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November 11, 2020

Via Email and U.S. MailChair Douglas Barnhart and Planning Commissioners
Planning Commission
County of San Diego
Planning & Development Services
5510 Overland Avenue, Suite 110
San Diego, CA 92123
Email: Ann.Jimenez@sdcounty.ca.gov**Re: Comments on the Final Environmental Impact Report for the Boulder Brush Facilities (SCH No. 2019029094, PDS2019-ER-19-16-001, PDS 2019-MUP-19-002)**

Dear Chair Barnhart and Planning Commissioners:

We are writing on behalf of **Citizens for Responsible Wind Energy** (“Citizens”) and Doyle Mills to provide comments on the County of San Diego’s (“County”) September 2020 Final Environmental Impact Report (“FEIR”), prepared pursuant to the California Environmental Quality Act (“CEQA”),¹ for Terra-Gen Development Company LLC’s (“Terra-Gen”) proposed Campo Wind Project with Boulder Brush Facilities (“Project”).² The FEIR incorporates by reference a May 2019 Draft Environmental Impact Statement (“DEIS”) prepared by the Bureau of Indian Affairs (“BIA”), pursuant to the National Environmental Policy Act.³ (“NEPA”). Citizens previously provided comments on the DEIS and Final Environmental Impact Statement (“FEIS”) to the BIA opposing approval of the Project based on the

¹ Cal. Public Resources Code §§ 21000 et seq.

² County of San Diego, Final Environmental Impact Report for the Campo Wind Project with Boulder Brush Facilities, (Sept. 2020), (hereafter “FEIR”).

³ 42 U.S.C. §§ 4321 et seq.

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BIA's violations of the National Environmental Policy Act ("NEPA"). Citizens also provided comments to the County on the County's December 12, 2019 Draft Environmental Impact Report ("DEIR") for the Project based on the County's violations of CEQA. Those comments have previously been submitted to the County and, as such, are in the record of proceedings for this Project, and incorporated herein. We reserve the right to supplement these comments at later hearings on this Project after we receive more detailed expert opinions on the County's recently released responses to our comments, along with other recently released documents.⁴

Terra-Gen requests a Major Use Permit (MUP) and Fire Services Agreement for the Project. The Project is a 252-megawatt wind power plant located on the Campo Reservation and includes a lease agreement between the Campo Band of Diegueño and Terra-Gen that would allow Terra-Gen to develop, construct, operate and ultimately decommission a power plant and related facilities on the Campo Indian Reservation and adjacent private lands in Eastern San Diego County. The Project includes the on-reservation Campo Wind Project, which includes up to 60 wind turbines, each approximately 586 feet tall, along with numerous access roads, an electrical collection and communication system, an operations and maintenance facility, meteorological towers, a water collection and septic system, a temporary concrete batch plant, temporary staging areas, and a 5-mile portion of a new generation tie line ("gen-tie line"), and the off-reservation Boulder Brush facilities, which include a 3.5 mile portion of the new gen-tie line, a high-voltage substation, a switchyard, and access roads.

We explained in our DEIR comments that the DEIR failed to comply with CEQA's basic requirement to act as an "informational document." The DEIR was devoid of meaningful details upon which the public and decisionmakers can adequately assess the Project's significant impacts. The DEIR failed to comply with the requirements of CEQA by (1) failing to include a complete project description, (2) piecemealing the Campo Wind Project from the Torrey Wind Project, (3) failing to accurately describe the affected environment, (4) not disclosing, analyzing, or discussing mitigation for the Project's significant impacts, and (5) impermissibly deferring identification of mitigation for the Project's significant impacts. Because

⁴ Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* ("Bakersfield") (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

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of these shortcomings, the DEIR is deficient as a matter of law and its determinations that it properly identifies and mitigates the Project's significant impacts are not supported by substantial evidence.

The FEIR does not adequately respond to Citizens' comment letters on the DEIR. CEQA requires that a lead agency evaluate and prepare written responses to comments in a FEIR.⁵ Agencies are required to provide "detailed written response to comments . . . to ensure that the lead agency will fully consider the environmental consequences of a decision before it is made, that the decision is well informed and open to public scrutiny, and the public participation in the environmental review process is meaningful."⁶ When a comment raises a significant environmental issue, the lead agency must address the comment "in detail giving reasons why" the comment was "not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice."⁷ Here, the FEIR failed to provide detailed responses to several of Citizens' comments, and the comments of Citizens' expert consultants, that raised significant environmental issues. The FEIR thus fails as a matter of law.

The FEIR also fails to comply with the requirements of CEQA by (1) failing to include a complete project description, (2) piecemealing the Campo Wind Project from the Torrey Wind Project, (3) failing to accurately describe the affected environment, (4) not disclosing, analyzing, or discussing mitigation for the Project's significant impacts, and (5) impermissibly deferring identification of mitigation for the Project's significant impacts.

For example, the FEIR Project description lacks sufficient information regarding the Project's meteorological towers, water supply line, and decommissioning. As a result, the true impacts of the Project cannot be known in violation of CEQA. In another example, the County's FEIR violates CEQA by illegally piecemealing the Campo Wind Project from the Torrey Wind Project. Both wind projects are being developed by Terra-Gen. Both wind projects will rely on the same substation improvements proposed in this EIR, and Torrey Wind is physically located in the same footprint as the Boulder Brush facilities here. Furthermore, the

⁵ PRC § 21091(d); 14 CCT §§ 15088(a), 15132.

⁶ *City of Long Beach v. Los Angeles Unified Sch. Dist.* (2009) 176 Cal.4th 889, 904.

⁷ 14 CCR § 15088(c); see *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1124 ("*Laurel II*"); *The Flanders Foundation v. City of Carmel-by-the-Sea* (2012) 202 Cal. App. 4th 603, 615.

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Torrey Wind Project is currently undergoing environmental permitting by the County. By piecemealing its review of these Projects, the County is masking the severity of these project's impacts, particularly since they could undergo construction at the same time. Finally, as a third example, the Project will cause significant impacts on golden eagles and Quino checkerspot butterfly, which are not mitigated in the FEIR. The FEIR admits the Project will kill golden eagles but fails to offer mitigation measures to lessen the impact. The Project will also harm the Quino checkerspot butterfly, but the FEIR lacks assurances that mitigation measures could ever be implemented.

For each of these reasons, the County may not approve the Project until a revised environmental review document is prepared and re-circulated for public review and comment. We urge the Planning Commission not to make a recommendation to the Board of Supervisors at this time and, instead, direct staff to prepare a revised EIR that addresses our comments and complies with CEQA. Alternatively, we urge the Planning Commission to recommend that the Board of Supervisors deny the MUP.

Sincerely,

A handwritten signature in blue ink, appearing to read 'KCJ', with a long horizontal flourish extending to the right.

Kyle C. Jones

KCJ:lj1