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December 2, 2013

Commissioner Karen Douglas, Presiding Member
Ken Celli, Hearing Officer
Christine Stora, Project Manager
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street, MS-14 (Dockets Unit)
Sacramento, CA 95814-5512

Subject: County of Riverside Comments on Palen Solar Holdings, LLC's Opening Brief regarding the Proposed Palen Solar Electric Generating System Amendment (09-AFC-7C)

Dear Commissioner Douglas, Ms. Stora and Hearing Officer Celli:

The County of Riverside has reviewed the Opening Brief filed by Palen Solar Holdings, LLC ("PSH") regarding the proposed Palen Solar Electric Generating System Amendment ("PSEGS"). In response to PSH's opening brief, we offer the following comments with regard to Worker Safety and Fire Protection.

PSH argues that the Riverside County Fire Department ("RCFD") has not looked specifically at the direct impact of the PSEGS. Respectfully, we counter that this is an ever moving target due to the changing number of large-scale solar energy projects, as well as their changing technology. Under current circumstances, while it is clear that PSEGS will cause a significant direct impact on local fire protection services, RCFD must evaluate fire and emergency services needs based on the overall impact of these projects, then working with the California Energy Commission, seek to equitably allocate a portion of that mitigation to the large-scale solar energy projects that exist at the time that application is approved. There is no way of knowing with certainty how many projects may occur prospectively. Nor can we budget on unforeseen projects that may never come to fruition. It is completely inappropriate to attempt to allocate costs to projects that have not completed the permitting process. Furthermore, it is inappropriate to seek the same level of mitigation for a photovoltaic project as one would allocate to a parabolic trough or power tower technology because the photovoltaic projects do not present the same hazards.

PSH seeks to arbitrarily assign the necessary mitigation to a multitude of proposed projects across Riverside County. As the County previously demonstrated in our comment letter of October 29, 2013, of the eight photovoltaic projects that PSH claims should be included in this mitigation – only three are actually in the County permitting process and none are currently approved.¹ As a result, the analysis set forth in PSH's Opening Brief relying upon the eight projects is inaccurate. Additionally, in their

¹ Only three of the projects identified by PSH are actively being processed with development agreements subject to Policy B-29 in the County: McCoy Solar (CUP 03682), Renewable Resources Group (CUP 03684), and Renewable Resources Group (CUP 03685). In addition, in the interest of providing a complete picture to the Commission, the County is also currently processing a franchise agreement with EDF Renewable Energy (formerly enXco) for its Desert Harvest Solar Project. This franchise agreement is also subject to Policy B-29 to compensate the County for placing transmission lines in the County's road right-of-way.

proposal, PSH lumps photovoltaic projects in with their power tower technology without any acknowledgement of the significantly higher hazards and risks for the power tower technology.

PSH argues that the existing fire stations are “under-utilized” because the stations have not reached the recommended maximum number of calls per year they are capable of. PSH cites call data for the fire stations serving eastern Riverside County, then claims that based on current call volume, RCFD would not need to add any staffing. The County strongly disagrees with this point. As noted by Chief Dorian Cooley during the evidentiary hearings, claims of under-utilized staffing should never be confused with sufficient staffing based on the immediate emergency at hand.

Notably absent in PSH’s brief is any reference that many of those calls require multiple fire stations to respond. Whether it is a fire or an auto accident on the freeway, it is not uncommon for RCFD to send multiple units to an incident. Where in some of the urban areas of Riverside County, between 5 and 8% of a station’s calls are fires and traffic accidents requiring multiple units, in Battalion 8 (the battalion covering the PSEGS area) that number is **over 40%**. Our response distances to calls are significantly longer than urban areas. It is not uncommon in Battalion 8 to travel 30 or 45 minutes just to reach an incident. This makes a huge difference in a station’s *workload*. Simply citing the *numbers* of incidents is not indicative of a fire station’s workload.

RCFD’s initial planned response to incidents countywide is addressed in what is known as our “Standard Response Plan” (SRP) (Attached). This document specifies what the recommended response should be to each incident based specifically on the type of the emergency. **Technical Rescue** calls specify that RCFD send a ***Battalion Chief, 3 fire engines, an available squad, a HazMat Team and a Ladder Truck***. That standard Technical Rescue response equates to 21 persons and is indicative of how labor intensive these rescues can be. Conversely, our base level staffing in Battalion 8 is nine persons in the Blythe area, and three persons at Desert Center for a total of **only 12 available firefighters**. This is barely more than half the required number of firefighters. The argument presented by PSH that somehow “underutilized” staff equates to sufficient staff is patently false. Adding the planned three additional personnel to the Engines and a dedicated Battalion Chief adds four persons daily for an on-duty staffing of 16 in Battalion 8. This brings RCFD closer to the standard response **needed** to handle these technical rescue calls.

