

DRAFT-CARB Ltr 190927.docx

Open with

Richard W. Corey, Executive Officer
California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

Re: Eastern San Bernardino County PM₁₀ Monitoring

Dear Mr. Corey,

We request that the California Air Resources Board establish one or more PM₁₀ continuous monitoring stations in Eastern San Bernardino County. Land development and climate change are driving increases in windblown dust emissions in this area, and the lack of regulatory monitoring data representative of this area is adversely impacting public health as land use decisions are being made on the basis of air quality data being collected in cleaner, upwind areas.

Historically, California's deserts have been sources of windblown dust in areas experiencing high wind velocities and ample supplies of loose sand. These sources, in the absence of human disturbance, are considered natural sources and exempt from air quality regulatory control. Increasingly, however, development activities in some of these desert areas have significantly disturbed soil surfaces, removing geological and biological crusts that formerly shielded these soils from aeolian erosion. One such area is the eastern Mojave Desert where population centers (Afton, Amboy, Baker, Bagdad, Cadiz, Chambless, Cima, Daggett, Fenner, Glasgow, Halloran Springs, Joshua Tree, Kelso, Ivanpah, Landers, Ludlow, Manix, Mountain Pass, Needles, Newberry Springs, Pispah, Siberia, Twentynine Palms, Yermo, and Yucca Valley) are small and economically and environmentally burdened.

Protection of air quality in these communities is delegated under state law to the Mojave Desert Air Quality Management District (MDAQMD). Also, under state law, air districts such as MDAQMD, are encouraged to monitor air pollutant levels to determine whether areas under their jurisdiction have attained federal and state ambient air quality standards. Currently, MDAQMD continuously monitors ambient PM₁₀ concentrations in Barstow, Hesperia, Lucerne Valley, and Victorville. The southwestern portion of San Bernardino County where these monitors are located covers approximately 4,000 square miles. The remaining, unmonitored, portion of the County, in which the Eastern Mojave Desert is located, covers approximately 16,000 square miles.

Climate change is causing soil moisture levels to decline in the Mojave Desert, resulting in the elimination of desert shrubs and plants that survive within narrow bands of moisture levels. As surface vegetation thins, surface roughness heights decline, resulting in increased wind velocities on soil surfaces.

APPEAL APPLICATION

Complete all portions of this application. If you believe that an item does not apply to your appeal, mark it "N/A". Do not leave any blank spaces.

You may attach additional pages or other documentation to this application.

Project Action Date: September 19, 2019 - Planning Commission

Project #: P 201700679/CUP ; P 201900243/TPM

Building Permit No.: N/A

Project Applicant(s): Daggett Solar Power Facility 1, LLC

Appellant's Name (s): Newberry Community Services District

Appellant's Address: P.O. Box 206

City: NEWBERRY SPRINGS Zip: 92365

Office Phone: (760) 257-3613 FAX No.: N/A E-Mail: NewberryCSD@gmail.com

Assessor's Parcel No. of Subject Property: 0515-011-03 (multiple APNs)

General Location of Property: Along Valley Center Road and Minnesota Road

Community/Area: Daggett and Newberry Springs

1. I/We hereby appeal to the San Bernardino County: (check one)

Planning Commission from action by: (check one)

Director of Land Use Services

Division Chief of Environmental Health Services (EHS)

Director of Transportation/Flood Control/Surveyor

Board of Supervisors from action by the County Planning Commission.

Chief Executive Officer from action by the Directors of Land Use Services and Public Works.
(Only for appeals of right-of-way dedication and/or street improvement waiver or modification decisions).

To be completed by County Staff: Filing Date: _____ Project No.: _____ JCS Project No.: _____

2. I/We are appealing the project action taken to:

- | | |
|---|---|
| <input type="checkbox"/> DENY the project/request | <input type="checkbox"/> DENY the project without prejudice |
| <input checked="" type="checkbox"/> APPROVE the project/request | <input type="checkbox"/> APPROVE the project with conditions. (Attached a copy of the conditions, if they are the subject of the appeal). |
| <input type="checkbox"/> ADOPT a Negative Declaration | <input type="checkbox"/> OTHER (specify) _____ |

3. Detail what is being appealed and what action or change you seek. Specifically address the findings, mitigation measure, conditions and/or policies with which you disagree. Also state exactly what action/changes you would favor.

