

California Energy Commission
1516 Ninth Street
Sacramento, CA 95814



October 14, 2012

**RE: REQUEST TO MARY WILEY TRUST/MARY J. MCMONIGLE FOR EVIDENCE OF FACTS
HIDDEN HILLS SOLAR ELECTRIC GENERATING SYSTEM (11-AFC-02)**

Dear Commissioners:


For your review, please accept the attached copy of a letter recently submitted to the Mary Lee Wiley Trust, Mary Jane McMonigle and their acting representative, Steven R. Scow, Esq.

A copy of this letter is being submitted to the California Energy Commission due to its relevance to the Application for Certification (AFC) currently before the Commission.

Please also docket this submission into the public record for interested party and public review.

Thank you for your consideration.

Sincerely,



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

Mary Wiley Trust
Mary Jane McMonigle
c/o Mr. Steven R. Scow
612 South Seventh Street
Las Vegas, Nevada 89101

October 14, 2012

**RE: Request To Mary Wiley Trust/Mary J. McMonigle For Evidence of Facts
Hidden Hills Solar Electric Generating System (11-AFC-02)**

Dear Mr. Scow:

On September 5, 2012, your law offices submitted a letter to the CEC regarding various matters associated with the proposed Hidden Hills SEGS project site and the surrounding vicinity. In it, the owner(s) expressed a preference to be contacted directly regarding inquiries and requests for additional relevant information.

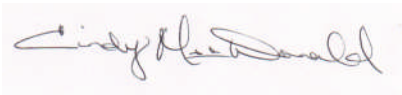
Though I object to statements made in the above referenced letter and reserve my right to object to them in the future, I would like to seize this opportunity to respectfully request the owner(s) expand their involvement on other related matters for inclusion in the public record by submitting evidence of facts relating to:

- 1) Full disclosure of the terms and conditions between the owner(s) and the Applicant for the lease option that will be in effect for the Hidden Hills SEGS over the life of the project.
- 2) Explanation and description of currently approved agricultural projects in the proposed Hidden Hills SEGS project vicinity, potential future agricultural development, total water rights available to the owner(s) and limitations (if any) on future water use of the owner(s) adjacent land should the proposed project be approved.
- 3) Information pertaining to prior planning and development in the Hidden Hills area including historical well pump test reports, environmental reports, determinations of feasibility and legal documents and/or rulings pertinent to prior planning and development attempts in the area.
- 4) Roland Wiley's original bill of sale for the Hidden Hills Ranch.

Additional details regarding these subjects have been included in the following pages to help outline the basis, purpose and scope of these requests.

In conclusion, I would like to thank the owner(s) in advance for taking the time to supplement the public record with the requested information, data and evidence that may be deemed critical for consideration in the decision making process regarding the proposed project.

Sincerely,

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

Cindy MacDonald
3605 Silver Sand Court
N. Las Vegas, NV 89032

*Request To Mary Wiley Trust/Mary J. McMonigle For Evidence of Facts
Hidden Hills Solar Electric Generating System (11-AFC-02)*

1. Disclosure of Terms & Conditions

Despite repeated requests by interested parties, the terms and conditions of the lease option currently negotiated between the owner(s) and the Applicant have remained confidential and undisclosed. As a result, it is difficult to determine if the land being secured for the proposed project site meets the “reasonable” criteria associated with site selection or if these terms and conditions are unfavorable with respect to serving the public interest.

For example, the Applicant’s cost projection for the Ivanpah SEGS approved in September 2010 (a similar but slightly larger site located predominately on public land), was estimated at approximately \$1.8 billion dollars⁽¹⁾. However, the Hidden Hills SEGS has been most recently estimated to cost \$2.176 billion (in 2011 dollars)⁽²⁾, almost a \$4 billion dollar increase in less than a year. One of the most significant distinctions between these two project sites is one of public versus private land.