PSH argues that Riverside County should utilize B-29 funds to mitigate its impacts on fire services. All payments made under the County’s Solar Power Plant program are not an illegal tax and are made under agreements in three distinct scenarios identified in Board of Supervisors’ Policy No. B-29:

1. As a condition of development under a development agreement;
2. As a franchise payment for the use of the County’s rights of way under a franchise agreement; or
3. As a payment for use of the County’s real property under a real property interest agreement.

Board of Supervisors’ Resolution No. 2013-158 describes the use of the payments made under such agreements. It states:

“Effective July 1, 2013, of all such solar power plant payments specified above, 25 percent shall be committed toward appropriations that benefit communities in the general vicinity of the solar power plant for which payments are made and 75 percent shall be committed toward appropriations for any general purpose use consistent with the limitations of this Resolution. ... Permissible appropriations of such payments include, but are not limited to, County programs for economic and employment development, employee training and retraining, affordable housing, promoting tourism, and other activities and programs to retain, preserve, attract, and grow agricultural, recreational, industrial and commercial uses. In all cases, appropriations of such solar power plant payments shall not be used to mitigate project-specific impacts, including but not limited to

mitigation that would be required under the California Environmental Quality Act (“CEQA”) or Ordinance No. 659, nor shall such solar power plant payments supplant such mitigation payments or development impact fees.” [Emphasis added.]

As previously documented, while the Board may choose to use some payments made under a development agreement, franchise agreement or real property interest agreement toward fire services and activities in an effort to preserve, attract, and grow agricultural, recreational, industrial and commercial uses, the Board expressly cannot use those payments to mitigate for project-specific impacts; nor to supplant mitigation payments or development impact fees. While the Board may chose to use some of the payments it receives under the franchise agreements on the Desert Sunlight and Desert Harvest projects for fire services, such payments are not being received for mitigation purposes. Those franchise payments are being made to compensate the County for the use of the County’s rights-of-way. Respectfully, it is wholly inappropriate for PSH to essentially tell Riverside County to use some other money to pay for PSEGS’s impacts.

PSH makes several references to the Commission’s decision on the Rice Solar Energy Project (09-AFC-10) and, in particular to Exhibit 55 which is testimony by the applicant’s expert in the Rice Solar Energy Project (“RSEP”) proceedings. As a preliminary matter, the County notes that while the Commission can take administrative notice of Exhibit 55 from the RSEP proceedings, such testimony is hearsay that is based upon an entirely different project and should be weighted as such.

Further, in reference to the Rice Solar Energy Project (“RSEP” or “Rice”), the County unequivocally believes that County fire and emergency services impacts are significantly under-mitigated as conditioned in 2010. RSEP was one of the first solar power plant projects considered by the County and the County had just begun evaluating large-scale solar thermal energy projects. At the time RSEP was approved, oversight and input into solar projects was being handled by the Department’s Fire Marshal’s office. Unfortunately, operational staff was not adequately involved in the review of the projects and did not fully understand nor articulate our impacts due to this new large-scale solar thermal energy technology. This is a regrettable circumstance that should not be used in setting mitigations for PSEGS.

In 2012 as a result of retirements and a change in personnel, newly assigned staff sought to better assess the impact of these large-scale solar projects on RCFD operations. During this review, it became obvious that there was a significant and previously inadequately documented impact to Fire department Operations. This impact was the need to ramp up our operational capability and staffing in order to handle the types of technical rescues potentiated by these massive industrial large-scale solar thermal projects. The creation of the document Battalion 8 Solar Project Impacts and Mitigation was the result of this review.

In addition to our fire and emergency services impacts not being fully established for RSEP, RCFD’s jurisdictional responsibility was overlooked in RSEP. In that case, it is the fact that RCFD is the Authority Having Jurisdiction (AHJ) for that area, and RCFD is the responsible provider of rescue services. While the applicant in RSEP was successful in having any ongoing mitigation to RCFD removed, in no way was RCFD relieved of its responsibility to respond into the RSEP and effect technical rescues, combat fires and provide emergency medical care at RSEP.

While the intention of the RSEP project operator is to maintain a level of industrial fire protection and on-site rescue staff, RCFD still maintains the legal responsibility to respond and ultimately mitigate any unresolved rescue or other emergency. This legal responsibility requires equipment, training and increased staffing that will be provided by RCFD year round for the life of the project - irrespective of frequency of occurrence for any emergencies. Any failure on the part of RSEP’s project operators becomes RCFD’s problem with a simple 911 telephone call. To reiterate, RCFD must establish and maintain year-after-year a technical rescue capability without any resulting annual contribution from the

RSEP. We argue this is a regrettable situation that occurred with the RSEP, and that it should not be repeated for PSEGS.

