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VIA ELECTRONIC AND U.S. MAIL

Ken.Alex@gov.ca.gov

California.Jobs@opr.ca.gov

February 9, 2012

Ken Alex
Director
Governor's Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

RE: *Comment and Notice Request*
McCoy Solar Energy Project AB 900 Application (SCH# 2012011019)
1.5 miles west of Mesa Dr., Blythe, California
Applicant McCoy Solar LLC, Subsidiary of NextEra Energy Resources, LLC

Dear Director Alex:

I am writing on behalf of Laborers International Union of North America, Local Union 1184, and its thousands of members who live, work and recreate in Riverside County ("Commentor" or "Laborers Local 1184") to comment on the referenced McCoy Solar Energy Project ("Project") AB 900 Application.

The proposed McCoy Solar Energy Project would be an up to 750 megawatt alternating current solar power generating installation located in an unincorporated portion of Riverside County. The Project would be developed over an area of approximately 4,315 acres of federal land managed by the Bureau of Land Management and 477 acres of private land, plus an approximately 15.5-mile long transmission line right-of-way.

Commentor is aware that Governor Brown signed AB 900, the "Jobs and Economic Improvement Through Environmental Leadership Act" in September 2011. AB 900, Pub. Res. Code § 21178 *et seq.*, requires the Governor to establish procedures for applying for streamlined California Environmental Quality Act ("CEQA") review for certain projects. Among other things, AB 900 projects must entail a minimum investment of \$100 million in California, and comply with prevailing and living wage requirements. Under AB 900, qualifying projects are not exempt from CEQA, but will go through a fast-track judicial review process in California's Court of Appeal.

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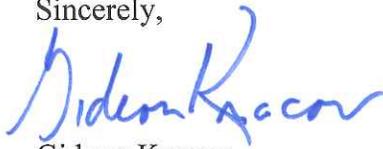
Commentor has reviewed and is following with interest the proposed McCoy Solar Energy Project AB 900 Application. Commentor notes the requirement pursuant to AB 900 and its regulations that an application for AB 900 approval must provide information sufficient to enable the Governor to determine whether a project meets all the criteria set forth in the law. Commentor trusts that the Office of Planning and Research, the California Air Resources Board, and the Joint Legislative Budget Committee will ensure that the McCoy Solar Energy Project AB 900 Application provides the requisite information sufficient to determine whether the Project satisfies these criteria.

Laborers Local 1184 looks forward to participating as a stakeholder at all phases in the AB 900 process for the McCoy Solar Energy Project, as well as the CEQA and National Environmental Policy Act environmental review for the Project by the County of Riverside and the Bureau of Land Management, respectively.

Therefore, pursuant to CEQA, including Pub. Res. Code §§ 21092.2 and 21167(f), the California Planning and Zoning Law, AB 900 and its regulations, or other governing law such as Office of Planning and Research regulations, please put the undersigned on the mailing list for the McCoy Solar Energy Project, including but not limited to any and all applications, hearings, approvals, notices, determinations, certifications or permits.

Thank you for the opportunity to provide these comments on the McCoy Solar Project. Please contact the undersigned should you have any questions.

Sincerely,



Gideon Kracov

PAMELA J. WALLS
County Counsel

OFFICE OF COUNTY COUNSEL
COUNTY OF RIVERSIDE



KATHERINE A. LIND
Assistant County Counsel

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February 10, 2012

VIA U.S. MAIL AND EMAIL TO CALIFORNIA.JOBS@OPR.CA.GOV

Ken Alex, Director
Governor's Office of Planning and Research
1400 10th Street
P.O. Box 3044
Sacramento, CA 95812-3044

RE: McCoy Energy Solar Project - Application for CEQA Streamlining - State Clearinghouse
No. 2012011019

Dear Mr. Alex:

The County of Riverside ("County") respectfully submits the following comments on McCoy Solar, LLC's application for CEQA streamlining under the "Jobs and Economic Improvement through Environmental Leadership Act" (Public Resources Code section 21178 et seq.). The McCoy Solar Energy Project ("MSEP" or "Project") is a proposed 750 megawatt photovoltaic solar power plant located in the unincorporated area of Riverside County. The County is the California Environmental Quality Act ("CEQA") lead agency on the proposed Project and has the primary land use authority for those portions of the Project not on federal land. A joint Environmental Impact Statement/Environmental Impact Report is being prepared for the proposed Project pursuant to the National Environmental Policy Act ("NEPA") and CEQA.