SEE ATTACHED LETTER AND EXHIBITS

4. State why you are appealing. Be specific. Reference any errors or omissions. Attach any supporting documentation, including any Conditions of Approval that are being appealed.

SEE ATTACHED LETTER AND EXHIBITS

I/We certify that I/we are the:

- Legal Owner(s)
- Authorized Legal Agent(s)
- Other Interested Person(s)

Rafael Sanchez
[Signature of Appellant(s)]

[Signature of Appellant(s)]

Date: _____

The Newberry Community Services District (CSD) represents the residents and property owners in the community of Newberry Springs, a disadvantaged community located downwind of Clearway Energy's (hereinafter "Clearway") proposed Daggett Solar Power Project. Clearway's Daggett Solar Power Project (hereinafter "the Project") is partially contained within Newberry Springs. The Newberry CSD provides oversight of the Newberry Fire Department, including protecting the community from fires, fire hazards, hazardous materials and hazardous material releases.

Clearway's Project contains much more than just 3500 acres of solar panels generating 650 million watts of electrical energy. The Project also contains 450 million watts of battery storage system (properly called Energy Storage Systems or "ESSs") energy. Clearway proposes to store 70 percent of the total captured solar energy directly on-site in lithium-ion ESSs. ESS technology is so new that the National Fire Protection Association's first standard for ESS safety, Publication 855 - Standard for the Installation of Stationary Energy Storage Systems - 2020 will not even come off the printing presses until October 4, 2019.

The Daggett Solar Power Project's Final Environmental Impact Report (FEIR) approved by the Planning Commission on September 19, 2019 contains multiple **defects** and **omissions** and must **not** be certified by the Board of Supervisors. In light of the following (and multiple other) deficiencies, omissions and hazards, San Bernardino County must direct Clearway to either **a) rewrite** the EIR (including compliance with NFPA Publication 855) and **resubmit** it for further review and evaluation or **b) move** the project to a new, more easterly location that is downwind from the communities of Newberry Springs, Daggett and Yermo and downwind from any inhabited communities or **c) move** the project to another alternative location where nearby communities won't be impacted and endangered.

In addition:

1. The FEIR is in violation of California CEQA law **including but not limited to** the following.

- **Hazards** - The amount of energy that Clearway proposes to store on-site in lithium-ion battery storage systems is staggering. At full power, the recently decommissioned San Onofre Nuclear Generating Station (SONGS) had the capacity to generate 2,150 million watts of electrical energy. Clearway proposes to store 450 million watts of electrical energy in lithium-ion batteries. This is almost one-quarter as much energy as the San Onofre Nuclear Generating Station produced. The FEIR fails to address (or even to mention) the hazardous and uncontrollable nature of lithium-ion battery fires. These fires are documented to have occurred worldwide in lithium-ion Energy Storage Systems (ESSs). The failure of even one internal ESS fire protection system among Clearway's proposed 16 acres of ESS storage poses entirely unacceptable risks to fire department and law enforcement first responders as well as to the people in the surrounding communities of Newberry Springs, Daggett, and Yermo. See Exhibits A and B.
- **Air Quality** - The health hazards and the damage to homes, property and property values from airborne dust are major concerns of local residents. CEQA mandates that the Planning Commission must not certify a Final EIR unless it is "adequate and complete". Further, the 2nd paragraph on page 22 of the Staff Report acknowledges that the EIR "must provide sufficient analysis to allow decisions to be made regarding the project in contemplation of it's environmental consequences". The 5th paragraph on page 22 of the Staff Report further states "The analysis (Appendices D1 and D2) of the EIR determine that operational emissions would