As a result, there are concerns from members of the public such as myself that an unreasonable price for the project sites property has been negotiated to secure the site, a cost that will ultimately be borne by the rate payer should the proposed project be approved.

Additional concerns include other stipulations that may be contained within the terms that might allow incremental and/or unreasonable increases in payments to the owner(s) that may also result in uncompetitive electrical costs over the life of the project once certification has been secured, the owner(s) exercise of water rights in the project sites vicinity the Applicant may have no knowledge and/or control over, cost comparison and availability for appropriate biological mitigation purposes (such as the comparable price per acre) and any other terms and/or conditions that may be relevant for consideration regarding the project site’s suitability.

Therefore, it is hoped the owner(s) will recognize the importance of this information and voluntarily release these agreements into the public record for due consideration in the siting certification process in support of the promotion of transparency and appropriate site evaluation.

2. Agricultural Projects/Zone of Impact

As evidenced in my comment submission to the CEC on July 19, 2012, regarding the proposed project, there are several recent well application permits granted to Linda N. Ekins and Mary J. McMonigle, co-trustees of the Mary Lee Wiley Trust Fund for agriculture production project’s in the project areas vicinity⁽³⁾.

(1) Ivanpah Solar Electric Generating System (07-AFC-5), Commission Decision, CEC-800-2010-004 CMF, September 2010, Project Description and Purpose, p. 1.

(2) HHSEGS, Updated Workforce Analysis, TN-67434, p. ES-1., October 1, 2012.

(3) HHSEGS, Supplemental Comments & Analysis, Section 19, Water Resources, Appendix 1, C.R. MacDonald, July 19, 2012.

*Request To Mary Wiley Trust/Mary J. McMonigle For Evidence of Facts
Hidden Hills Solar Electric Generating System (11-AFC-02)*

However, I have been unable to find any reference to these agricultural projects in the AFC files, subsequent related documents, or CEC Staff cumulative or growth inducing impact analysis for the proposed project's zone of impact. As such, would the owner(s) be willing to submit evidence into the public record for due consideration, including, but not limited to;

- a) The current status of these agricultural projects.
- b) The purpose of the applications and/or type of proposed crops.
- c) Whether this information had been shared with the Applicant prior to filing the Application For Certification or at any time after, and if not, why not.
- d) Are there any additional or pending applications filed with the Nevada State Engineer that may impact the project site's zone of impact that are currently undisclosed and/or unavailable for consideration in the siting process?
- e) What is the total amount of acre feet per year the Mary Lee Wiley Trust Fund, Mary J. McMonigle and any other associated affiliates have reserved in Nevada under the currently established water right laws?
- f) Has the Mary Lee Wiley Trust Fund, Mary J. McMonigle and/or any other associated affiliates reserved the right to implement additional future agriculture projects in the project site vicinity over the life of the project, should it be approved?
- g) Does the Mary Lee Wiley Trust Fund, Mary J. McMonigle and/or any other associated affiliates have any additional developments planned for adjacent areas under their control in either Nevada or California that may affect the proposed project site or add to cumulative and/or growth inducing impacts should the proposed project be approved?
- h) Given the vast amount of land holdings under the owner(s) control, what limitations will be in place (if any) to prohibit additional development or prevent the owner(s) capitalization of the project site's proximity for additional commercialization and/or residential growth on adjacent land over the life of the project in either Nevada or California, should the proposed project be approved?
- i) Can or will the owner(s) provide any evidence or proof for the CEC and public review that will support any responsive statements to this request?

*Request To Mary Wiley Trust/Mary J. McMonigle For Evidence of Facts
Hidden Hills Solar Electric Generating System (11-AFC-02)*

3. Historical Planning, Well Pump Tests And Feasibility Determinations

In 2005, the Las Vegas Review Journal⁽¹⁾ and the LA Times⁽²⁾ reported on proposed development and planning efforts within Hidden Hills and the surrounding vicinity.

