

BACKCOUNTRY AGAINST DUMPS

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July 27, 2010

Chris Meyer, CEC Project Manager

Energy Commission Docket Unit

Docket No. 08-AFC-5

1516 Ninth Street, MS -4

Sacramento, CA 95814

VIA : cmeyer@energy.state.ca.us & docket@energy.state.ca.us

DOCKET

08-AFC-5

DATE JUL 27 2010

RECD. JUL 28 2010

RE: Imperial Valley Solar Project (SES Solar Two) SSA comments

Dear Mr. Meyer,

These comments are being submitted on behalf of our public benefit non-profit group, and myself as an individual. We include by reference all previous comments and referenced materials we submitted on this project. We would also like to go on record as supporting past and present testimony and exhibits provide Edie Harmon of Ocotillo. Edie is the local recognized groundwater expert with a vast historic knowledge and files of uses and abuses of her community's fragile groundwater resources. She knows what she is talking about. It was disheartening to have the hearing officer reject her late filed groundwater graphs despite the acceptance of numerous documents *during* the hearing from the applicant.

Bifurcating the review process: The splitting of the joint CEQA/NEPA review has resulted in a significant increase in time and effort for public participation. No explanation was provided for this bifurcation that we are aware of.

Override requests should be denied: Staff testimony regarding their presentation of override language to management for waters of the state, biological, cultural and land use is alarming. We formally request denial of any overrides.

Precious irreplaceable desert groundwater & Environmental Justice issues: Listening to testimony at the last two hearings and reading the various documents, it is obvious to those of us that rely on wells in designated sole source aquifers, that those who do not rely on finite well water just do not comprehend the significance of the issue. The Imperial Valley Solar (IVS) project should not be allowed to move forward with use of the Dan Boyer well, unless and until a full EIR is conducted on the temporary or permanent use of that well which, is located in the federally designated Ocotillo / Coyote

Wells Sole Source Aquifer. The CEC has an independent obligation to ensure that the use of this finite resource does not result in harm. The *export* of water from this source, within the sole source aquifer, to the project that lies *wholly* outside the aquifer boundaries, that will impact a rural low-income community, is truly significant. It cannot be mitigated with purchase without use of the Dan Boyer water in future years or by any attempt to recharge the basin with lower quality Colorado River water. Regardless of how few or many residential users the Dan Boyer well owner acknowledges, the drawdown of this well impacts surrounding wells as testified to by Ocotillo residents during public comment at the July 26th hearing. The proposed use of this water is a prime example of Environmental Justice, where a corporate entity with major financial backing (in this case from our own government) takes a precious, irreplaceable resource from a poor community for use to generate power that will be transported out of the area. SDG&E has the Power Purchase Agreement for this project. Ocotillo is served by the Imperial Irrigation District. They are not in SDG&E territory. The only ethical solution is to deny the use of irreplaceable scarce desert groundwater from a basin that has virtually no recharge, for the for-profit generation of energy that will be exported for use in far-flung urban areas. Especially when renewable energy can be generated elsewhere without depleting this irreplaceable groundwater source.

Current Condition of the site is disputed: The applicant keeps referring to how degraded the IV Solar project site is. While there may be one or two areas of impact, the vast majority of the site, especially in the western portion, are in good condition with just a few routes of travel. The area *is* designated Limited Use. During my personal visits to the site over the years, and my thousands of trips past the site on both I-8 and Historic Route 80, I have not observed enough damage to justify the total destruction of the area. The applicant should provide evidence.

