

Comment Letter I2

ATT: PDS PROJECT MANAGER: ASHLEY, GUNGLE RE: COMMENTS ON DRAFT EIR: JACUMBA SOLAR MAJOR USE PERMIT, PDS 2014-MUP-14-041; PDSS2014-ER-22-001 EIR COMMENTS RE: PROBLEMS OF UNAUTHORIZED STUDY

BACKGROUND AND SUMMARY OF ETHICAL AND OTHER PROBLEMS

The Jacumba Solar EIR has within it, two consulting studies prepared by Nextera's consultant Dudek. These documents are found in the Appendices section of the EIR. The first study of 115 pages has this coversheet information as follows:

Groundwater Resources Investigation Report
 Flat Creek Watershed Analysis
 Jacumba Community Services District
 Lead Agency- San Diego County PDS
 Project proponent- JCSD PO Box 425 Jacumba Hot Springs, Contact Debbie Troutt
 Prepared by DUDEK 605 Third Street, Encinitas, CA
 Stephen K. Dickey, PG,CHG,CEG
 April 2015

The second study of 22 pages has the same information except the title is " Groundwater Monitoring and Mitigation Report"

The studies **are also** described in several places within the main EIR as well as in the Reports themselves. They describe how The JCSD "Park Well and/or another possibly to be drilled well on the Flat Creek Watershed will be used to supplement construction water sales supplies (including Jacumba Solar) and/or back up other JCSD water supplies. The study itself says that the investigation was prepared on "behalf of Jacumba Community Services District" by Dudek for "submittal to San Diego County PDS".

The author of this document, Howard Cook (former Jacumba Sponsor Group Chair) wondered how and why was this expensive consulting study authorized and who was involved. He therefore made up a set of six questions and basic information about the two studies and addressed them to The JCSD President, Desmond White, at the JCSD Board Meeting held 04/28/2015. Much to my astonishment, I got the following answers to these questions:

1. Have you read these two studies? Yes or No - **Answer -No**
2. Did you authorize these two studies? Yes or No - **Answer- No**
3. Did the JCSD Board authorize these studies? If so when, - **Answer -No and No**
4. How much did the 2 studies cost and when was cost authorized by the Board - **Answer - No and No**

5/15/15 BY HOWARD W COOK

I2-1

Response to Comment Letter I2

**Howard Cook
 May 20, 2015**

I2-1

The County acknowledges receipt of Howard Cook's input and appreciates his comments regarding the potential impacts associated with implementation of the project. This comment does not address the adequacy of the DEIR, therefore no further response is required. JCSD staff was consulted in preparation of the Groundwater Resources Investigation Reports for both Boundary Creek and Flat Creek. JCSD provided data and field assistance in acquiring water levels from select wells. The Board of the JCSD approved the filing of the Groundwater Resources Investigation Report for the Flat Creek Watershed during their General Board Meeting on May 26, 2015.

ATT: PDS PROJECT MANAGER: ASHLEY, GUNGLE RE: COMMENTS ON DRAFT EIR: JACUMBA SOLAR MAJOR USE PERMIT, PDS 2014-MUP-14-041; PDSS2014-ER-22-001 EIR COMMENTS RE: PROBLEMS OF UNAUTHORIZED STUDY

5. Are you familiar with the possible costs described in the 22 page mitigation report, item 3.3.2) (Quote for costs described in 3.2 of mitigation study to bring up to code) – **Answer – No, because of the no. 3 answer.**

6. Why are JCSD wells 7 and 8 not planned as backup wells for JCSD Drinking water use? – **Answer – 8 is our backup well.**

Only one Board member at the Board Meeting had any knowledge of the two studies. He said, about question 4, that “there was no cost, It was done for free”. **The bottom line is: the JCSD Board did not approve or read the study.** Dudek and also probably Nextera thought it important enough to do this on their own and to make it seem to the County and readers that it was authorized by the JCSD. I reconfirmed the six questions and the studies via E-mail to each of The JCSD Board after the 4/28 JCSD meeting. There is also additional evidence of the duplicity of Dudek when one reads the first two paragraphs of the second study. It says:

“ Jacumba Community Services District (JCSD) is proposing the use of the Park Well and the potential development and use of replacement well(s) as a secondary source of groundwater to serve JCSD customers (the Project). This Groundwater Monitoring and Mitigation Plan (GMMP) has been prepared by Dudek in order to provide protection of nearby groundwater dependent habitat and ensure adequate groundwater supply for other groundwater users in the area.

