime in the near future to sit down and share some more information about the project.

In the meantime, please feel free to contact either myself at (702) 332-3957 or Olivia Bradley at (702) 461-5579 with any questions you may have. Please have your Assessor's Parcel Number (APN) available when you call. You can find this on your property deed. This will help us to determine the actual proximity of your specific property to the project site.

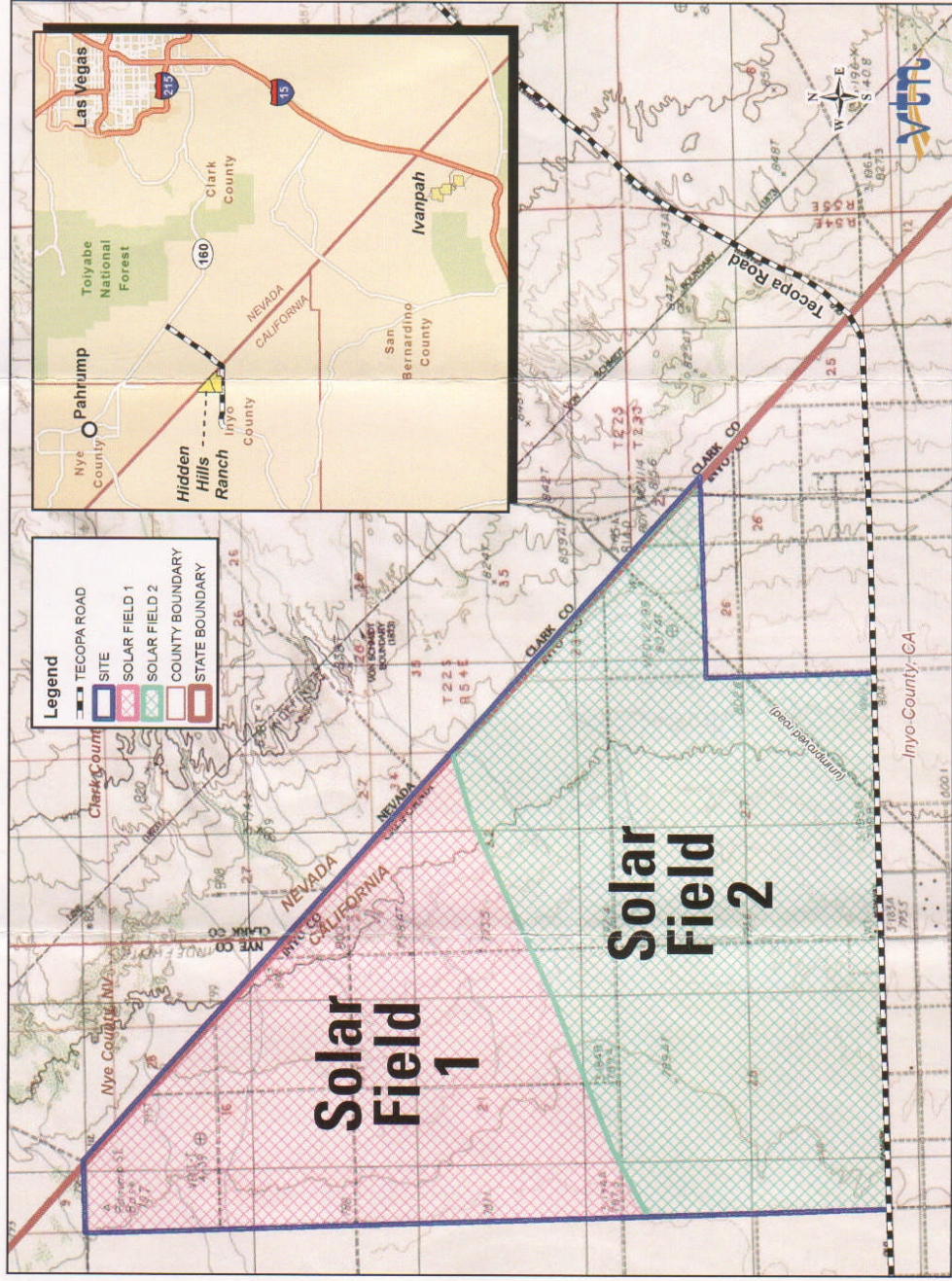
Sincerely yours,

  
Kelly B. Bradley

KEOL Resources International Corporation  
888 Celebration Drive  
Las Vegas, Nevada 89123  
E-Mail: [keol@keolgroup.com](mailto:keol@keolgroup.com)  
Tels.: (702) 461-5579; (702) 332-3957  
Fax: (702) 450-3087



# Hidden Hills Ranch SEGS Location Map





# Hidden Hills Ranch Solar Electric Generating System

**BrightSourceEnergy**

*Proven Leadership in Solar Energy*



The Hidden Hills Ranch Solar Electric Generating System will produce a total of 500 MW of clean renewable energy.

📍 **Location:** Inyo County, California

⚡ **Power Production:** 500 MW gross

🏠 **Homes Served Annually:** 178,000

BrightSource Energy's Hidden Hills Ranch Solar Electric Generating System (SEGS) is located on private land in Inyo County, Calif., 11 miles south of Pahrump, Nev. The approximately 3,100 acre site is designed to feature two 250 megawatts (MW) solar electric generation systems, to produce a total of 500 MW of clean renewable energy – enough to power 178,000 homes.

The project will feature BrightSource Energy's proprietary LPT 550 technology, which uses thousands of mirrors to reflect sunlight onto a boiler atop a tower to produce high-temperature steam. The steam is then piped to a conventional turbine that generates electricity. BrightSource uses air instead of water for cooling, which reduces water consumption by 90% and uses 25



BrightSource Energy's smaller, flat mirrors are more efficient, simple to manufacture, low-cost and reduce environmental impacts compared to competing technologies used in solar troughs.