IV Solar is a Connected Action to the Sunrise Powerlink and relies on it for Phase II: As of today, the PUC still has an outstanding decision on the Sunrise Powerlink Final Modification Report and whether or not to reopen the CEQA/NEPA review process for the project. Here is a quote from the linked CPUC page: *"An agency memorandum will be prepared by CPUC and BLM to document the changes presented in the final PMR document and to determine whether additional CEQA/NEPA review is required. All project-related activities will be properly analyzed in compliance with CEQA and NEPA. These activities are properly regulated in accordance with the CPUC's transmission siting authority. An explanation of the CPUC's determination regarding CEQA compliance will be posted on this project website"*. <http://www.cpuc.ca.gov/environment/info/aspn/sunrise/sunrise.htm>

Competition for available capacity on SDG&E's Southwest Powerlink for 300MW phase I: Iberdrola Renewables 200 MW Tule Wind project proposed for BLM land in Eastern San Diego County is also claiming rights to remaining capacity on the existing Southwest Powerlink. Tule Wind is also on the fast track of ARRA projects. At a recent East County Chamber of Commerce meeting held in Alpine, Iberdrola's Ed Clark told the audience that SDG&E has informed them that there will be days when the full 200 MW of energy production at Tule Wind may exceed transmission capacity and their energy production may be required to be reduced until the capacity is available. Who has first rights?

Drainage Alternative #1 (ES-2): Staff's selection of Drainage Alternative #1 is preferable to the proposed project but it still had too many significant impacts that cannot be mitigated to a less than significant impact.

Project Location (ES-2): Despite repeated requests, the SSA still uses the wrong name for the community of Ocotillo located west of the project site. Ocotillo Wells is another community altogether that is located on Hwy 78 to the north, west of Salton Sea. Here is a link to a map for the Ocotillo Wells SVRA: http://www.parks.ca.gov/?page_id=1218

Water: ES-5 states groundwater for construction *and possibly operation* of the IVS Project would be supplied by the Dan Boyer Water Company's well (State Well No. 16S/9E-36G4). Groundwater from the Dan Boyer Water Company well would be treated at an on-site facility adjacent to the on-site substation to produce demineralized water for mirror washing. This is not the best and highest use of irreplaceable groundwater. If this project moves forward, another source must be found.

Rural Fire protection: Staff Rebuttal Testimony (7-21-10): We appreciate the staff research and comments in the July 21, 2010 Worker Safety/Fire Protection section, by Rick Tyler and Alvin Greenberg, Ph.D., starting on page 55 of the Staff Rebuttal Testimony regarding impacts on rural fire departments and required mitigation to address those impacts. (http://www.energy.ca.gov/sitingcases/solartwo/documents/2010-0721_Staff_Rebuttal_Testimony.pdf).

The applicant's proposal to make staggered payments of \$200,000 or so to the County department will not result in the building of a new fire department much closer to the project. Close proximity and proper equipment is needed to respond to the size of potential emergency that is projected in the staff rebuttal testimony. Rural counties cannot afford and should not be forced to subsidize large-scale remote for-profit projects.

The potential for a major hydrogen fueled conflagration address impact to adjacent I-8 but they do not address impacts to the existing 500kV Southwest Powerlink, and the proposed 500kV Sunrise Powerlink ROWs that traverse the project site in a southeast to northwest manner. Impacts to the adjacent US Gypsum wallboard factory and Plaster City OHV park and campground immediately north of the site.

Access Roads and air quality impacts to poor County with high asthma rates: ES-6: When you add up the cumulative air quality impacts and degradation from the 261 miles of unpaved roads, the scraping and grading of desert pavement and soils for the 30,000 SunCatcher, the adjacent US Gypsum wallboard factory, the Plaster City OHV recreation area, with other proposed wind energy projects and existing sand and gravel and other industrial projects, you end up with significant degradation in one of the nation's poorest counties with one of the highest rates of asthma. Imperial Valley farmers are being forced to comply with strict air quality regulations. Renewable energy should be made to do the same.

Facility Operation and Maintenance & Project Decommissioning: ES-8: There is no discussion of the prevention of a buildup of discarded SunCatcher components in the event of some form of equipment failure. At the Kumeyaay Wind facility on the Campo Kumeyaay Nation in Eastern San Diego County, a catastrophic failure in December 2009 impacted all 25 of the 1.5 industrial wind turbines. Most if not all of the 75 blades and many other components had to be replaced. The project was off-line for

approximately 3-4 months and it still seems to be experiencing some electrical problems with the FAA required lighting system. The discarded blades, nose cones and more have been littering the ground at the base of each turbine for approximately 5-6 months. Our formal request to the Department of Interior for an investigation into the catastrophic failure and the uncollected discarded components has gone unanswered. The CEC and BLM need to ensure that a similar situation does not occur at this or other renewable energy projects.