Both news articles indicated acting representative Mr. Scow was directly involved in many of these planning efforts, was actively coordinating with potential developers and may have had access to initial exploratory efforts regarding water availability in the area including potential environmental surveys, reports and well pump test results.

These articles (including direct quotes from Mr. Scow), indicate currently undisclosed evidence of critical water and other environmental data may be in the owner(s) possession, as highlighted by the excerpts below:

"It's been held in the family for 50 years, trying to determine what should we do about the water studies that need to be done and how to proceed. It's all very preliminary." Las Vegas Review Journal

"Tim Hafen, whose family has owned Hafen Ranch in Pahrump for more than 50 years, said the Hidden Hills Ranch has never been viable for agriculture and may not be viable for residential development." Las Vegas Review Journal

"Las Vegas building firm Rhodes Homes had....drilled a 1,540-foot test well that came up nearly dry." LA Times.

"For its part, Nevada has twice rejected ambitious building plans on Wiley's Hidden Hills Ranch near Charleston View in Nevada, because the proposed hotel-casino and golf course would have harmed water users." LA Times.

"Substantial evidence supports the state engineer's conclusion that the hydrological health of the Pahrump Basin constitutes an important state interest," the Nevada Supreme Court ruled in 1998, rejecting an appeal by the Wiley Estate." LA Times.

(1) "The Other Side Of The Mountain: Housing Could Spread To Land East Of Mountain", Las Vegas Review Journal, October 4, 2005. Downloaded online on 9/15/12 at: http://www.reviewjournal.com/lvrj_home/2005/Oct-04-Tue-2005/business/3298940.html

(2) "Wrangling Over Water: Development dreams on the California-Nevada border could dry up and blow away without a reliable source of one of the West's most contested resources", LA Times, August 7, 2005. Downloaded on 9/15/12 at: <http://articles.latimes.com/2005/aug/07/local/me-nowhere7> and <http://articles.latimes.com/2005/aug/07/local/me-nowhere7/2>

*Request To Mary Wiley Trust/Mary J. McMonigle For Evidence of Facts
Hidden Hills Solar Electric Generating System (11-AFC-02)*

“There’s an aquifer with 21 million acre-feet of water 4,500 feet below us,” Bradley⁽¹⁾ said. “He plans to spend \$100,000 to drill a 3,500-foot test well by the end of August, he said.” LA Times

As described above, it would appear the Wiley Trust Fund and its associated affiliates may have been very active in a variety of historical planning and development efforts and may have access to extensive data, knowledge, environmental impact reports and feasibility determinations regarding the proposed project site that are currently unavailable for consideration or review.

In a recent comment letter from Nicholas T. Gabler submitted to the CEC on October 3, 2012, Mr. Gabler states he represents a California based real estate company (perhaps such as the California based Golden Ridge Corporation, parent company to the developers of St. Therese Mission)⁽²⁾. Unfortunately, he fails to identify who he represents, how long he has been involved in the planning area, what his current status or connections to property owners may be nor does he provide evidence to support his proliferation of allegations regarding historical or current feasible development.

However, the Mary Wiley Trust Fund, Mary Jane McMonigle and/or its associated affiliates are in the position to provide data, environmental reports, evidence of fact and appear to have multiple relationships with a variety of historical and current property owners and/or developers – perhaps even with Mr. Gabler or the California based real estate company he claims to represent⁽³⁾.

Given the fact that prior developmental efforts have failed to reach fruition for what appears to be a lack of water availability in the area combined with the current arguments that have again resurfaced, potential feasibility of development and other related issues, the owner(s) silence on these issues have given the appearance of withholding important and perhaps critical information required to adequately evaluate the site’s potential suitability for the proposed project.

Since the owner(s) have recently indicated a willingness to “set the record straight”, given the gravity and necessity for consideration of this kind of information, a request is being submitted for the owner(s) to release all available historical or current data, information, knowledge, proposals, planning efforts, applications, final decisions, environmental surveys and/or reports, well test reports, legal documents and rulings, and any other relevant evidence outside of hearsay that may pertain to the proposed project site and the surrounding vicinity in efforts to assist informed decision making regarding the Application for Certification of the proposed Hidden Hills SEGs.

