

Ms. Shanda Ray  
P.O. Box 86  
Jacumba, CA 91934  
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Ms. Bronwyn Brown  
Planning and Development Services  
5510 Overland Avenue, Suite 310  
San Diego, CA 92123

**NOTICE OF PREPARATION OF ENVIRONMENTAL IMPACT REPORT (EIR) DOCUMENT FOR THE (JVR ENERGY PARK (PDS2018-GPA-18-010, PDS2018-REZ-18-007, PDS2018-MUP-18-022))**

Thank you for the opportunity to comment on the above-mentioned document. My comments are recommendations regarding the analyses of potential impacts to air quality, fire services and facilities, mitigation measures for cultural resources, infrastructure capacity planning and the determinants of equity in human health and wellbeing as environmentally just service by San Diego public agencies under the California Environmental Quality Act (CEQA).

In section VIII. GREENHOUSE GAS EMISSIONS, regarding the perceived less than significant impact of JVR energy park on Earth's climate, the leading statement, *"These changes are now broadly attributed to GHG emissions, particularly those emissions that result from the human production and use of fossil fuels"*, is in contrast to the truth, or an integrated reality. There is one rule in ecology, biodiversity needs space. [The larger the area the area the greater the biodiversity](#). 1/10 of the world's population has encroached on natural terrestrial and marine habitats as a fundamental reason for the collapse of species populations and biodiversity worldwide. In 2004 scientists confirmed, if 1/10 of humanity continues to contaminate and disrupt nature at the current increasing rate, there will be a loss of [22% to 31% of species by 2050 in the optimistic scenario and a loss of 38% to 52% in the pessimistic scenario](#). You have confused the symptoms with the disease.

The classification into biomes (land and marine areas of similar weather, temperature, animals and plants) is no longer relevant. Scientists and researchers are currently classifying the Earth's ecology by using [Anthromes, or human biomes](#), to reflect anthropogenesis and our impact on the patterns and processes of our natural world.

Members of the lead agency under 40 years of age may consider whether their current trajectory is career based or merely a job maintaining a status quo that is not serving them. Consider the words of 15-year-old climate advocate Greta Thunberg, ***"... we have to speak clearly, no matter how uncomfortable that may be. You only speak of green eternal economic growth because you are too scared of being unpopular. You only talk about moving forward with the same bad ideas that got us into this mess, even when the only sensible thing to do is pull the emergency brake. You are not mature enough to tell it like it is. Even that burden you leave***

***to us children. But I don't care about being popular. I care about climate justice and the living planet. Our civilization is being sacrificed for the opportunity of a very small number of people to continue making enormous amounts of money. Our biosphere is being sacrificed so that rich people in countries like mine can live in luxury. It is the sufferings of the many which pay for the luxuries of the few.***

In a current reality and in future generations' hindsight, it is the individuals' [stupidity and delusion](#) , inspired by ownership, that will result in an increase in the Earth's average surface temperature commonly referred to as global warming. This rise in global temperature is associated with long-term changes in precipitation, temperature, wind patterns, and other elements of the Earth's climate system, known as climate change. Humans can only fake food, when the plant life is gone and steal water when there is none left, yet narcissistic individuals, in possession of data confirming climate changes are producing an array of adverse environmental impacts including water supply shortages, severe drought, increased flooding, sea level rise, air pollution from increased formation of ground level ozone and particulate matter, ecosystem changes, increased wildfire risk, agricultural impacts, ocean and terrestrial species impacts, food injustice, homelessness through human displacement, transmigration of pathogens and pests, among other adverse effects, lacked the courage to save themselves.