At this time, it is premature for the Governor to certify the MSEP as a leadership project because the conditions of Public Resources Code section 21183 have not been satisfied. Public Resources Code section 21183 provides that the "Governor may certify a leadership project for streamlining pursuant to this chapter if all the following conditions are met:

(a) The project will result in a minimum investment of one hundred million dollars (\$100,000,000) in California upon completion of construction.

(b) The project creates high-wage, highly skilled jobs that pay prevailing wages and living wages and provide construction jobs and permanent jobs for Californians, and helps reduce unemployment.

(c) The project does not result in any net additional emission of greenhouse gases, including greenhouse gas emissions from employee transportation, as determined by the State Air Resources Board pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code.

(d) The project applicant has entered into a binding and enforceable agreement that all mitigation measures required pursuant to this division to certify the project under this chapter shall be conditions of approval of the project, and those conditions will be fully enforceable by the lead agency or another agency designated by the lead agency. In the case of environmental mitigation measures, the applicant agrees, as an ongoing obligation, that those measures will be monitored and enforced by the lead agency for the life of the obligation.

(e) The project applicant agrees to pay the costs of the Court of Appeal in hearing and deciding any case, including payment of the costs for the appointment of a special master if deemed appropriate by the court, in a form and manner specified by the Judicial Council, as provided in the Rules of Court adopted by the Judicial Council pursuant to subdivision (f) of Section 21185.

(f) The project applicant agrees to pay the costs of preparing the administrative record for the project concurrent with review and consideration of the project pursuant to this division, in a form and manner specified by the lead agency for the project. [Emphasis added.]

Public Resources Code section 21183 requires that the above six conditions be satisfied before the Governor is authorized to certify a project as a leadership project. Public Resources Code section 21184, subdivision (b)(1) again confirms that the conditions of Section 21183 must be met prior to the Governor's certification.

The County has not yet entered into a "binding and enforceable agreement" with McCoy Solar, LLC, as required by section 21183, subdivision (d) above. McCoy Solar, LLC has done nothing more than reference in its CEQA streamlining application that there will be future conditions of approval for the Project and that it "is expected that mitigation measures resulting from this application for CEQA streamlining will be included in the mitigation monitoring and reporting plan and/or as conditions of project approval." Such a reference does not, however, constitute a binding and enforceable agreement. The legislature's use of this very specific and unambiguous language was deliberate because pursuant to section 21183, subdivision (d), a project applicant accepts as an "ongoing obligation" that the lead agency will continually monitor and fully enforce mitigation measures. In so doing, the lead agency will incur costs. Only a "binding and enforceable agreement" will secure the applicant's obligation to pay those costs.

In addition, while McCoy Solar, LLC, has agreed in its CEQA streamlining application to pay the costs of concurrently preparing the administrative record, this agreement is not in a form and manner specified by the County as required by Public Resources Code section 21183, subdivision (f). The costs of concurrently preparing the administrative record will be substantial and the County has not yet had any detailed discussions with McCoy Solar, LLC, about the manner in which it expects McCoy Solar, LLC to pay such costs. The fact that its agreement to pay is qualified in its CEQA streamlining application by the statement "should such costs arise" suggests future disputes that the legislature anticipated when the legislature gave the lead agency the authority to determine how payment of record preparation costs should be secured.

Public Resources Code section 21178 et seq. imposes significant financial burdens on a lead agency that can only be resolved by ensuring that the cost containment mechanisms of this legislation are fully implemented before the Governor's certification.

Ken Alex
February 10, 2012
RE: State Clearinghouse No. 2012011019

Should you have any questions about the contents of this letter, please feel free to contact me at (951) 955-6300. I would be happy to discuss this with you at any time.

Sincerely,

PAMELA J. WALLS
County Counsel

A handwritten signature in black ink, appearing to read 'P. Walls', followed by a large, stylized circular flourish.

TIFFANY N. NORTH
Deputy County Counsel

TNN/

cc:
Michelle Ouellette, Esq. (michelle.ouellette@bbklaw.com)