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Client-Matter: 65928-031

SENT VIA E-MAIL [estrellaproject@horizonh2o.com]

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Re: Comments on the Recirculated Draft Environmental Impact Report for the Estrella Substation and Paso Robles Area Reinforcement Project (State Clearinghouse No. 2018072071) (Application No. A.17-01-023)

Dear Mr. Pratt and Mr. Engels:

This firm represents Sun Communities, Inc. and the Cava Robles RV Resort (“Cava Robles”) in the City of Paso Robles, California. On behalf of Cava Robles, we once again appreciate the opportunity to participate in the environmental review process for the Estrella Substation and Paso Robles Area Reinforcement Project (“Project”).

On behalf of Cava Robles, we first submitted a comment letter to the California Public Utilities Commission (“CPUC”) regarding the Project’s Draft Environmental Impact Report (“Draft EIR”) on February 22, 2021, and we continue to look forward to the CPUC’s detailed responses to the very serious concerns we raised in that letter. Unfortunately, we were disappointed to learn that the Recirculated Draft Environmental Impact Report (“RDEIR”) released on November 18, 2021, does not remedy any of the fatal defects we, and many others, previously raised. Together, the Draft EIR and the RDEIR still do not adequately analyze, disclose, or mitigate the Project’s impacts as required by the California Environmental Quality Act (“CEQA”) (Pub. Resources Code, § 21000 et seq.). The previously identified legal and substantive flaws remain, and the Project’s environmental review continues to be inadequate and unfit to be relied upon by the CPUC. As such, CEQA prohibits the CPUC from moving forward with any decision on this Project until the Project’s environmental review is completed in the manner required by CEQA, the State CEQA Guidelines (Cal. Code Regs., titl. 14, § 15000 et seq.), and governing case law.

As described in detail in our February 22, 2021, comment letter, Cava Robles is a secluded, world-class luxury resort that offers its visitors a bucolic setting, miles of pastoral and natural views, and a vast, uninterrupted sky. In great part because of this renowned natural setting, Cava Robles' guests come from around the state, the country and the world to enjoy Paso Robles and the central coast, and while doing so, inject millions of dollars into the local economy. Yet, the RDEIR makes clear that PG&E and Horizon West (together, "Applicants") could not possibly care less, and instead intend to double down on their refusal to choose a transmission alignment that significantly reduces the Project's impacts—on Cava Robles, area wineries and tasting rooms, long-established residential neighborhoods, and the gateway to the City of Paso Robles—while still meeting the Applicants' objectives.

Nothing in the RDEIR changes the fact that the CPUC has identified a feasible alternative alignment with considerably fewer environmental impacts than the Project as proposed. Alternative Combination #2 and, in particular, route PLR-1A, continue to avoid most of the Project's significant and unavoidable impacts, while still meeting each and every Project objective. In fact, as discussed in detail below, the RDEIR indicates an even greater difference in impacts between the proposed Project and PLR-1A than previously disclosed. As Cava Robles and others have already expressed, an agency may not approve a project as proposed if it is feasible to adopt an alternative that would substantially reduce the project's significant environmental impacts. There is no possible Statement of Overriding Considerations that would favor the Project as proposed over Alternative Combination #2, and neither the Draft EIR nor the RDEIR provide any evidence that legal, economic, social or any other conditions make it infeasible to adopt Alternative Combination #2.

Pursuant to Public Resources Code, Section 15204(a), Cava Robles provides the following detailed comments on the deficiencies and inadequacies of the RDEIR, which must be taken into consideration along with each comment submitted by Cava Robles in its February 22, 2021, comment letter. As provided below, these deficiencies require significant revisions to the Project's environmental review before the CPUC can make any decision on the merits of the Project, and before issuing to the Applicants any Permit to Construct. Similarly, no other agency may rely upon a deficient environmental analysis in issuing any other Project-related approval or permit until the errors and omissions in the Draft EIR and RDEIR have been addressed. (See State CEQA Guidelines, §§ 15090(a)(1), 15092(b); see also Pub. Resources Code, §§ 21168, 21168.5.) In other words, the other government agencies tasked with issuing permits and approvals for the Project, including the California Department of Fish and Wildlife, Caltrans, the State Water Resources Control Board, the San Luis Obispo Air Pollution Control District ("SLOAPCD"), the City of Paso Robles, and the County of San Luis Obispo, would similarly be violating CEQA, should they be required to rely on the Project's deficient environmental review.

