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Serving the Antelope-Fremont Valleys and Upper Santa Clara River Watersheds

August 25, 2011

Richard J. Bruckner, Director
Department of Regional Planning
County of Los Angeles
320 West Temple Street
Los Angeles, CA 90012

re: AV Solar Ranch I, First Solar

Dear Mr. Bruckner,

Thank you very much for your personal attention in replying to Antelope Valley Conservancy's July 6 letter, which expressed concerns about the AV Solar Ranch I fire and Los Angeles County's delegation of mitigation stewardship to entities that have not undergone due diligence review. The directors are gratified that this matter has been brought to the attention of top management at the Department of Regional Planning, and look forward to prompt progress in developing and adopting due diligence policies and procedures.

In regard to our concern about the fire, thank you for your assurance that henceforth the Fire Protection Plan and Mitigation Monitoring Program will be diligently enforced.

In regard to your response to our second concern, we appreciate this opportunity to respond and clarify.

1. The core focus of your reply appears to be that "the SMMC, through DMCA, is uniquely suited to manage the AVSR1 mitigation lands given the mission and experience of its member agencies."
 - a. The SMMC has no jurisdiction in the location of the lands (Public Resources Section 33105) and SMMC manages neither the lands nor the DMCA. Sections 2.0 and 3.0 of the DMCA Joint Powers Agreement state the Authority is "a public entity separate and apart from the parties to this agreement." Section 9.2 states, "Pursuant to Section 6508.1 of the Government Code, neither the Authority nor the Governing Board shall have the power or authority to bind the District or the Conservancy, or either of them, to any debt, liability or obligation." Furthermore, "No act or omission of the Authority or the Governing Board, or any officer or employee thereof, shall be attributable to the District or the Conservancy, or either of them" (Section 9.3).
 - b. As to mission, a statement of organizational purpose does not meet the requisite of due diligence. An organization's stated mission and program outcomes can differ, hence the irreplaceable value of and state requirement for due diligence review, to evaluate how well an organization actually fulfills its mission, the quality of its policies and procedures, and how well it evidences fulfillment of those policies and procedures.

- c. As to experience, typical standards of practice for conservation land include site planning, biological monitoring, and fiscal accountability. SMMC/MRCA and DMCA's management of lands in northern Los Angeles County has been hands off, failing to provide rudimentary stewardship practices, while the AVRCD (formed from three Soil Conservation Districts, not three Resource Conservation Districts) has no land management experience at all.
 - i. Ritter Ranch and other properties owned by SMMC/MRCA and DMCA have no evidence of site plans, biological monitoring, trash removal, etc.
 - ii. At DMCA's Joshua Ranch mitigation project, there was massive destruction to natural habitat and destruction of a trail built by Highland High School students with Los Angeles County grant funding. Due to the DMCA's lack of experience and expertise, it relied on annual payments instead of endowments, and when the builder became financially insoluble, DMCA's ability to restore these resources and to steward the land ended.
 - d. Let us be clear that state and federal agencies hold mitigation land stewardship to a higher standard than conservation land management. For example, the distribution of lands provided in the DMCA Joint Powers Agreement does not comply with the standards of practice for mitigation lands established by the US Fish and Wildlife Service or California Department of Fish and Game (CDFG), or even those for conservation lands as standardized by the Land Trust Alliance and the Land Trust Accreditation Commission.
2. In fact, SMMC, AVRCD, DMCA, and MRCA are not among the dozen entities recognized and Authorized by the State of California through CDFG as "uniquely suited" to Hold Mitigation Lands and Conservation Easements. (As requested by DRP personnel, AVC recently provided them the CDFG Due Diligence Applications for both nonprofit and government agencies, CDFG list of Approved Third Parties, and the Land Trust Alliance Standards and Practices.)

Due diligence reviews document evidence of conformance to accepted standards for key indicator practices such as:

- Responsible governance of the organization;
- Protection of the public interest with sound and sustainable land transactions and stewardship;
- Ethical operations;
- Compliance with GAAP and accountability to the public; and,
- Compliance with all laws.

A cursory search of public records of the State of California and the County of Los Angeles regarding SMMC, AVRCD, and DMCA, produces poor Governor's Performance Audits, failure to file annual Financial Reports with the State Controller's Office, lack of elections required by Public Resources Code Division 9, Brown Act violations, referrals by the Los Angeles County Auditor Controller and others to the Joint Legislative Audit Committee for audit, dozens of lawsuits, innumerable community and citizen complaints, and other items that might raise some concern when delegating public interest lands and moneys.

DMCA operations—without approved annual budgets or SCO Financial Reporting, without appropriate policies or procedures, and without documented evidence of compliance to appropriate policies and procedures—might fail to fulfill the standards of accountability necessary for CDFG Authorization.

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3. While project proponents may choose providers, Los Angeles County has authority to establish criteria for suitability, and to compile a list of Approved Providers as it does for other services. Whether a project proponent opts to use a well-recognized entity like SMMC or a newly formed group (as chosen by NRG to steward mitigation lands for the Alpine Solar project), the County of Los Angeles is not exempted from investigating with due diligence all entities to which it wishes to delegate the stewardship of mitigation lands.
4. Moreover, if the County of Los Angeles has not established policies and procedures for the due diligence review of entities to which it delegates mitigation lands and funds, and has not conducted a due diligence review of an entity in accordance with such policies, then any conclusion regarding the suitability of an entity would be premature and arbitrary and, as such, would not meet the state standards for regulations.

The directors of Antelope Valley Conservancy certainly understand how complicated the issues are, and hope that this letter has provided sufficient explanatory detail for the County of Los Angeles to understand the importance, intent, and immediate need to develop and adopt a due diligence policy. The directors remain at your Department's service, so please do not hesitate to request additional information.

Thank you again for your consideration of these concerns. We look forward to hearing from you.

Respectfully Submitted,
Board of Directors, Antelope Valley Conservancy
By Wendy Reed, President

cc: Edel Vizcarra, Planning Deputy, County Board of Supervisors, Fifth District
Norm Hickling, Field Deputy, County Board of Supervisors, Fifth District