times less water than competing solar technologies.

Hidden Hills Ranch SEGS will connect to the grid via the El Dorado substation near Boulder City, Nev. The project is expected to bring more than \$300 million in state, local and regional tax benefits.

BrightSource Energy, Inc., 1999 Harrison Street, Suite 2150, Oakland, California 94612  
E [info@brightsourceenergy.com](mailto:info@brightsourceenergy.com) W [www.brightsourceenergy.com](http://www.brightsourceenergy.com)





BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA  
1516 NINTH STREET, SACRAMENTO, CA 95814  
1-800-822-6228 – WWW.ENERGY.CA.GOV

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

**Docket No. 11-AFC-02**

PROOF OF SERVICE  
(Revised 9/20/12)

**APPLICANT**

BrightSource Energy  
Stephen Wiley  
1999 Harrison Street, Suite 2150  
Oakland, CA 94612-3500  
[swiley@brightsourceenergy.com](mailto:swiley@brightsourceenergy.com)

BrightSource Energy  
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BrightSource Energy  
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**APPLICANTS' CONSULTANTS**

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Sacramento, CA 95833-2987  
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**COUNSEL FOR APPLICANT**

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[jdj@eslawfirm.com](mailto:jdj@eslawfirm.com)  
[sp@eslawfirm.com](mailto:sp@eslawfirm.com)

**INTERVENORS**

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[jon@zellhoefer.info](mailto:jon@zellhoefer.info)

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Lisa T. Belenky, Sr. Attorney  
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[lbelenky@biologicaldiversity.org](mailto:lbelenky@biologicaldiversity.org)

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Desert Director  
PMB 447  
8033 Sunset Boulevard  
Los Angeles, CA 90046  
[ianderson@biologicaldiversity.org](mailto:ianderson@biologicaldiversity.org)