DETAILED COMMENTS ON THE RDEIR

I. THE RDEIR MODIFIES THE CONSTRUCTION SCHEDULE WITHOUT REVISING THE AIR EMISSIONS MODELING.

The RDEIR revises the Project's proposed construction schedule, with no analysis of whether these revisions increase daily or quarterly air pollutant emissions during the construction phase. (RDEIR, Table 2-10, p. 2-R.2-82 et seq.) The RDEIR waves away such an analysis with the generic and unsupported statement that "changes to the schedule and phasing included in the revised DEIR Chapter 2 would not substantially change the results of the original analysis of air pollutant emissions included in Section 4.3, 'Air Quality.'" (RDEIR, p. 1-15.) Further, the revisions to the air quality impacts analysis deletes the following sentence: "Modeling of construction emissions assumed the Proposed Project's current schedule." (RDEIR, p. 2-R.4.3-17.) In other words, the RDEIR *admits* that the air emissions modeling is no longer consistent with "the Proposed Project's current schedule" yet does nothing to address this discrepancy or provide Project decisionmakers, stakeholders, or the public at large with the substantial evidence necessary to show that emissions modeling based on an admittedly false construction schedule supports the Draft EIR and RDEIR's impacts conclusions. In fact, the RDEIR correctly admits that "changes to the timing of the individual project phases may increase or decrease the emissions depending on how construction phases overlap." (RDEIR, p. 2-R.4.3-17.) Yet, despite this acknowledgement, the RDEIR "changes... how construction phases overlap" and provides no analysis of how this could increase emissions and potentially result in new environmental impacts, or more significant impacts than were previously disclosed.

That the Draft EIR and RDEIR identify ROG and NOx emissions that already exceed the daily and quarterly significance thresholds does not excuse the RDEIR's failure to update its modeling to analyze the revised construction schedule and its newly overlapping construction activities. The RDEIR must still disclose the correct *magnitude* of significant emissions, based on the most accurate information available, which, now, is the updated construction schedule and phasing plan presented in Table 2-10 of the RDEIR. Without doing so, the CPUC cannot adequately balance the Project's impacts against its purported benefits or make a finding of overriding considerations that is based on substantial evidence.

II. RDEIR MITIGATION MEASURE AQ-1 DOES NOT ENSURE CONSTRUCTION EQUIPMENT WILL MEET TIER 4 FINAL STANDARDS; THUS THE RDEIR'S AIR EMISSIONS ANALYSIS IS BASED ON FALSE ASSUMPTIONS.

The RDEIR revises Mitigation Measure AQ-1, but the revisions fail to remedy the measure's myriad flaws, previously detailed in our February 22, 2021, comment letter. (RDEIR, p. 2-R.4.3-20.)

First, throughout the RDEIR, Mitigation Measure AQ-1 is erroneously described as requiring Tier 4 final construction equipment and the RDEIR's revised air quality emissions analysis assumes the use of Tier 4 equipment. (See, e.g., RDEIR, Table 4.3-5b, p. 2-R.4.3-18; see also p. 2-5.4.3-17 ["The mitigated scenario shown in Table 4.3-5b below assumes that all diesel fueled construction equipment would meet Tier 4 final emission standards"].) But revised Mitigation Measure AQ-1 does *not* require Tier 4 equipment. In fact, if Tier 4 equipment is "unavailable," AQ-1 merely requires "documentation on why anything less than a Tier 4 final off-road engine is infeasible for the project such as unavailability of specialized equipment with a Tier 4 Final engine." (P. 2-R.4.3-21.) No alternative mitigation measure is provided in the event Tier 4 equipment is "unavailable" and no standards for what constitutes "unavailable" is incorporated into the measure. Does "unavailable" mean that under no circumstances can Tier 4 equipment be sourced anywhere in the state? Or just in the region? Does "unavailable" mean the Applicant has determined the cost to source Tier 4 equipment is too great or the timing of availability of Tier 4 equipment is too inconvenient? What "documentation" are the Applicants required to submit to show "unavailability"? To whom or what entity (if any) do the Applicants provide the "documentation" and what happens if that person or entity disagrees with the Applicants' finding of "infeasibility"? How likely is it that Tier 4 equipment will be "unavailable" (however that shall be defined)? Without these details, Mitigation Measure AQ-1 is nothing but a sham, and a way for the RDEIR to insincerely claim a significant reduction in air emissions without actually ensuring such a reduction will occur.

Mitigation Measure AQ-1's failure to actually require the Tier 4 construction equipment that the remainder of the analysis relies upon, is not excused by the Draft EIR and RDEIR's determination that mass emissions from construction exceed the significance threshold with or without Tier 4 construction equipment. Accurate disclosure of air emissions impacts is not a binary disclosure of significant versus insignificant emissions—magnitude matters. The Project's "unmitigated" ROG and NO_x emissions of 275.46 lbs/day is more than twice the significance threshold of 137 lbs/day. (RDEIR, p. 2-R.4.3-17.) The "mitigated" ROG and NO_x emissions, which assume that only Tier 4 construction equipment will be used, is still significant, but substantially lower. If Tier 4 equipment is not actually guaranteed, and if there is no control over its use, or standards established for when Tier 4 equipment will be replaced with inferior equipment, the RDEIR must clearly disclose that emissions *will be more than double* the significance threshold, and each and every aspect of the air quality analysis that assumes Tier 4 equipment must be revised.

