

## Newberry Springs Community Alliance

P.O. Box 11  
Newberry Springs, CA 92365  
newberrysprings@mail.com

April 26, 2018

Terri Rahhal, Planning Director  
Tom Nieves, Contract Planner  
County of San Bernardino  
Land Use Services Department  
385 N. Arrowhead Ave., First Floor  
San Bernardino, CA 92415

Sent via e-mail (PDF).  
Terri.Rahhal@lus.sbcounty.gov  
Tom.Nieves@lus.sbcounty.gov

Re: Scoping Public Input - Daggett Solar Project (P201700679)

Dear Ms. Rahhal and Mr. Nieves,

Please address each of the following questions and concerns in the Daggett Solar Project's (P201700679) Environmental Impact Report as part of our participation in the public scoping process. We are providing a brief narrative to most of our questions and concerns as a foundation.

This scoping communication is further being prefaced with a strong complaint that inadequate time has been provided to the public to properly participate in the scoping process. Despite multiple requests, vast amounts of data regarding the Project have not been made available to the public and the County of San Bernardino, as the Lead Agency, to date has denied multiple requests for a sixty-day (60-day) extension of the scoping period deadline for public comment. Furthermore, the County has biasly manipulated the County's Renewable Energy Conservation Element to allow the Project's filing before a determination of the before said element's Policy 4.10. The County has intentionally withheld that determination for nearly a year. The County has further used the stalled period to design a replacement Policy 4.10 alternative that highly favors establishment of utility-scale solar in Rural Living zoning. This is despite the County's recommended alternative being contrary to the County's General Plan and Development Code.

Hereinafter, "Project" shall reference Daggett Solar Project (P201700679), "County" shall reference the County of San Bernardino.

1. The County has taken an interpretation that Rural Living zoning permits utility-scale solar. There is a distinct legal difference between a residential/commercial Renewable Energy Generation Facility being permitted in a rural residential community and that of an industrial utility-scale solar development. As utility-scale solar facilities are industrial on steroids, by their nature, they are totally incompatible in rural neighborhoods. There seems to be a stretching of the definition to permit utility-scale in Rural Living which is mooted by other portions of the County Code. (Q.) What is the County's specific legal basis that utility-scale solar developments can be considered environmentally compatible and permitted in RL zoning?

2. Please provide a thorough nonpartisan study analysis of the Project's impact to the County's Historic Route 66 Scenic Highway and include a comprehensive analysis of the current and future economic impacts that the Project will have to the economies of the local communities that depend upon the open West vistas from Interstate-15 and Interstate-40, and include Calico, Daggett, and the nearby local Gateway communities to the Mojave National Preserve, Mojave Trails National Monument, Death Valley, and nearby tourist and recreational destinations. (Please note that Historic Route 66 was designated a state historic route in 1991, and the Route 66 segment along the Project is a candidate to become a National Scenic Byway and is also a candidate as an All-American Road, in part based upon its scenic viewshed. Furthermore, the Project fails to avoid modification of scenic natural formations (Development Code 84.29.035(c)(19).)

3. Please provide the comprehensive detail analysis given to each alternative solar site considered, including the available sites in the federal Desert Renewable Energy Conservation Plan (DRECP), and provide a detail explanation why each alternative site was reasonably rejected.

4. Photographs of the areas of the Project site illustrate dust and sand being picked-up in winds and reaching several hundred feet in altitude in a very short distance. Blowing dust/sand mitigation using stabilizers has been unsuccessful at the 22-acre Soitec facility which has been a Newberry Springs disaster. (Q1.) What environmental PM10/dust protections are being planned? (Q2.) What evidence is available that such mitigation measures should be relied upon in a Sand Transport Path?

5. The Project's site is located in the center of a Sand Transport Path. (Q.) Does the applicant have any nonpartisan studies, meteorological data, and PM10 studies addressing the sand transport issues impacting the Barstow-Daggett Airport and neighboring communities?



6. Blowing dust and sand emitting from the Project can be anticipated to cause damage and interference to operating aircraft engines, static aircraft, and airport operations at the Barstow-Daggett Airport. (Q.) What mitigation measures and financial guarantees against environmental, mechanical, and airport operation damages will be established for the life of the Project?

7. (Q.) How will the facility's developer and future operator(s) address the neighboring communities' cost of healthcare issues resulting from the anticipated environmental massive increases in PM10 emitting from the Project into the neighboring communities?

8. The federally protected fringe-toed lizard has been recently spotted along an area of the Mojave River. (Q.) How is the Project's natural habitat for this endangered lizard going to be protected?

9. (Q.) What steps are being taken to remedy pathway obstructions, such as fencing, to maintain wildlife migration through the Project site?