(1) The article identified “Bradley” as a consultant for the Golden Ridge Corporation.

(2) Golden Ridge Corporation is a California based real estate company that is also listed as a parent company to Magnificat Ventures Corporation, currently developing the St. Therese Mission. Source: St. Therese website, downloaded on 10/14/12, <http://sttheresemission.com/wp/company/company-profile>.

(3) Property owners of the land St. Therese Mission is sited on were identified as the Wiley Trust, Bailon Trust, and Lynn Fernando with ownership projected to be transferred to Magnificat Ventures Corporation at some point in the future. Source: Inyo County Staff Report, Conditional Use Permit #2010-02/St. Therese Mission, June 23, 2010.

*Request To Mary Wiley Trust/Mary J. McMonigle For Evidence of Facts
Hidden Hills Solar Electric Generating System (11-AFC-02)*

4. Roland Wiley's Original Bill Of Sale

Since the owner(s) recently submitted statements regarding the cultural and historical significance of the proposed project site and its surrounding vicinity in efforts to dispel what they believe are “unsubstantiated assertions” and “rumors”, there has been a persistent, long-standing rumor surrounding how Roland Wiley actually acquired Hidden Hills and/or a portion of the surrounding landscape.

The body of this rumor goes something like this:

The Pahrump Valley had long been occupied by native Paiutes prior to European settlements. It is rumored that a toe hold was gained on a portion of the Hidden Hills area by John Yount, son of Joesph Yount because “*he had been married to an Indian woman*”.⁽¹⁾ It is stated that “*At some point after her death, he lived with a woman who became known as Belle Yount*”. (*Id*)

Belle Yount was reported to have contacted then attorney, Roland Wiley, in efforts to determine if she had any ownership rights to the property after John Yount's death due to the fact that Belle and John had failed to follow through with an official marriage.

Though “*Wiley could not establish Belle's relationship as a common-law wife, [he] advised her to buy out interests of the other heirs*”.⁽²⁾ The historical accountings continue by stating she, “*suggested that Wiley buy the property from her*”. (*Id.*)

The question that has since surfaced is, *how could Wiley have purchased land from Belle Yount if he could not establish that she had any ownership claim to it in order for her to legally sell it to him?*

This has led to the rumor that Wiley never actually purchased the land, that perhaps he exercised a power of attorney authorization or used some other questionable legal means to “steal it” from the Paiute people - as no one had ever formally or legally owned it or portions of it before. The rumor maintains that no bill of sale for Hidden Hills has ever been seen nor has the purchase price of Hidden Hills ever been publicly disclosed because of the way Wiley “*took possession*”⁽³⁾ of the land.

As a result, since the owner(s) have recently expressed an interest in “clearing the air”, perhaps they would be willing to provide the long-sought after bill of sale for Hidden Hills originally signed by Roland Wiley and make it available for public review and future historical reference.

(1) A History of Pahrump Nevada, Robert D. McCracken (1990), p. 73.

(2) A History of Pahrump Nevada, Robert D. McCracken (1990), p. 74.

(3) A History of Pahrump Nevada, Robert D. McCracken (1990), p. 74.



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

BrightSource Energy
Bradley Brownlow
Michelle L. Farley
1999 Harrison Street, Suite 2150
Oakland, CA 94612-3500
bbrownlow@brightsourceenergy.com
mfarley@brightsourceenergy.com

BrightSource Energy
Clay Jensen
Gary Kazio
410 South Rampart Blvd., Suite 390
Las Vegas, NV 89145
cjensen@brightsourceenergy.com
gkazio@brightsourceenergy.com

APPLICANTS' CONSULTANTS

Strachan Consulting, LLC
Susan Strachan
P.O. Box 1049
Davis, CA 95617
susan@strachanconsult.com