Summary of Potential Short-Term, Long-Term, and Cumulative Adverse Impacts: Table 4 ES-16: We strongly disagree with the Less than significant determination of impacts on air quality. See comment on Access Roads above. Air Quality impacts will be independently and cumulatively significant in a minority low-income county with one of the highest asthma rates in the US.,

Summary Table 4 Hydrology , Soils and Water Resources ES-17: Impacts to the Ocotillo / Coyote Wells Sole Source Aquifer can and should be avoided in order to further reduce impacts to potable water resources in a harsh desert environment.

Hydrology Soils & Water ES-34: Significant and cumulative impacts to the Ocotillo / Coyote Wells Sole Source Aquifer are rated as unmitigable. Those significant impacts can be mitigated by denying the use of scarce desert groundwater resources from a low-income community that has no economically feasible alternative source of water. The statement that 96% of the project site overlays the Ocotillo / Coyote Wells Sole Source Aquifer are blatantly false. The use of the Dan Boyer well will result in the exportation of scarce desert groundwater across the Laguna Salada fault line to a separate groundwater basin. Condition and Certification **Soil & Water-11** will therefore apply to the entire IVS project area and a permit should be required for any export of water from the Dan Boyer Well located within the Sole Source Aquifer designation boundaries to a wholly separate groundwater basin.

Power Plant Efficiency & Power Plant Reliability ES-40: The IVS project will require backup generation which will most likely consume fossil fuel. This negates the statement that IVS "would not require additional sources of energy supply"

Power Plant Reliability ES-41: The following is an alarming statement: *"staff cannot determine what the actual availability factor for the long term operation of the Imperial Valley Solar Project would be, but it believes that with more operational experience we will have a better idea of the long-term availability factor of this technology."*

How can the CEC/BLM even consider approving any form of this large-scale project that will withdraw public land from public use and use hundreds of millions of tax payer funded ARRA dollars? Approval is unconscionable unless and until there is a more lengthy and well documented track record with the new design.

Alternatives: We still support the No Project with no amendment to allow solar energy production and with an amendment of CDCA plan to *disallow* the construction of any solar energy projects on the site.

Limit IV Solar to 300MW phase I that reportedly does not rely on Sunrise Powerlink, unless and until state and federal legal challenges to Sunrise Powerlink are fully resolved. Currently, the CPUC has not taken action on the May 15th 2010 Project Modification Report and the potential reopening of the CEQA/NEPA process due to significant changes in the project since it was originally approved.

SDG&E's CPUC application for up to \$600 million investment in Montana Wind project for which they already have a PPA. Instead of sending that energy to Canada, it should come to San Diego: <http://www.signonsandiego.com/news/2010/jul/20/sdge-plans-to-invest-up-to-600m-on-montana-wind/>, <http://docs.cpuc.ca.gov/efile/A/120716.pdf>

Public Health and Safety ES-42: Impacts to public health and safety should include impacts to lungs from increased air borne particulate and the potential for hydrogen fueled conflagrations as described in the July 21 Staff Rebuttal Testimony. Also see Fire protection comments above. Impacts to groundwater quality resulting in exacerbated overdrafts from exporting water out of basin should also be included.

Traffic & Transportation ES-44: Why does this section refer to environmental justice impacts but the water and air sections do not? It is the same impacted low-income high minority population.

Transmission Line and Safety ES-45-46: Since the CEC and BLM are acting on an application to approve the entire IVS project which requires the proposed Sunrise Powerlink or other non-existent infrastructure improvements, the entire project cannot move forward unless and until that additional capacity is available. Currently, it is not available and with pending litigation against the Sunrise Powerlink, it may not be available in the years to come.