III. THE RDEIR'S HEALTH RISK ANALYSIS CONCLUSIONS ARE FLAWED.

The RDEIR substantially revises the Draft EIR's prior analysis of the Project's potential to expose sensitive receptors to substantial pollutant concentrations, and now determines that the Project's construction emissions impacts on sensitive receptors will be significant and unavoidable. (RDEIR, p. 2-R.4.3-24.) The RDEIR similarly determines that impacts to

sensitive receptors would be significant and unavoidable under the environmentally superior Alternative PLR-1A, although it notes that under this alternative, “health impacts to the nearest sensitive receptors would likely be lower compared to the Proposed Project.” (RDEIR, p. 2-R.4.3-32.)

Despite the RDEIR’s disclosure of a new significant impact, the analysis of Impact AQ-3 is flawed and incomplete, and gives no indication to decisionmakers, stakeholders, or the public at large, of the actual duration and magnitude of construction-related health impacts to sensitive receptors located along the transmission line route, including the employees and guests of Cava Robles. Instead, the analysis is replete with generic statements that are not specifically applied to the proposed Project or the sensitive receptors that will be impacted by construction emissions.

For example, the RDEIR states that “construction impacts are most substantial adjacent to the construction area and decrease rapidly with distance” and “[c]oncentrations of mobile-source DPM emissions are typically reduced by 70 percent at a distance of approximately 500 feet.” (RDEIR, p. 2-R.4.3-24.) Yet, the RDEIR provides no discussion of how many sensitive receptors along the transmission route are located within 500 feet of the construction work. The RDEIR also states that “[i]n most locations of pole installation for the Proposed Project, a given sensitive receptor would only be potentially exposed to emissions for the short amount of time it takes to install about 3 poles” and “[a]fter 3 poles, the distance to the sensitive receptor would be greater than 1,000 feet.” (RDEIR, p. 2-R.4.3-24.) Yet, there is no discussion provided of how long it takes to install “about 3 poles.” Given that the RDEIR provides no measure of the number of sensitive receptors that will be within 500 feet, or 1,000 feet, of the transmission line construction, and no description of the length of time such receptors will be exposed to construction emissions, the RDEIR fails to provide any good faith disclosure of the types, magnitude, and duration of construction-related health impacts along the transmission route. The RDEIR’s discussion of impacts on sensitive receptors near the proposed Estrella Substation site is not an adequate proxy, given that the RDEIR downplays the potential impacts to these receptors based on “prominent wind directions” that may or may not apply to receptors along the transmission route. (RDEIR, p. 2-R.4.3-24 and -25.)

The RDEIR’s analysis then goes on to describe the conclusions of a Health Risk Assessment (“HRA”) prepared by California Unions for Reliable Energy (“CURE”) as part of CURE’s comments on the Draft EIR. (RDEIR, p. 2-R.4.3-27.) In a weak attempt to have its cake and eat it too, the RDEIR on the one hand describes the CURE HRA as “not adequate” and missing “key details.” (RDEIR, p. 2-R.4.3-27.) Nonetheless, instead of preparing its *own* HRA, the RDEIR adopts the findings of the CURE HRA without further analysis and then vaguely concludes that impacts to sensitive receptors “may lead to adverse health impacts” and therefore are significant. (RDEIR, p. 2-R.4.3-27.) While, ultimately, a finding that impacts will be significant is likely appropriate, the RDEIR cannot just blindly make such a determination (and

such a generic determination at that) in order to wipe its hands of the problem. Instead, if the CPUC believes there is a potentially significant health impact to sensitive receptors near the proposed substation and along the transmission line route, the CPUC must investigate those impacts, disclose their potential magnitude, and describe these health impacts with specificity.

Finally, the RDEIR determines that health risk impacts will be significant, but then fails to identify mitigation measures that would reduce these adverse health impacts, or explain why such mitigation is not feasible. (RDEIR, p. 2-R.4.3-27.) Instead, the RDEIR cites to Mitigation Measure AQ-1 as providing “a substantial reduction in the DPM emissions that occur on the project site during construction” and then concludes, without explanation, that such a reduction is not enough to meaningfully reduce health risk impacts. (RDEIR, p. 2-R.4.3-28.) First, as discussed above, Mitigation Measure AQ-1 is flawed and does not actually ensure (and possibly doesn’t even make it more likely) that Tier 4 construction equipment will be used, and thus any determinations relating to health risk impacts cannot rely on such an assumption. Second, the RDEIR cites to Mitigation Measure AQ-1 as reducing DPM emissions, but makes no connection between AQ-1 and a reduction in TAC emissions, which the RDEIR also determines contribute to health impacts. If AQ-1 is not adequate to reduce health risks, then the RDEIR must explain why it is not, the magnitude of the health risk that remains, and then explore the possibility of other mitigation available to better protect human health.¹

IV. THE RDEIR’S ANALYSIS OF VALLEY FEVER IMPACTS IS INADEQUATE.

The RDEIR includes additional analysis relating to the health risks resulting from disturbance of Valley Fever spores during construction. (RDEIR, p. 2-R.4.3-28.) The RDEIR discloses a new significant and unavoidable impact on sensitive receptors, but fails to adequately differentiate between the magnitude of this impact under the Proposed Project as compared against Alternative PLR-1A.

