

California Energy Commission
1516 Ninth Street
Sacramento, CA 95814



December 10, 2012

**RE: LETTER TO INYO COUNTY BOARD OF SUPERVISORS
AGREEMENT BETWEEN INYO COUNTY AND BRIGHT SOURCE ENERGY, AGENDA ITEM #20**

Dear Commissioners:

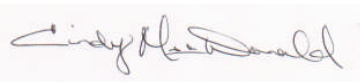
For your review, please accept the attached copy of a public comment letter submitted to the County of Inyo Board of Supervisors for consideration at the December 11, 2012, meeting regarding a draft financial agreement between the County and Bright Source Energy under Agenda Item #20.

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/Intervener
3605 Silver Sand Court
N. Las Vegas, NV 89032
sacredintent@centurylink.net

County of Inyo Board of Supervisors
County Administrative Center
224 North Edwards
Independence, CA 93526

December 10, 2012

RE: Agenda Item 20: Agreement Between County of Inyo and Bright Source Energy

To County of Inyo Board of Supervisors:

My name is Cindy MacDonald and I am both a property owner in Charleston View, CA, which is adjacent to the proposed Hidden Hills Solar Electric Generating System (HHSEGS), as well as an intervenor in the California Energy Commissions (CEC) Application For Certification (AFC) for the proposed facility.

Having spent an immense amount of time researching and actively participating in AFC process since November 2011, **I would like to emphatically urge the Board of Supervisors to delay making a decision or authorizing any agreements between Bright Source Energy and the County at this time.**

Furthermore, due to the complexities of the issues still yet to be addressed combined with the profound impacts the proposed project will have on the community and County if approved, I would also strongly recommend the County postpone entering into any agreement until – at minimum - the publication of the CEC's Final Staff Assessment has been made available for public review for at least 30 days as well as providing a minimum of one public hearing on these matters.

However, the best case scenario would be to wait until after the CEC's Presiding Member's Proposed Decision as, at best, the agreement(s) currently being considered are based on incomplete information and partial consideration of facts.

Unfortunately, both proposed agreements from County Staff and Bright Source Energy utilize analysis set forth in the CEC's Preliminary Staff Assessment – not the Final Staff Assessment (FSA), which is also the official CEQA document for County even though it has yet to be published or made available for public review.

Therefore, the proposed agreements have been drafted without adequate CEQA determinations to support the terms and conditions now being set forth before the Board; neither has the public been given any opportunity to review the County's CEQA document prior to the Board entering into agreement(s) based on this yet-to-be published document. In addition to questions regarding the proposed agreement(s) compliance with CEQA, there are additional questions regarding compliance with Title 21.

The CEC is also required to hold public hearings on the proposed facility, which allows all parties to present evidence and facts for consideration that may have yet to be publicly vetted. Issues raised here may have significant bearing on both the terms and conditions of the final agreement and/or the Board's final decision.

For example, the County is proposing a \$10,000 penalty for each truck that utilizes Highway 127 to access the proposed site; the Applicant wants to see the term "penalty" replaced with "fee". Though the County's penalty of \$10,000 per truck is meant to deter truck use through Emigrant Pass to protect the public, Applicant's consideration of this penalty as merely a "fee" is a clear indication that this amount will not be a significant deterrent to insure public safety and instead, indirectly will authorize a high degree of public endangerment.

Therefore, the County should seek additional alternatives and/or mitigation such as, a) increase the penalty from \$10,000 per truck to \$50,000 per truck to act as a sufficient deterrent to prevent truck or hazardous materials transport through Emigrant Pass and/or, b) if trucks or hazardous materials are to be routed through Emigrant Pass, then a temporary road closure with police escorts (and adequate planning and compensation) should be considered mandatory to insure safe passage and take reasonable precautions to protect the public from injury and/or death.

There are also serious and significant unresolved issues regarding the Applicant failure to exercise due diligence throughout the AFC process, which include non-disclosure, misrepresentations, omissions of critical information and the issuance of materially false statements. Some of these issues include potentially significant threats and hazards to public safety, the experimental nature and unproven proprietary technology to be used for utility scale power generation and the feasibility of the proposed project's design in relation to output, performance, and reliability for electrical power generation.⁽¹⁾

If the Board enters into agreements prematurely, the County and the citizens may find themselves wholly unprotected from the full impacts of the proposed project and/or without adequate financial commitments, compensation or the ability to reasonably mitigate and/or negotiate terms that provide for adequate public or environmental protection over the life of the project.

For example, the current Socio-Economic impact analysis by the County and/or CEC Staff may be rendered moot as Bright Source Energy has filed an additional application with the Bureau of Land Management for a similar but much larger facility, the Sandy Valley Solar Electric Generating System, just a few miles away from the proposed HHSEGS site. Impacts to County services, infrastructure, land use and natural resources may be significantly greater than currently analyzed in the event the Sandy Valley SEGS project is also approved. (See Attachment I: Proposed Location of Sandy Valley SEGS)

Another potential scenario that has yet to be explored includes the possibility of converting the proposed solar facility to an Enhanced Oil Recovery (EOR) facility at some point during the life of the project. EOR is a very similar process known as hydraulic fracturing or "fracking" for oil recovery.