The statement that each line for Phase I and II " *would traverse undisturbed desert land with no nearby residents, thereby eliminating the potential for residential electric and magnetic field exposures*" is patently false. The Sunrise Powerlink comes within hundreds of feet of homes throughout its route through Eastern San Diego County and the Cleveland National Forest. The line will actually be buried under Alpine Boulevard along the main business district and just yards from the Alpine Elementary School. The Sunrise Powerlink has also been identified as a significant fire risk in our high desert / forest area. These related impacts must be recognized and addressed.

Transmission System Engineering ES-47 (& B1.48) again leaves out Phase II and the need for the Sunrise Powerlink or other non-existent infrastructure upgrades/alternatives.

Visual Resources ES 48-49: The cumulative and significant visual resource impacts can be avoided by the preferred No Project/No Action alternative. This would benefit the public using local recreation resources and traveling on I-8 and Historic Route 80, and pilots from the nearby Naval Air Facility El Centro and the other military, homeland security, commercial, and private pilots that use the route of travel along the I-8 corridor.

Waste Management ES-51: There are current and past renewable energy projects on lands under the control of the Dept of Interior that have either been abandoned or have are littered with broken equipment. The derelict wind turbines in the Palm Springs area are one example. Our request to the Another example is the need to remove the discarded 75 giant wind turbine blades, nose cones, and

more that litter currently the Kumeyaay Wind facility along I-8 on the Campo Kumeyaay Nation. Our letter to the Secretary of Interior requesting an investigation of the Kumeyaay Wind project has gone unanswered. Please ensure that enforceable requirements are in place regarding the cleanup of discarded or cannibalized SunCathchers so that they do not pile up as unsightly litter along a currently scenic corridor.

Worker Safety Fire Protections ES-52: We concur with the information presented in the Staff Rebuttal Testimony dated July 21, 2010, regarding the potential for a hydrogen fueled explosion / conflagration that could impact I-8. An accident of that magnitude could also impact the adjacent US Gypsum wallboard factory and the Plaster City OHV Park and camping area. That type of event could also take out the Southwest Powerlink and /or the proposed Sunrise Powerlink. Professional fire fighters have informed us that they cannot drop fire retardant on or near electrical lines (energized or de-energized) and generally do not fight a ground fire within 1,000 feet of high-power lines due to the potential for electricity to arc to the ground through the smoke. So, there may be "no fire-fighting zones" within the IVS project area because of the two 500 kV powerlinks that traverse the site.

Reportedly Noteworthy Public Benefits ES-53: **1)** Low Green House Gas emissions to meet RPS standards. **2)** Reduce dependence on fossil fuels. **3)** Discovery of fossils through excavation. **4)** capital expenditures, construction and operation payrolls, sales tax.

Responses to professed public benefits: **1)** solar energy still requires backup generation which is usually from gas-fired powerplants. The more intermittent energy projects that approved, the more backup generation is required. The increased disturbance of desert soils and vegetation , which can store carbon, and the increased air quality impacts from increased particulates tend to negate any potential GHG reductions. **2)** Again, solar power plants only operate during sunlight hours and need back up generation. Those backup gas-fired power plants still need to be built and fueled. **3)** Claiming the discovery of fossils by destroying approximately 6,500 acres of desert ecosystem would be laughable if it were not so sad. **4)** Where is the cost benefit analyses of the loss of 6,500 acres of public recreation area, open space, habitat, visual resources, cultural resources, and the expenditure of hundreds of millions of taxpayer funded ARRA funding for this project vs. the private profit , much of which may go overseas. Where are the contracts ensuring that local and state contractors and suppliers will benefit from this project.

Background A-3: Not consistent with EO 12212: It is our opinion that the IVS project, and the non-existent Sunrise Powerlink that Phase II relies on, are in violation of Executive order 13212, dated May 18, 2001, which mandates that agencies act expediently and *in a manner consistent with applicable laws* to increase the "production and transmission of energy in a safe and environmentally sound manner."