not exceed MDAQMD (Mojave Desert Air Quality Management District) thresholds and that operational impacts would be less than significant". Unfortunately for everyone concerned, MDAQMD's monitoring process falls flat on it's face with regard to being "adequate and complete". "Adequate and complete" monitoring of the Clearway project requires 1) UPSTREAM air quality monitoring data from at or near the proposed project's UPSTREAM (western) fence line and 2) DOWNSTREAM air quality monitoring data at (or near) the proposed DOWNSTREAM (eastern) fence line. MDAQMD's nearest UPSTREAM air quality monitor is in Barstow, approximately 10 miles UPSTREAM. See Exhibit C. MDAQMD has no (as in zero) DOWNSTREAM air quality monitors. Granted, site-specific DOWNSTREAM air quality monitoring can not begin until ground is broken for the project however Clearway has failed in their due diligence for the project. It's obvious that Clearway's preparation and planning for this project began several years ago. Did they begin air quality monitoring at or near their proposed western project boundary? If so, when? Where is their data? If not, why didn't they begin such monitoring? Did they think that if they just ignored the air quality issue that they could pull the wool over everybody's eyes, blame MDAQMD and "get away with it"? Land Use Services (LUS) also dropped the ball (to put it charitably) on this issue. Were they aware that MDAQMD's basin-wide air quality measurement process did not even remotely begin to address point-source air quality issues? If so, did they believe that they too could fool both concerned residents and elected officials by just ignoring the issue? If not, why weren't they aware that grading a proposed 3500 acre site would raise serious air quality issues? Why didn't they address this issue "adequately and completely" in their Staff Report? The FEIR can not be "adequate and complete" and can not be certified unless and until real-world data is available to provide an "adequate and complete analysis" of the environmental consequences of building and operating the proposed project. Further, oversight and enforcement for this project will not be "adequate and complete" without requiring both UPSTREAM and DOWNSTREAM data monitoring that continues not just during the lifetime of the project but after the project is decommissioned and until the land has been fully restored.

- **Social, Economic and Environmental Justice** - The FEIR fails to properly address multiple Social, Economic and Environmental Justice issues. California correctly recognizes ~~the~~ ^{that} human beings are a part of the environment. According to California Law, the EIR must properly consider and address these issues. One such example is the economic issue of the loss of property value of the owners of property in nearby, disadvantaged communities. See Exhibits D and E.

2. The FEIR contains multiple **violations** of the San Bernardino County Development Code Section 84.29.035 (Required Findings for Approval of a Commercial Solar Energy Facility)

Palmdale Water District

benefit of his/her own campaign for any office or the campaign of any other person for any other office.

4.13.2 USE OF DISTRICT PROPERTY, EQUIPMENT OR FACILITIES FOR CAMPAIGNING (Revised 9-10-18)

Directors shall not use, or permit any other person to use, the District's seal, trademark, stationery, or other indicia of the District's identity, or facsimile thereof, in any solicitation for political contributions contrary to state or federal law. Directors shall not use, or permit any other person to use, District equipment, facilities, materials, or any other property for any solicitation for political contributions to any campaign. The use of the District's physical addresses of 2029 East Avenue Q, Palmdale, CA 93550 and 700 East Avenue S, Palmdale, CA 93550 are prohibited.

4.14: WEBSITE AND SOCIAL MEDIA

The District has an interest in disseminating information useful to customers and others interested in the operations, goals, and objectives of the District. The District encourages the use of the internet, through its website or social media pages, to further the goals of the District, subject to the terms and conditions of the rules set forth herein. The use of such websites or social media pages by Directors, however, raises legal issues which are unique to government agencies. As such, these rules establish procedures for use of the website and social media by Directors.

4.14.1 DISTRICT WEBSITE

The District owns and maintains a website at www.palmdalewater.org for the purpose of conducting the official business of the District. The General Manager has the authority to manage the website, including the contents of the website, as part of the District's day-to-day operations. The General Manager, however, does not have the authority to post any material or content in connection with the political campaign of any Director of the District, in

connection with the political campaign of any candidate for any other office, or in connection with his/her own performance evaluation.

4.14.2 DIRECTOR BIOGRAPHIES ON DISTRICT WEBSITE

Each Director shall submit to the General Manager a biography for publication on the District's website at www.palmdalewater.org. The biography of a Director shall be limited to the Director's own qualifications and experience, and shall not include language that in any way makes reference to other Directors or their qualifications, character or activities.

4.14.3 DIRECTORS' SOCIAL MEDIA COMMUNICATIONS POLICY

(a) Introduction/Purpose: In light of advances in information and communications technology, the Board has adopted this policy to ensure continued compliance with the Brown Act in connection with the District's social media and other electronic communications, including the District's Facebook and Twitter pages, while respecting a Director's right to express himself or herself on issues within the District's subject matter jurisdiction, and to enhance Directors' communications with their constituents.