As described in the Groundwater Resources Investigation Report – Flat Creek Watershed for the Jacumba Community Services District (Dudek, 2015), JCSD is proposing to develop additional production capacity of 100 acre-feet per year of groundwater from the Park Well and/or replacement well(s) yet to be completed. These wells are intended to serve as a redundant backup supply in the event JCSD’s main potable supply well goes offline as well as to increase the reliability and versatility of JCSD’s water supply system. In addition, JCSD intends to use these wells to supplement its sales of non-potable water from Well 6 for construction related uses in the region. To facilitate sales of water suitable for construction-related uses, water will be extracted from the Park Well using a new submersible pump and discharged to a 12,000 gallon water tower. The Park Well(s) located at the east end of downtown Jacumba Hot Springs on assessor’s parcel number (APN) 660-140-07 (Figure 1).”

ISSUES AND PROBLEMS

A. Nextera/Dudek seems to be concerned that there is not enough water at current existing wells and in the existing active groundwater aquifers to meet their needs. This itself, should be a PDS red flag.

B. Nextera and Dudek seem to be sure that they could out maneuver the JCSD Board, the Jacumba people and the County to secure more water from Jacumba for project construction. Dudek may have also been concerned about their Soltec and Tule Wind clients who also have secured approval for Jacumba JCSD water. If one reads the above quote from the second study and as written by Dudek, it talks



I2-2

The County acknowledges this comment; however it does not address the adequacy of the DEIR, therefore no further response is required. As described in Section 3.1.4 of the DEIR, JCSD has sufficient groundwater supplies to provide approximately 20.2 acre-feet of construction water and 3.4 acre-feet per year of operational water to the Project.

I2-3

The County acknowledges this comment; however it does not address the adequacy of the DEIR, therefore no further response is required. The water supply analysis takes into account that JCSD provides construction water to other projects. The hydrology reports incorporated as Appendix 3.1.4-3 and 3.1.4-4 were prepared in support of the Project’s evaluation of environmental impacts on groundwater.

ATT: PDS PROJECT MANAGER: ASHLEY, GUNGLE RE: COMMENTS ON DRAFT EIR: JACUMBA SOLAR MAJOR USE PERMIT, PDS 2014-MUP-14-041; PDSS2014-ER-22-001 EIR COMMENTS RE: PROBLEMS OF UNAUTHORIZED STUDY

about: "JCSD intends to use these wells to supplement its sales of water of non-potable water from well 6 for construction related uses in the region". Since this is Dudek talking, not the JCSD Board, it is evident that Dudek intends to solicit other clients for Jacumba water. This paragraph also shows that **Dudek and others forget that JCSD is not authorized to be in this business.** See issues and problems D below, to get the facts on this additional issue.

- C. Nextera and Dudek evidently believed, that they could essentially make a gift of consulting services and create a 140-page report favorable to their needs. There is evidence that they also believed they could make a gift in advance to help secure approval of their project.
- D. Dudek, as shown in B. above apparently forgets that JCSD is a governmental entity and is a Special District. "The San Diego Local Agency Formation Commission (Lafco)" in their Special District directory **defines and authorizes the following for JCSD:**
 - o "The Jacumba Community Services District (JCSD) provides potable water and park and recreation services within the unincorporated east-county community of Jacumba".
 - o "District area 423.42 acres" (i.e. does not include the area east of the Spa owned farmland)
 - o "Sphere of Influence: Coterminous with District" (i.e. sphere does not include Jacumba Solar)
 - o "Sphere adopted October 7, 1985 and Sphere affirmed August 6, 2007"

In other words JCSD is authorized to provide only potable water and recreational services and these are limited to their approved boundaries. No water can be sold by JCSD outside these boundaries. This fact alone should negate the effort to use JCSD Jacumba Groundwater outside their District.

RECOMMENDED REMEDIES AND CONSEQUENCES TO DUDEK AND NEXTERA

- **THE COUNTY SHOULD SUSPEND THE EXISTING EIR AND ASK THE APPLICANT TO RESTART THE EIR PROCESS**
- **THE COUNTY SHOULD INSIST THAT A NEW CONSULTANT BE SECURED TO RESTART THE EIR**
- **AN ALTERNATIVE TO THE EIR SUSPEND AND RESTART PROCESS SHOWN ABOVE IS TO NOT APPROVE THE PROJECT**

5/15/15 BY HOWARD W COOK

3



I2-4 The County acknowledges this comment; however it does not address the adequacy of the DEIR, therefore no further response is required.

I2-5 See Response to Comment C1-4 regarding JCSD's authority to sell nonpotable water to users outside of the JCSD boundaries.

I2-6 The County acknowledges this comment; however it does not address the adequacy of the DEIR, therefore no further response is required. Respectfully, the County does not agree with the request to restart the EIR process or require the use of an additional consultant, based on the completed requirements of the CEQA process.

INTENTIONALLY LEFT BLANK