CH2MHill
John Carrier
2485 Natomas Park Drive, Suite 600
Sacramento, CA 95833-2987
jcarrier@ch2m.com

COUNSEL FOR APPLICANT

Ellison, Schneider and Harris, LLP
Chris Ellison
Jeff Harris
Samantha Pottenger
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816-5905
cte@eslawfirm.com
jdh@eslawfirm.com
sqp@eslawfirm.com

INTERVENORS

Jon William Zellhoefer
P.O. Box 34
Tecopa, CA 92389
jon@zellhoefer.info

Center for Biological Diversity
Lisa T. Belenky, Sr. Attorney
351 California Street, Suite 600
San Francisco, CA 94104
lbelenky@biologicaldiversity.org

Center for Biological Diversity
Ileene Anderson, Public Lands
Desert Director
PMB 447
8033 Sunset Boulevard
Los Angeles, CA 90046
ianderson@biologicaldiversity.org

Old Spanish Trail Association
Jack Prichett
857 Nowita Place
Venice, CA 90291
jackprichett@ca.rr.com

INTERVENORS (con't.)

Cindy R. MacDonald
3605 Silver Sand Court
N. Las Vegas, NV 89032
sacredintent@centurylink.net

Richard Arnold
P.O. Box 3411
Pahrump, NV 89041
rwarnold@hotmail.com

INTERESTED AGENCIES

California ISO
e-recipient@caiso.com

Great Basin Unified APCD
Duane Ono
Deputy Air Pollution Control Officer
157 Short Street
Bishop, CA 93514
dono@gbuapcd.org

County of Inyo
Dana Crom
Deputy County Counsel
P.O. Box M
Independence, CA 93526
dcrom@invocounty.us

Nye County
Lorinda A. Wichman, Chairman
Board of County Supervisors
P.O. Box 153
Tonopah, NV 89049
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

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

***Southern Inyo**
Fire Protection District
Larry Levy, Fire Chief
P.O. Box 51
Tecopa, CA 92389
sifpd@yahoo.com

**ENERGY COMMISSION –
DECISIONMAKERS**

KAREN DOUGLAS
Commissioner and Presiding Member
karen.douglas@energy.ca.gov

CARLA PETERMAN
Commissioner and Associate Member
carla.peterman@energy.ca.gov

Ken Celli
Hearing Adviser
ken.celli@energy.ca.gov

Eileen Allen
Commissioners' Technical
Advisor for Facility Siting
eileen.allen@energy.ca.gov

Galen Lemei
Advisor to Presiding Member
galen.lemei@energy.ca.gov

Jennifer Nelson
Advisor to Presiding Member
jennifer.nelson@energy.ca.gov

Jim Bartridge
Advisor to Associate Member
jim.bartridge@energy.ca.gov

**ENERGY COMMISSION –
STAFF**

Mike Monasmith
Senior Project Manager
mike.monasmith@energy.ca.gov

Richard Ratliff
Staff Counsel IV
dick.ratliff@energy.ca.gov

Kerry Willis
Staff Counsel
kerry.willis@energy.ca.gov

**ENERGY COMMISSION –
PUBLIC ADVISER**

Jennifer Jennings
Public Adviser's Office
publicadviser@energy.ca.gov

DECLARATION OF SERVICE

I, Cindy R. MacDonald, declare that on October 14, 2012, I served and filed copies of the attached Request To Mary Wiley Trust/Mary J. McMonigle For Evidence of Facts, dated October 14, 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.

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 to all e-mail addresses on the Proof of Service list;
- 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 to the e-mail 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:

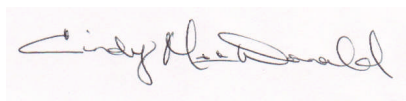
CALIFORNIA ENERGY COMMISSION – DOCKET UNIT
Attn: Docket No. 11-AFC-02
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.ca.gov

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

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



Cindy R. MacDonald