(b) Creation and Maintenance of District Social Media Pages:

1. The District Public Information Officer, under the supervision of the General Manager, shall create and maintain an official District social media page, including the existing Facebook and Twitter Palmdale Water District pages. The content posted on the District's social media pages shall be consistent with the policy and direction provided by the Board for District matters.

2. Directors are not authorized to post content to any District social media page on behalf of the District. Only the District Public Information Officer shall post content to any District social media page on behalf of the District. Directors shall not create or maintain any social media page on behalf of the District, nor shall

Directors create any social media page containing the seal or logo of the District.

(c) “Comments,” “Likes,” or “Sharing” on District Social Media Pages:

In order to avoid any violation of the still unclear applicability of the Ralph M. Brown Act to social media, Directors may not comment or “like” any post on the District social media pages. Nothing herein prohibits a Director from “sharing” a District post to his/her own social media page, or any other social media page.

(d) Other Social Media Sites or Blogs, not maintained by the District:

The District is not responsible for the content, comments, “likes”, or any other communication occurring on websites, blogs, or social media sites not maintained by the District. Nevertheless, Directors must exercise the same guidelines on non-District websites, blogs, or social media sites to avoid any implication of the Brown Act or other applicable laws.

4.15: RESPONSIBILITIES AND AUTHORITY OF THE BOARD AND GENERAL MANAGER

(a) The Board of Directors has the power and it shall be its duty to manage and conduct the business and affairs of the District. **(Water Code, §21385.) To that end, the Board “shall: (a) Employ agents, officers, and employees as required,” and “(b) prescribe their duties and fix their salaries.” (Water Code, §21185.) Accordingly, the Board employs a General Manager to carry out Board policies, direct District operations, and provide day-to-day supervision of District employees and control of District expenditures. However, the Board does not relinquish its obligation or authority to establish an organizational chart and fix salaries for positions in accordance with Water Code, Section 21185.**

It is the judgment of the Board and the General Manager that clear delineation of their respective responsibilities and authority is essential to effective

NEWBERRY COMMUNITY SERVICES DISTRICT

Established 1958

Board Minutes
September 24, 2019

Call the meeting to order. 6:07 p.m.

Pledge of Allegiance

President Springer asked all present to rise, face the flag and recite the Pledge of Allegiance.

Roll Call.

Present:

President Springer
Vice President Deel
Director Clark
Director Paulsen
Director Unger

Absent:

Also Present : General Manager Jodi Howard, District Treasurer Kerri Zurcher, Asst. Fire Chief Rogers and members of the public.

1. Approval of the Agenda

Motion Director Deel to Approve agenda as presented, Seconded Director Clark.

Vote: **Unanimous**

Motion Passed

2. Public Comments:

a. General Public-

Linda Snively- had a donation jar for Toni Cantor.

Ted Stimpfel- had concerns with the solar project storage batteries, does our Fire Department have the resources to put those kinds of fires out?

Toni Cantor- wants our community to grow marijuana. He would be willing to teach people how to grow 20 plants.

b. Community Reports-

County Supervisor- Ron Frame- Air Show in Apple Valley October 12th

Sheriff- Report newberrycsd.net

3. Reports

- a. **General Manager-**
- b. **Staff**
- c. **Strategic Planning Committee “Civic Hub”-** planning committee will have a meeting October 2, 2019 @ 6 p.m. Newberry CSD building.

4. Agenda Items-

- a. **The CSD Board Appeal the September 19th San Bernardino County Planning Commission Decision to Approve the Daggett Solar Project Environmental Impact Report**
Motion Director Springer to submit appeal to Planning Commission not To exceed \$5000.00. Seconded Director Deel.
Vote – **Unanimous**
Motion Passed
Comments- Ted Stimpfel, Margie Roberts , Harvey Stone, Clinton Craig, Robin McMullin, Wayne Snively, Jon Grizwald.
- b. **Approve Minutes for August 27, 2019.**
Motion Director Paulsen to approve minutes. Seconded Director Clark
Vote: **Unanimous**
Motion Passed
- c. **Approve Bills Paid and Presented.**
Motion Director Springer to approve bills paid and presented.
Seconded Director Deel.
Vote: **Unanimous**
Motion Passed

5. Old and New Business-

Any updated information from planning commission appeal.

6. Directors Comment-

7. Adjournment: 7:53p.m.

Board Secretary

Board President