Old Spanish Trail Association  
Jack Prichett  
857 Nowita Place  
Venice, CA 90291  
[jackprichett@ca.rr.com](mailto:jackprichett@ca.rr.com)

**INTERVENORS (con't.)**

Cindy R. MacDonald  
3605 Silver Sand Court  
N. Las Vegas, NV 89032  
[sacredintent@centurylink.net](mailto:sacredintent@centurylink.net)

Richard Arnold  
P.O. Box 3411  
Pahrump, NV 89041  
[rwarnold@hotmail.com](mailto:rwarnold@hotmail.com)

**INTERESTED AGENCIES**

California ISO  
[e-recipient@caiso.com](mailto:e-recipient@caiso.com)

Great Basin Unified APCD  
Duane Ono  
Deputy Air Pollution Control Officer  
157 Short Street  
Bishop, CA 93514  
[dono@gbuapcd.org](mailto:dono@gbuapcd.org)

County of Inyo  
Dana Crom  
Deputy County Counsel  
P.O. Box M  
Independence, CA 93526  
[dcrom@invocounty.us](mailto:dcrom@invocounty.us)

Nye County  
Lorinda A. Wichman, Chairman  
Board of County Supervisors  
P.O. Box 153  
Tonopah, NV 89049  
[lawichman@gmail.com](mailto:lawichman@gmail.com)

**INTERESTED AGENCIES (con't.)**

Nye County Water District  
L. Darrel Lacy  
Interim General Manager  
2101 E. Calvada Boulevard  
Suite 100  
Pahrump, NV 89048  
[llacy@co.nye.nv.us](mailto:llacy@co.nye.nv.us)

National Park Service  
Michael L. Elliott  
Cultural Resources Specialist  
National Trails Intermountain  
Region  
P.O. Box 728  
Santa Fe, NM 87504-0728  
[Michael\\_Elliott@nps.gov](mailto:Michael_Elliott@nps.gov)

\*Southern Inyo  
Fire Protection District  
Larry Levy, Fire Chief  
P.O. Box 51  
Tecopa, CA 92389  
[sifpd@yahoo.com](mailto:sifpd@yahoo.com)

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Commissioner and Presiding Member  
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CARLA PETERMAN  
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Kerry Willis  
Staff Counsel  
[kerry.willis@energy.ca.gov](mailto:kerry.willis@energy.ca.gov)

**ENERGY COMMISSION –  
PUBLIC ADVISER**

Jennifer Jennings  
Public Adviser's Office  
[publicadviser@energy.ca.gov](mailto:publicadviser@energy.ca.gov)

### DECLARATION OF SERVICE

I, Cindy R. MacDonald, declare that on November 21, 2012, I served and filed copies of the attached Motion To Terminate Application For Certification For The Hidden Hills Solar Electric Generating System, dated November 21, 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/sitingcases/hiddenhills/index.html](http://www.energy.ca.gov/sitingcases/hiddenhills/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:**

- X   Served electronically on CD to all addresses on the Proof of Service list via U.S. Mail;
- X   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 to those addresses **NOT** marked "e-mail preferred."

**AND**

**For filing with the Docket Unit at the Energy Commission:**

- X   by sending an electronic copy on CD via U.S. Mail to the 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:

**CALIFORNIA ENERGY COMMISSION – DOCKET UNIT**

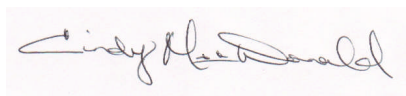
Attn: Docket No. 11-AFC-02  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512  
[docket@energy.ca.gov](mailto:docket@energy.ca.gov)

**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:

California Energy Commission  
Michael J. Levy, Chief Counsel  
1516 Ninth Street MS-14  
Sacramento, CA 95814  
[michael.levy@energy.ca.gov](mailto:michael.levy@energy.ca.gov)

I declare under penalty of perjury that the foregoing is true and correct.



\_\_\_\_\_  
Cindy R. MacDonald