Water Supply Source B1-16: The statement that "groundwater for construction and possibly operation of the IVS Project would be supplied by the Dan Boyer Water Company's well (State Well No. 16S/9E-36G4)" is alarming. An EIR is needed along with a permit to export water outside of the boundaries of the Ocotillo / Coyote Wells Sole Source Aquifer. Please see comments above on Water and Hydrology Soils & Water.

Transmission systems B.1.4.8: The May 15, 2010 Sunrise Powerlink Modification Report made some changes to project connections at the IV Substation. Have they been incorporated into this SSA? What about SDG&E's announced 14 MW solar project proposed for the IV Substation area. We provided the following link to that information on page 17 of our comment letter on the SA/DEIS dated 5-27-10. A BLM map hanging in SDG&E's Renewable Energy office in El Centro, shows the location of this project.

Hydrogen B.1-17: This section incorrectly states that water for the hydrogen production will be supplied by the Seeley Water District. The project water source has not yet been fully studied, determined or approved and may rely on non-renewable groundwater resources.

B.1.5.1 Sunrise Powerlink is still the subject of agency consideration and litigation. Incorrect information: Incorrect information is included in this section regarding route and final review. Information from the proposed Sunrise route are used instead of the selected route through southeastern San Diego County including the Cleveland National Forest south of I-8. The Environmental Review is still the subject of PUC consideration in the form of the May 15, 2010 Project Modification Report. The Cleveland National Forest Supervisor issued his July 12 decision on the Sunrise Special Use Permit and Land Use Plan Amendments. As of the date of this comment letter, the PUC/BLM had not yet made a determination on whether or not to reopen the CEQA/NEPA process. The SSA document should acknowledge the unresolved state and federal legal challenges to the Sunrise Powerlink approvals. Our group initiated the federal suit and will be a party to the formal appeal of the Forest Supervisor's July 12 approval.

Project Description Figure 1 Error, still incorrectly shows Coyote Wells north of I-8 when it is south, and it leaves off Ocotillo where the applicant proposed to siphon off precious groundwater resources.

Project Description Figure 3 still shows the outdated SunCatchers that are no longer proposed for use.

Summary of Conclusions B.2.1: Staff conclusions that the NO Project option would delay development of renewables or shift them to similar areas is unsubstantiated. If given the facts, the majority of tax and rate payers and NGOs would prefer to see renewable energy installed on existing buildings, including their own residences, and already disturbed lands much closer to the point of use.

Site Selection Criteria B.2-19 noncompliance: IVS project is not consistent with the fifth bullet that states the site must be located close to CAISO transmission lines with adequate capacity and should have an adequate water supply and the seventh bullet that the site should have few or no environmentally sensitive areas (particularly biological and cultural resources) and should allow development with minimal environmental impacts. Only phase one has existing transmission capacity and no water source has been fully vetted and approved. And the project represents significant and cumulative impacts to a variety of environmental, biological and cultural resources.

Rationale for elimination of Distributed Solar generation from SA/EIS B.2-114: The elimination of a far superior way to generate renewable energy much closer to the point of use was eliminated because staff cannot conclude that it will happen "*within the timeframe to implement the Imperial Valley Solar Project*". We want to go on record that the "timeframe" is an arbitrary fast-tracked date for projects that

could comply with applicable rules and regulations. In our opinion, IV Solar and the connected Sunrise Powerlink projects do not meet the required criteria.

Wind Energy B.2-115 incorrect project location: This section incorrectly states that Ocotillo Wind Express project is *20 miles east* of the IV Solar project. Instead the wind project is located northeast, north, west and south of the community of Ocotillo which the SSA states is just 5 miles away for water hauling from the Dan Boyer well. A map was provided in our SA/DEIS comment letter dated 5-27-10

Cumulative Impacts table 3, B.3-9: Ocotillo Wind express is erroneously stated as east of IVS project when it is to be located west of the IVS. West Wide Energy Corridor ROD were approved in January 2009

Water C.2-19: This section leaves out the proposed use of groundwater for construction and potentially operation of IVS.

Transmission Lines C.2-54: This section leaves out the impacts of the Sunrise Powerlink, or alternative, that Phase II relies on.