The RDEIR states that “[s]ince Valley Fever is endemic to the area, nearby sensitive receptors may already have developed immunity.” (RDEIR, p. 2-R.4.3-28.) However, because Cava Robles serves visitors from across the state, country and around the world, this statement has no relevance to it or other visitor-serving uses along the proposed Project route. The RDEIR’s statement that the “same potential risks of exposure to Valley Fever spores would exist [along PLR-1A] compared to the Proposed Project” is incorrect. (RDEIR, p. 2-R.4.3-33.) A route, such as Alternative PLR-1A that avoids visitor-serving uses, such as resorts, campgrounds, wineries and tasting rooms, reduces potential health impacts by reducing the release of fugitive dust and spores on sensitive receptors that have no prior exposure to Valley Fever. Further, it is

¹ The health risks identified in the CURE HRA are not inconsequential. They purport to show that, even with Tier 4 construction equipment, *which as discussed above is in no way guaranteed*, the cancer risk caused by this Project would be up to 25 in one million, which is more than double acceptable levels. This risk would of course be significantly higher if Tier 4 equipment were not used.

nonsensical for the RDEIR to conclude that health impacts associated with DPM emissions under PLR-1A would be less than the proposed Project because “this location has fewer sensitive receptors, and many sensitive receptors are located further from the construction site” and yet determine that impacts associated with Valley Fever would be the same under both scenarios. (RDEIR, p. 2-R.4.3-33.)

V. THE RDEIR’S RECIRCULATED ANALYSES FAIL TO ACCOUNT FOR SEVERAL FLAWS RAISED BY COMMENTERS ON THE DRAFT EIR.

Despite spending nearly a year on preparing and recirculating chapters of the Project’s EIR, the recirculated chapters fail to address countless flaws identified in the comment letters submitted to the CPUC on the Draft EIR.

First, the recirculated Project Description still fails to accurately describe all relevant components of the Project, including key details relating to power line pole height, location, and aesthetic treatments. It also continues to omit any meaningful detail on how the transmission line route will be restored after completion of construction, or what the impacts, including air emissions impacts and Valley Fever-related impacts, would be of such restoration. Further, as described in detail in our February 22, 2021, comment letter, the Project Description cites to unsupported and flawed population growth projections to justify the Project’s existence, when in reality, the Project is designed to accommodate growth far beyond what would reasonably be expected to occur without the Project.

Next, despite recirculating the Agriculture and Forestry Resources analysis of the Draft EIR, and despite finding that even greater agricultural impacts will occur than were previously disclosed, the RDEIR still fails to adequately mitigate these significant impacts. The RDEIR makes no revisions to Mitigation Measure AG-1, which is grossly inadequate and fails to meet CEQA’s requirement for concrete, enforceable mitigation. Mitigation Measure AG-1 still includes no timing requirement for when the Applicants must “contribute sufficient funds” to “ensure the conservation of one acre of agricultural land in San Luis Obispo County for each acre of agricultural land converted by the Proposed Project” and therefore it is impossible to know if the payment made by the Applicants will actually be used to conserve other agricultural land in the County before the Project’s impacts occur. The analysis also continues to ignore impacts associated with conversion of agricultural land as a result of growth.

While Cava Robles is disappointed that the vast majority of our previous comments, and the comments of many others affected by this Project, went unaddressed in the RDEIR, we continue to appreciate the opportunity to review and comment upon the proposed Project, participate in the CPUC’s formal proceeding on the matter, and participate in the approval

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Mr. Trevor Pratt
Mr. Tom Engels
January 12, 2022
Page 8

process for any and all permits required by the Project. We continue to appreciate CPUC's careful consideration of these issues, and all the comments in our prior comment letter that were not incorporated into, or remedied by, the RDEIR. Again, should you have any questions concerning the contents of this letter, our prior comment letter, or the potential impacts of the proposed Project on Cava Robles, the Golden Hill Road corridor, the City of Paso Robles, or the region at large, please reach out to discuss at your earliest convenience.

Very truly yours,



Victor De la Cruz
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VSD

cc: City Council of the City of Paso Robles
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