10. The developer has been investigating this Project for a known 4-years. A minimum 2-plus year air quality study is necessary for the Project site as a minimum baseline to meet and understand the environmental air quality problems of the site under CEQA. The nearest Mojave Desert AQMD monitors (Barstow Courthouse) are too distant and are not in the Sand Transport Path to be of any relevance. (Q.) What is being done to establish an air quality baseline and a nonpartisan air quality study for the Project?

11. The County's development goals and policies are environmentally rooted in sensible General Plan Vision Statements that regulate the implementation of development. A few codified County General Plan relevant portions are LU-2, LU-7, and LU-10. The Project's proposed siting fails to meet the criteria of the County's Development Code, Section 84.29.035, and the Land Use Element:

GOAL LU-1: The County will have a compatible and harmonious arrangement of land uses by providing a type and mix of functionally well-integrated land uses that are fiscally viable and meet general social and economic needs of the residents.

POLICY LU-1.2: The design and siting of new development will meet locational and development standards to ensure compatibility of the new development with adjacent land uses and community character.

GOAL LU-7: The distribution of land uses will be consistent with the maintenance of environmental quality, conservation of natural resources, and the preservation of open spaces.

GOAL LU-10: Encourage distinct communities with a sense of "place" and identity.

The County's General Plan, Desert Region Goals and Policies of the Land Use Element:

GOAL D/LU-1: Maintain land use patterns in the Desert Region that enhance the rural environment and preserve the quality of life of the residents of the region.

POLICY D/LU-1.2: Limit future industrial development to those uses which are compatible with the Community Industrial Land Use Zoning District or zone, are necessary to meet the service, employment and support needs of the region, do not have excessive water requirements, and do not adversely impact the desert environment.

POLICY D/LU-1.3. Utilize Rural Living (RL) areas to buffer Resource Conservation (RC) areas from more intensive land uses.

- Note: The Project VIOLATES all of the above, including loss of long-term local employment, adversely impacting local safety and health, adversely impacting the environment of the desert, viewsheds, water quality and water availability, wildlife, and property values.

(Q.) With the state's renewable energy power needs for the immediate future already being met, with many alternative sites being available under the DRECP, and with the Project causing many unmitigable damages, why is the County still processing the Project site as permissible?

12. Furthermore, in reference to the above points, under the Development Code policy for the Planning Commission - General findings for all Use Permits (Conditional and Minor), § 85.06.040(a) states, "The review authority shall first find and justify that all of the following are true before approving a Conditional Use Permit or Minor Use Permit application." Under sub (4): "The proposed use and manner of development are consistent with the goals, maps, policies, and standards of the General Plan and any applicable community or specific plan." Clearly, with the violations of the Project noted in the preceding paragraph, the Planning Commission cannot legally approve a Conditional Use Permit for the Project. (Q.) Why is this Project continuing to be processed if the Planning Commission cannot approve a Conditional Use Permit?

13. Daggett and Newberry Springs are severely economically disadvantaged communities. The dumping of the Project within Daggett and a planned second site in Newberry Springs will create an overall loss of jobs due to the loss of jobs from agriculture, removal of available land preventing future residential and commercial development, create a visual eyesore detriment to tourism, create dangerous air quality, harm wildlife, depreciate



the rural lifestyle and property values, and destroy the rural environmental setting that local residents have invested and built their homes to enjoy. The Project's negative environmental impact upon such a large area represents an act of Social Injustice, a Civil Rights violation of environmental and economic racism that may be addressed under federal Title 42, § 1983. The Project may also violate California Government Code § 65040.12 regarding environmental justice. (Note: Cal. Govt. Code § 65040.12(e) states, "For the purposes of this section, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.") The Project represents an unnecessary environmental disaster to the local citizens of challenged social and economic status. The Project's siting and nonconformity to Rural Living appear to be blatantly illegal under County Code and also a form of uncompensated Eminent Domain against the neighboring communities. (Q.) What compensation program addressing the above will be established for the communities and individuals for the environmental, economic, and other damages resulting from this Project's devaluating the desirability of adjacent communities and the devaluation of property values?

14. It is estimated that this and other County solar projects' future health damages to local residents from fugitive dust may reach future claims in excess of two-billion dollars (\$2-billion), primarily resulting from PM10 deaths and lung disease issues from the County's failure to protect the residents' health, safety, and welfare by approving the Project, and other projects, in known environmentally dangerous Sand Transport Paths. (Q.) What measures will the County acquire to cover the plaintiffs' awards and protect the County's solvency from this and other Sand Transport Path projects?

15. (Q.) What Power Purchase Agreements has the developer acquired for the Project to warrant construction and what are the specific power amounts involved in the contract(s) and all dates involved? Please provide copies of any Power Purchase Agreements.

16. Ratepayers in California are paying a premium, among the highest power rates in the United States, for the ability of solar power generation and transmission. (Q.) Will the power generated by the Project be used entirely within the state of California or be distributed outside the state as surplus power?

