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April 20, 2015

Via Fax and U.S. Mail

Tom Hudson, Director
San Bernardino County
Land Use Services Department
385 N. Arrowhead Avenue, 1st Floor
San Bernardino, CA 92415-0103
Fax: (909) 387-3223

Laura H. Welch, Clerk of the Board
San Bernardino County
385 N. Arrowhead Avenue, 2nd Floor
San Bernardino, CA 92415-0103
Fax: (909) 387-4554

Via Email Only

Tracy Creason, Senior Planner
Email: Tracy.Creason@lus.sbcounty.gov

**Re: Follow Up Request for Immediate Access to Public Records for
the Sunray Energy 2, LLC Solar Project**

Dear Mr. Hudson, Ms. Welch, and Ms. Creason:

We are writing on behalf of California Unions for Reliable Energy ("CURE") in response to San Bernardino County's ("County") failure to make available all public records relating to Sunray Energy 2, LLC's proposed 44 megawatt photovoltaic solar project ("Project"), in violation of the California Public Records Act ("CPRA" or "Act"). The County's failure to make available all public records for the Project has significantly prejudiced the public's ability to meaningfully evaluate and provide comments on the Project's potentially significant impacts. With less than three days before the Planning Commission's April 23, 2015 hearing to consider approval of the Conditional Use Permit for the Project, we hereby request a 30-day continuance of the hearing.

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On April 14, 2015, we sent the County a *Request for Immediate Access* to all public records referring or related to the Project. A copy of our original request is provided as **Attachment A**. The County responded by stating that “[a]ll documents associated with the upcoming Planning Commission hearing for the Sunray Energy 2 project are currently in draft form” and will be “posted for public review on our website at <http://cms.sbcounty.gov/lus/Planning/PlanningCommission.aspx>” on April 17, 2015.¹ However, as of April 20, 2015, the only documents made available on the County’s website are the Agenda and the Staff Report.

The County failed to provide access to public records in response to our April 14, 2015 request. For example, absent from the documents provided by the County is the SummitWest Environmental, Inc.’s 2015 *Focused Survey for Desert Tortoise & Western Burrowing Owl Report* (“Report”). Yet, the County relied upon this Report for its impacts analysis to biological resources.² The Report is a public record and therefore should be made available to the public under Section 6253(a) of the CPRA. According to the Act, “[p]ublic records are open to inspection at all times during the office hours of the state of local agency and every person has a right to inspect any public record, except as hereafter provided.”³ However, the County refused to provide access to public records in response to our April 14th request.

In addition to unlawfully withholding records, the County provided false information to the public in its email responding to our request for access to public records. The County stated that “[a]ll documents associated with the upcoming Planning Commission hearing for the Sunray Energy 2 project are currently in draft form” and will be “posted for public review on the County’s website on April 17, 2015. However, to date, the County has failed to make the Report or any other public records available on its website or at its office during office hours.

The County violated State law and substantially prejudiced the public review process by failing to make public records related to the Project available. Furthermore, the County provided false information to the public in its email explaining that all records related to the Project would be available for the public to review on the County’s website on April 17th. Therefore, the County must postpone

¹ See **Attachment B**, email from Tracy Creason, sent April 14, 2015 at 10:59 AM to Charissa Villanueva in response to the firm’s CEQA Immediate access letter.

² See Sunray Energy Planning Commission Staff Report, p. 13.

³ Gov. Code § 6253 subd.(a).

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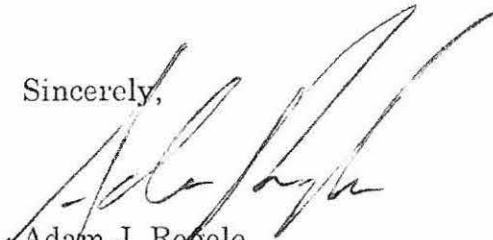
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the April 23, 2015 hearing until such time that the public has been adequately and lawfully notified and provided access to the County's public records related to the Project.

Please contact me by 5:00 p.m. tomorrow to confirm that the County will postpone the April 23rd public hearing and re-issue a legally adequate public notice and so that we can arrange to inspect the requested records. Thank you for your prompt attention to this matter.

Sincerely,



Adam J. Regele

AJR:clv

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