*"[Functional stupidity](#) involves narrow thinking, where established frameworks are accepted uncritically...Most workplaces these days seek to encourage and cultivate critical thinking, reflection and 'out of the box' ideas, yet they often remain better at doing the opposite. Managers and subordinates follow organisational and professional templates and cultures without paying much attention to assumptions and beliefs...Outside the box, stupidity often rules."*

*To be stupid, selfish, and have good health are three requirements for happiness, though if stupidity is lacking, all is lost - Gustave Flaubert*

## **1. AIR QUALITY ANALYSES IMPACT**

**VIII. GREENHOUSE GAS EMISSIONS** — *Would the project: a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? LESS THAN SIGNIFICANT IMPACT.*

### **COMMENT:**

1. The report/mitigation should extend to the lead agencies identification of all potential adverse air quality impacts that could occur from all phases of the project and all air pollutant sources related to the project. Air quality impacts from both construction (including demolition, if any) and operations should be calculated. Construction-related air quality impacts typically include, but are not limited to, emissions from the use of heavy-duty equipment from grading, earth-loading/unloading, paving, architectural coatings, off-road mobile sources (e.g., heavy-duty construction equipment) and on-road mobile sources (e.g., construction worker vehicle trips, material transport trips).

Operation-related air quality impacts may include, but are not limited to, emissions from stationary sources (e.g., substations, ), area sources (e.g., solvents and coatings), and vehicular trips (e.g., on- and off-road tailpipe emissions and entrained dust). Air quality impacts from indirect sources, that is, sources that generate or attract vehicular trips should be included in the analysis.

2. The report/mitigation should extend to the lead agencies quantification of criteria pollutant emissions and compare the results to the recommended regional significance thresholds found in the National Ambient Air Quality Standards (NAAQs) for pollutants that harm health, the environment, and cause property damage.
3. The report/mitigation should extend to quantify electromagnetic radioactive criteria pollutant emission ranges and compare the results presented by the World Health Organization in Environmental Health [Criteria 137](#)- Geneva, Switzerland 1993. All electrical and electronic devices create electromagnetic fields or EMF around them when used and also emit electromagnetic radiation or EMR. This includes solar panels and solar inverters. In 2002, [the International Agency for Research on Cancer \(IARC\)](#), a component of the World Health Organization, appointed an expert Working Group to review all available evidence on static and extremely low frequency electric and magnetic fields (12). The Working Group classified ELF-EMFs as “possibly carcinogenic to humans,” based on limited evidence from human studies in relation to childhood leukemia.

## 2. FIRE SERVICE AND FACILITIES –

1. The report/mitigation should extend to the cost, scope and impact on fires safety in expected fulfillment of the pending NFPA 855 Standard for the Installation of Stationary Energy Storage Systems (ESS).

An ESS is defined as “one or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time to the local power loads, to the utility grid, or for grid support.”

Before we get into the body of the proposed standard, it would be good to look at excellent information provided in the several annex sections, in particular:

- Annex B: Battery Energy Storage System Hazards.
- Annex C: Fire-Fighting Consideration (Operations).
- Annex D: Overview of Engineering Storage Systems Technologies.
- Annex F: A Short History on Station Storage Battery Systems.

Annex B provides examples of the specific fire hazards involved with a wide variety of battery types including lithium-ion batteries. Annex F contains information currently appearing in other codes and standards.

Chapter 4 provides general requirements for ESS systems and comes right out of the gate by letting us know what the major issue is.

“4.1.1 General ESS Gas Release. ESS shall not release toxic or highly toxic gas creating conditions in excess of the permissible exposure limit (PEL) in the room or space in which they are located during normal charging, discharging, and use.”

Under certain conditions, Chapter 4 requires a hazard mitigation analysis which must address the following failure modes:

- Thermal runaway condition in a single module or array
- Failure of an energy storage management system
- Failure of a required ventilation or exhaust system
- Voltage surges on the primary electric supply
- Short circuits on the load side of the ESS
- Failure of a required smoke detection, fire detection, fire suppression or gas detection system

The following guidance is provided for the AHJ reviewing the analysis.