Table 2 Active Faults relative to proposed site C.4-1, new USGS forecast maps show 7.5-8.0 quake magnitudes: While staff did respond in the text at page C.4-25 to the 7.2 quake, there is no mention of the new USGS forecast maps showing 8.5-8.0 magnitude in the vicinity of the project site that we provided in our May 27 SA/DEIS comment letter at page 20. The 7.2 quake on Easter Sunday 2010 caused damage to the IV Substation southeast of the project site and to Drew Road in Seeley, east of the site. Ocotillo residents testified on July 26 to the damage they suffered from recent quakes. The potential for seismic impact to SunCatchers has been vastly underestimated.

Groundwater C.7-11contains erroneous groundwater basin boundary information: This section discussion on groundwater basin boundaries is flat out wrong. No part of the Solar Two project sits over or within the boundaries of the federally designated Ocotillo / Coyote Wells Sole Source Aquifer. We previously provided the aquifer boundary map, as did others. Here it is again: http://www.epa.gov/safewater/sourcewater/pubs/qrg_ssamap_ocotillocoyotewells.pdf. It is hard to understand how laypeople can read the map but professionals cannot. The Elsinore / Laguna Salada fault line that serves as the eastern aquifer boundary lies west of the IV Solar project boundaries.

Water Supply & Use C.7-15: Any water used for human consumption from the Dan Boyer Well will need treatment due to very high Fluoride levels at 2.7 PPM.

Soil & Water Table 4 LORS noncompliance: After dealing with groundwater issues and major projects that would threaten them, it is our opinion that if groundwater is used for temporary or permanent use for IVS, that the violations would occur to the following :

- EPA's Sole Source Aquifer protection program
- California Constitution Article X Section 2 (not best use of sole source groundwater)
- Porter Cologne Water Quality Act/ water quality (beneficial use of groundwater)
- State Water Board Resolution 68-16 (water quality degradation through overdraft)
- California Water Code Section 10910, SB 610 & SB 221 (water supply)

- Imperial County Land Use Ordinance Title 9 (non-domestic, out of basin use, no establishment of excess supply)
- RWQCB Region 7 Basin Plan (inconsistent with priority use)

Construction Impacts: page C.7-24: Paragraph one states that groundwater will not be used which is now contrary to testimony from the applicant and SSA statements that groundwater may be used "for the life of the project".

Project Water c.7-31 states that water from Dan Boyer well will be used for construction.

Soil & Water -2, 4, -9 and-11 cannot be met because they ensure that no water is exported for use outside the Ocotillo/Coyote Wells groundwater basin. It has already been proven by public testimony and with overlaid maps provided by CURE witness that the project site lies wholly outside the Ocotillo/Coyote Wells federally designated aquifer / basin.

Water Supply C.7-40 contains erroneous information regarding the project location and groundwater basins. See comment above. This section also states the proposed use of 33 AFY of groundwater (if recycled water is not available) during the 40-year life of the project. See previous comments on why this use is not sustainable and should not be allowed. We also refer to evidence and testimony provided by Edie Harmon and Ocotillo residents during the July 26-27 hearings regarding dropping water levels and water quality impacts related to over-pumping at commercial wells.

Conclusion:

As staff knows, there are not enough hours in the day or days in the week to adequately review and comment on these many and massive renewable energy and transmission line projects. These comments are limited for that reason. Our attorney Stephan C Volker will also be submitting comments on our behalf. We request that both sets of comments get posted for public access. We will also be commenting on the BLM's FEIS.

Imperial Valley Solar should **not** move forward for many reasons including the removal of over 6,000 acres of public land for private use, non-compliance with multiple LORS, and the use of tax-payer funded ARRA funds for a project that requires many overrides to whitewash the significant and cumulative impacts. With the outstanding PUC/BLM decision on the May 15, 2010 Sunrise Powerlink Project Modification Report, there is no fully approved transmission available for Phase II. The water supply for construction and operation are still unresolved and may not be resolved anytime soon. Finally, there are better distributed generation alternatives close to the point of use.

Sincerely,

Donna Tisdale, President