17. (Q.) What is the country of origin of the photovoltaic panels and the power storage equipment that will be used?

18. (Q.) Who is the manufacturer and what are the model numbers of the photovoltaic panels and the power storage equipment that will be used?

19. (Q.) Where can the Material Safety Data Sheet (MSDS) and the Product Safety Data Sheet (PSDS) be publicly acquired for the photovoltaic panels and the power storage equipment that will be installed for the Project?

20. (Q.) There is fear of chemical leaching and spills from equipment that will damage the environment. (Q.) What chemicals will be or were used in the construction of the photovoltaic panels and the power storage units for the Project?

21. (Q.) What ground treatment chemicals, such as herbicides, will be used?

22. Many of the approximate 15 alfalfa and hay fields being proposed by the Project for solar conversion are reportedly loaded with thousands of tons of hazardous sewage sludge compost. This sludge compost includes hazardous pharmaceuticals, heavy metals, and other hazardous wastes that were originally disposed of through urban sewers and later collected, marketed, and given away as sewage sludge compost. Urban waste compost is known to contain many thousands of hazardous elements. It is reasonable to state that many thousands of toxic elements have been spread on the agricultural fields that are to be used by the Project. Such compost has been spread for years on the Project's fields and will be tilled and exposed by the Project, laid bare without cover, with hazardous matter becoming airborne by high winds at the Project, spreading into neighboring communities. The vast majority of the hazardous elements require individual element testing for detection. They are otherwise not detected in routine heavy metal, bacteria, et cetera, testing. With many thousands of elements, test results from samples only a few feet apart can vary tremendously. (Q1.) What soil studies and what specific contamination elements will be specifically tested for at the Project's site? (Q2.) How many samples will be taken and from specifically where? (Q3.) What will the Project do to clean-up the toxic waste and prevent the hazardous toxic matter from spreading?

23. (Q.) Have Health Risk Assessments been done?

24. A recent UCLA study has concluded that Los Angeles has sufficient rooftop space for distributed generation, also known as distributed energy or



on-site generation (OSG), to meet all current and future power generation needs. OSG would prevent the need to desecrate the desert and save on costly transmission. A 2017 study by the Institute for Local Self-Reliance substantiates that OSG cost the ratepayer about the same as utility-scale power and OSG may be more beneficial. (Q.) If the purpose of utility-scale solar's desecration of the desert is to help curtail greenhouse gases, why isn't the County actively supporting the substitution of OSG that would save the County's desert and protect the health, safety, and welfare of its residents?

25. The Project is located in the Baja Subarea basin which is severely overdrafted and is under adjudication. Attempted measures have not been able to arrest further overdraft. The Project will have a tremendous thirst for water. (Q1.) Where will the water come from? (Q2.) How will the Project ensure that the Project will not further damage the water basin's water level and quality?

In conclusion, we feel that there is far more that needs to be addressed by us. However, the arbitrary shortness of the allocated scoping period, and the major fact that critical information about this significant Project has been hidden and denied to us, prevents us and others from fully understanding and participating in the CEQA process. The bias demonstrated against us by the County in the passage of the County's Renewable Energy Conservation Element, minus Policy 4.10, and the CEQA process of this Project, appears to be an unfortunate continuation of the discriminatory marginalization of the economically disadvantaged High Desert rural communities that the County has traditionally dumped on. We continue our request for a 60-day extension for the scoping period and the release of the Project's documentation for public display at a public facility in Daggett and in Newberry Springs.

Respectfully submitted,

TS

Ted Stimpfel, Executive Director  
Newberry Springs Community Alliance

cc: Earl Withycombe, Cal. Air Resources Board, [ewithyco@arb.ca.gov](mailto:ewithyco@arb.ca.gov)  
Brad Poiriez, Mojave Desert AQMD, [bradp@mdaqmd.ca.gov](mailto:bradp@mdaqmd.ca.gov)  
Alan De Salvio, Mojave Desert AQMD, [adesalvio@mdaqmd.ca.gov](mailto:adesalvio@mdaqmd.ca.gov)  
Luther Snoke, [Luther.Snoke@cao.sbcounty.gov](mailto:Luther.Snoke@cao.sbcounty.gov)  
Bea Lint, 1st Dist. Field Rep., [bea.lint@bos.sbcounty.gov](mailto:bea.lint@bos.sbcounty.gov)

Christian Guntert, 1st Dist. Fld. Rep, Christian.Guntert@bos.sbcounty.gov  
Mark Staggs, Daggett CSD, markstaggs760@yahoo.com  
Newberry CSD, newberrycsd@gmail.com  
Pat Flanagan, MBCA, patflanagan29@gmail.com  
Bob Berkman, CEQA Now, ctcdaggett@mindspring.com