(1) Intervenor Cindy MacDonald's Motion To Terminate Application For Certification, 11/21/12 available at: http://www.energy.ca.gov/sitingcases/hiddenhills/documents/others/2012-11-20_Intervenor_Cindy_MacDonald_Motion_to_Terminate_TN-68693.pdf

To briefly summarize the feasibility and potential of this scenario, please consider the following:

- Bright Source Energy's only functional facility in the United States that uses a similar design and technology is an EOR facility developed in partnership with Chevron in Coalinga, California.⁽²⁾
- Chevron is a leader in the field of seismic imaging, a technique that uses satellite imagery to model potential geological sites for EOR facilities.⁽³⁾ These sites are often characterized by their proximity to fault lines, such as the one found merely 1,500 feet from the proposed HHSGS boundaries. Other geological indications include the presence of shale, such as is commonly found at Emigrant Pass – merely 15-20 miles away from the proposed HHSEGS site.
- Recently, a news story announced that, *"A company out of Ireland has been drilling in a valley near Tonopah for some time. It has reportedly discovered what could turn out to be the largest oil reserves in Nevada's history."* It also stated that, *"several more oil companies have been quietly moving into Nevada"* in efforts to locate potential EOR sites⁽⁴⁾. One company alone, Underground Energy, is boasting 70,000 net acres in California and Nevada are slated expressly for EOR purposes.⁽⁵⁾
- Preliminary research indicates that should the proposed HHSEGS be approved and completed under the CEC's authority, the conversion of the facility to an EOR facility or partial EOR facility may be a rather simple process. The CEC accepts amendments to facilities that have already been approved and will allow the modification of facilities under prior permitting authority to be radically altered in design and function without filing a new Application For Certification and often with significantly less environmental review.
- The California Division of Oil, Gas and Geothermal Resources (DOGGR), the agency responsible for EOR permitting, has no regulations for "fracking" and has never prepared an EIR when issuing permits for oil and gas wells.⁽⁶⁾
- According to a February 2012 report, *"California Regulators: See No Fracking, Speak No Fracking"*, though the DOGGR requested and received more than \$3 million dollars to develop regulations to oversee fracking in California, they have since stated they have no plans to develop regulations for the industry. This report also provides evidence that EOR practices have been widespread in California for many years – with no tracking, data, regulations or oversight.⁽⁷⁾

(2) Bright Source Energy, Projects, Coalinga, available at: <http://www.brightsourceenergy.com/coalinga>

(3) Chevron, Seismic Imaging, available at: http://www.chevron.com/deliveringenergy/oil/seismicimaging/?utm_campaign=Tier_2&utm_medium=cpc&utm_source=Google&utm_term=seismic_imaging

(4) "Company Works Oil Discovery Details Outside Tonopah", 11/12/12, available at: <http://www.mynews3.com/mostpopular/story/Company-works-oil-discovery-details-outside/l5f3U-oekUKjNGMO9eFZ-Q.csp>

(5) "Unlocking Conventional Resources", Underground Energy, 2011 Report, available at: <http://www.ugenergy.com/files/UGE%20Full%202011%20AR-%20Web%20Version.pdf>

(6) Fracking Lawsuit Filed in California Against State Agency, Legal Planet, 10/18/12, accessed 12/9/12 at: <http://legalplanet.wordpress.com/2012/10/18/fracking-lawsuit-filed-in-california-against-state-agency/>

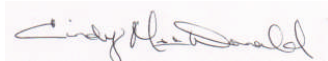
(7) "California Regulators: See No Fracking, Speak No Fracking", Environmental Working Group, Sharp and Allayaud, February 2012, available at: http://static.ewg.org/reports/2012/fracking/ca_fracking/ca_regulators_see_no_fracking.pdf

As I have tried to briefly summarize, given the gravity of the long term consequences for residents and Inyo County should the County prematurely enter into binding long term agreements with Bright Source Energy for the life of the project – the consequences may be dire for all. At minimum, the County should seriously consider inserting a clause in the currently proposed agreement(s) that allows the agreement to be declared “null and void” in the event significant changes to the design or purpose of the facility are proposed over its lifetime.

To reiterate, I must emphatically urge the Board to stand fast and refuse to be intimidated by the current political and economic forces bearing down on the County and its citizens by delaying the authorization of the currently proposed agreement(s) until adequate data, information and analysis has been made publicly available for full consideration and at least one opportunity for a public hearing on this agreement(s) has been provided for, preferably after the CEC’s Presiding Members Proposed Decision is issued.