“4.1.4.2. The AHJ shall be permitted to approve the hazardous mitigation analysis as documentation of the safety of the ESS installation provided the consequences of the analysis demonstrate the following: (1) Fires will be contained within unoccupied ESS rooms for the minimum duration of the fire resistance rating specified in 4.3.6. (2) Suitable deflagration protection is provided where required. (3) ESS cabinets in occupied work centers allow occupants to safely evacuate in fire conditions. (4) Toxic and highly toxic gases released during normal charging, discharging and operation will not exceed the PEL in the area where the ESS is contained. (5) Toxic and highly toxic gases released during fires and other fault conditions will not reach concentrations in excess of immediately dangerous to life or health (IDLH) level in the building or adjacent means of egress routes during the time deemed necessary to evacuate from that area. (6) Flammable gases released during charging, discharging and normal operation will not exceed 25 percent of the LFL.

Table 4.4.2 contains a list of fire safety features required for indoor ESS installations. The table makes a distinction between dedicated-use ESS buildings and nondedicated-use buildings. Separation, smoke and fire detection, and fire suppression will be required for indoor installations in either case.

Regarding separation: “4.3.6 Separation. Rooms or spaces containing ESS shall be separated from other areas of the building by fire barriers with a minimum fire resistance rating of two

hours and horizontal assemblies with a minimum fire resistance rating of two hours, constructed in accordance with the local building code.”

The requirements for fire suppression system reflects the lack of good information on how to properly protect these systems with sprinklers or alternate suppression systems.

The following is from Annex Section A.4.11.1: “Thermal Runaway. While nonwatery-based fire suppression has been shown to be effective at suppressing Class B and Class C fires in ESS enclosures, current suppression agents, both water-based and nonwater-based, are probably not going to be able to stop thermal runaway. No published case studies, test reports or data generated to date indicate otherwise.

“The current protection concepts in NFPA 855, including size and separation, maximum-rated energy and elevation are designed to try and keep a thermal runaway event from propagating from one ESS unit to another, contain a fire within a room or outdoor walk-in unit and not allow it to compromise exposures.”

Currently, the standard contains design discharge criteria of 0.30 gal./min./ft.<sup>2</sup> over 2,500 ft.<sup>2</sup> for sprinkler systems. There is an option to use a different density based on the results of large-scale fire testing.

Alternatives to sprinklers also may be used if their effectiveness is supported by large-scale testing.

### **Battery Storage System Requirements**

Chapter 9 deals specifically with battery storage systems. Table 9.2. Electrochemical ESS Technology-Specific Requirements indicates which general requirements must be met based on the type of battery technology used. Compliance features included in the table are exhaust ventilation, spill control, neutralization, safety caps, thermal runaway, explosion control and size/separation.

The proposed standard also contains specific requirements in Chapter 17 which address one- and two-family dwellings and townhouse units. The key provision of the chapter is the location requirements.

17.5.1. ESS shall only be installed in the following locations: (1) In attached garages separated from the dwelling unit living area and sleeping units in accordance with the local building code (2) In detached garages and detached accessory structures (3) Outdoors on exterior walls or on the ground located a minimum of 3 ft (914 mm) from doors and windows (4) In enclosed utility closets and storage or utility spaces.

“17.5.1.1. If the room or space where the ESS is to be installed is not finished, the walls and ceiling of the room or space shall be protected with not less than 5/8-in. Type X gypsum board.”

No suppression is required for one- and two-family dwellings but there is a requirement for detection.

“17.8.1. Interconnected smoke alarms shall be installed throughout the dwelling, including in rooms, attached garages and areas in which ESS are installed in compliance with local building code.”

The members of the technical committee for energy storage systems should be congratulated for their effort. It is an excellent standard, well-written, very comprehensible and ahead of the curve — the avalanche of battery storage systems that are coming.