In PSH's recommended annual mitigation, they seek to provide a set amount for 3 years (construction phase) and then reduce it to 1/8th for the remaining 27 years. While PSH claims that their offer is generous, we respectfully counter that it is flawed.

For un-defined reasons PSH seeks to use the cost for 1 captain and ½ of a firefighter as their allocation for the construction phase. This dollar amount and staffing allocation appears random and we are unable to determine the basis for this proposal. In relationship to RCFD's documented rescue system needs, this would equate to 47% of RCFD's documented annual mitigation cost requirement. Then, for the following 4th through 30th year, PSH would reduce this mitigation further - down to 1/8th of that arbitrary amount. This results in PSH only contributing the equivalent of 6% of RCFD's annual mitigation requirement for years 4 through 30. PSH's proposal in only providing 6% of RCFD's annual mitigation needs is significantly lacking and leaves Riverside County to further pick up the impact of PSEGS.

In a perfect situation, the fairest way would be for the first project to be conditioned for the entire impact. When the second project was conditioned, then the first project would be reduced by 50% - with the second project picking up the remaining 50%. A third project would cause the allocation to all projects to be 1/3rd. Or, conversely, if it was a lessor risk project, you may have a 40/40/20 split, for example between two solar tower projects and a PV project. Then if projects do not get built after approval, the mitigation amounts are changed again to reflect the change. This is a perfect world type scenario that does not exist due to the constantly changing playing field.


Additionally, the speed at which these large-scale projects have come forward over the past 4 years has created a learning curve for CEC staff and public safety officials alike. The process to determine mitigation is not an exact science. The County believes that the CEC's consultant made an honest and equitable effort in the drafting of the associated impact matrix. Using this factor and considering the actual projects under CEC jurisdiction, the County feels that staff's recommendation of one time capital costs in the amount of \$1,000,000 and \$313,000 adjusted annually is reasonable.

As previously commented in our correspondence of October 29th, the County supports Condition of Certification Worker Safety-7 as proposed by CEC staff in the FSA. The County respectfully requests that the Committee adopt Worker Safety-7 as proposed by CEC staff. That said, the County is willing and open to further discussing Condition of Certification Worker Safety-7 with PSH and CEC Staff in hopes that a mutually agreeable condition can be reached.

Thank you for your consideration of the County's position with regard to this important issue. Should you need additional information from the County, please contact me at (951) 955-6300 or Deputy Fire Chief Dorian Cooley at (760) 393-3450.

Sincerely,

PAMELA J. WALLS
County Counsel



TIFFANY NORTH
Supervising Deputy County Counsel

STANDARD RESPONSE PLAN
TABLE -1

INCIDENT TYPE	BC	E	S	BS	MED	AMB	T	HM	USAR	AA	AT	COP	DOZ	CREW	WT
^STRUCTURE	1	4	1	1^	1#		1#								
^COMMERCIAL/HIGH/WIDE RISE															
MULTI FAMILY DWELLING	1	4	1	1^	1#		1#								
FIRE TYPE UNKNOWN		2	1				1*								
RINGING ALARM		2	1												
VEHICLE		2	1												
TRAIN/AIRCRAFT	1	3	1		1#	1	1#	1							
REFUSE/IMPROVEMENT		1	1												
BOMB THREATS															
USE FIRE INCIDENT TYPE AS DETERMINED BY THE LOCATION OF DEVICE; CODE 2 RESPONSE															
Decrease dispatch level one after cutoff and prior to 1000 during fire season.															
STATE VEGETATION															
LOW		2	1												
MED	1	3	1									1	1	1	1
HIGH	1	5	1							1	2	1	2	2	2
LOCAL VEGETATION															
LOW		2	1												
MED		3	1												
HIGH	1	3	1												
MEDICAL AID/TC		1	1		1#	1									
FULL ARREST		2	1		1#	1									
TRAFFIC COLLISION CUT & RESCUE	1	2	1		1#	1	1#								
TRAFFIC COLLISION OVER THE SIDE	1	2	1		1#	1	1#								
TECHNICAL RESCUE, CONFINED SPACE,		2	1		1#	1									
TRENCH RESCUE, BUILDING COLLAPSE	1	3	1		1#	1	1	1	1						
MASS CASUALTY	1	3	1		2#	2	1#								
SWIFT WATER	1#	3	1		1	1	1		1						
HAZ MAT	1	1	1					1+							
FMS		1	1												
PSA		1	1												

Revised 8/2008

~ Where assigned within contractors jurisdiction

* ~ if truck is second in the line-up, respond in place of engine

^ ~ Fire response must have a minimum of 3 engines, confirmed fires will require the response of 2 additional engines; (4+2), +BS

& ~ Activation of Swift Water Team will include the notification of a Battalion Chief (Team Leader) and response of the appropriate SWR Unit(s)

+ ~ Includes response of Env. Health