In conclusion, the recommendation that the Board “sign off” on this agreement(s) prior to December 30, during a time when most members of the public are engaged in holiday activities and least active in public planning efforts should be rejected entirely as it prevents adequate public involvement, which in turn leaves residents and the County even more vulnerable to the world class players behind Bright Source Energy and the proposed Hidden Hills Solar Electric Generating System.

Sincerely,

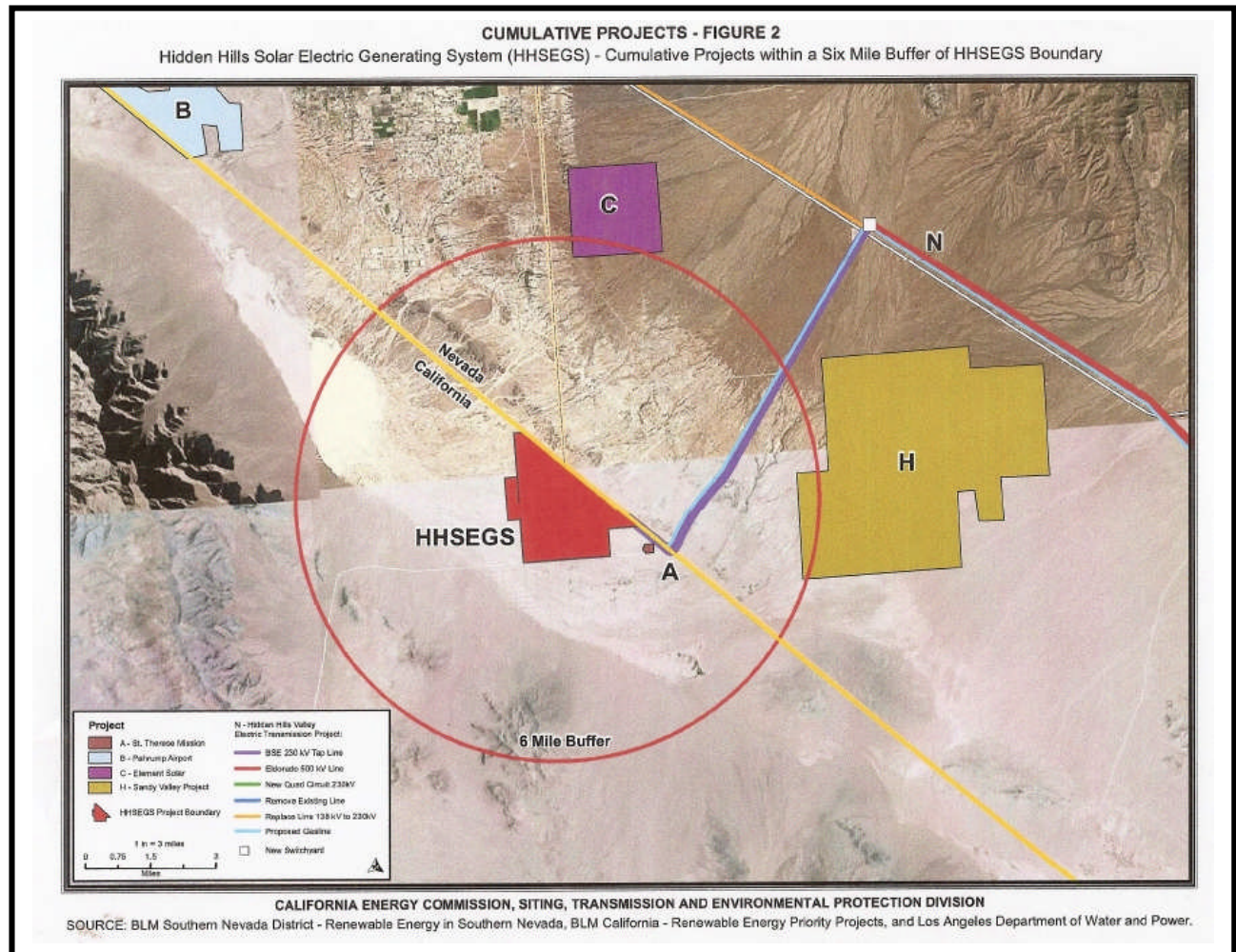
A handwritten signature in cursive script, appearing to read "Cindy MacDonald", written in dark ink on a light-colored background.

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

CC: Kevin Carunchio, CAO
Joshua Hart, Planning Director
Dana Crom, Deputy County Counsel

ATTACHMENT I

(H) = PROPOSED LOCATION OF SANDY VALLEY SEGS





**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)**

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DECLARATION OF SERVICE

I, Cindy R. MacDonald, declare that on December 10, 2012, I served and filed copies of the attached Letter To Inyo County Board of Supervisors, dated December 10, 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:

- ☒ 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:

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



Cindy R. MacDonald