And it bears repeating: This column is based on the standard as currently proposed and that changes are likely before we see the final document from NFPA. - [reference](#)

*“The only thing firefighters fear more than fire is solar. So long as a solar panel is getting sunlight, it's impossible to turn off. “During daylight, there can be enough voltage and current to injure or even kill a firefighter who comes in contact with the energized conductors,” -Matthew Paiss, San Jose Fire Department.*

In December of 2017, wildfires devastated portions of Ventura and Santa Barbara counties. At the time, what became known as the Thomas Fire was the largest wildfire in California’s history. The Thomas Fire burned [more than 280,000 acres](#) before it was finally contained on Jan. 12, 2018. The fire destroyed more than 1,000 structures including hundreds of homes. There was also a second, related fire that broke out in Ojai, a small city in Ventura County, located a little northwest of Los Angeles, about an hour later after a transformer [reportedly](#) exploded in a residential area on Koenigstein Road. So far, [170 homeowners and business owners](#) who suffered damage in connection with the [Woolsey Fire](#) that broke out in November 2018 have filed suit in Los Angeles and Ventura Counties claiming the utility’s electrical equipment was responsible for the fire. Meanwhile, [PG&E has announced that it will file for bankruptcy](#) since it is now drowning under “at least \$7 billion in claims from the [Camp Fire](#),” according to [news reports](#). The California Department of Forestry and Fire Protection has also [blamed PG&E](#) for some of the 2017 wildfires. The Camp Fire is now on record as the deadliest fire in state history in terms of fatalities and destruction to infrastructure. Williams, the PG&E CEO, has announced that she is stepping down.

2. The report/mitigation should extend to the cost, support, management, maintenance, acquisition and storage of materials and personnel required to effectively respond to Class C fires in the region. The formula for calculating the needed foam concentrate at a flammable liquid release is as follows: Area X Critical Application Rate (CAR) X Education Rate (ER) X 15 = Foam Concentrate Needed. "Area" refers to the area the spill occupies, usually in square feet, in this case, 1,345 acres.

a. Potential resources to be included:

[Type 1 Fire Engine](#)  
[Type 3 Fire Engine](#)  
[ALS Rescue Ambulance](#)  
[BLS Rescue Ambulance](#)  
[Foam Tender](#)  
[Gator](#)  
[HAZ MAT Apparatus](#)  
[Heavy Rescue](#)  
[Helicopter](#)  
[Helicopter Tender](#)  
[Firefighting Aircraft](#)  
[Rehab Tender](#)  
[Tractor Company](#)  
[Fire Crew Support](#)  
[Urban Search and Rescue](#)  
[Water Tender](#)

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b. Potential Training requirements to include:

- i. Fire Scenarios and Foam Policies AM Foams and their relevant standards, tank risk scenarios, understanding tank fires, case study review.
  - ii. Familiarisation with the importance of foam testing, taking samples and meaningful measurements. Live fire exercises demonstrating foam types and techniques, and emergency planning and incident command scenarios.
  - iii. An overview of current global legislation and best practice guidelines. Emergency planning for tank fires and significant emergencies as well as an understanding of specifying foam systems.
- c. Practical fire ground awareness, equipment familiarization, Practical firefighting scenarios that include running fuel fires from a pressurized flange, tank-top rimseal fires as and manual v's automatic protection. Blevé and boilover simulators, transformer, electrical bund fires and a full surface tank fires.
3. The report/mitigation should extend to identify the Critical and Minimum application rates at which Class C foam will extinguish wildfires under ideal conditions.

**NFPA 11**

“Tests have shown that foam may travel effectively across at least 100 feet of burning liquid surface”.

*“Sometimes”*

#### 4. MITIGATION MEASURES FOR CULTURAL RESOURCES

1. Due to the facts that the project is located within the area of sensitivity of the Campo Kumeyaay native peoples, the report/mitigation should extend to implement the language below as mitigation measures:
  - All ground disturbing activities performed on the project property shall be monitored by professional Native American monitors.
  - The applicant shall retain one professional Native American monitor per excavation team to monitor all ground disturbing activities performed on the project property.
2. The applicant and lead agent shall enter into an agreement with the tribal representatives of the 600 generations of San Diego's Kumeyaay people as a condition of project approval, in which the Viejas band of Kumeyaay representatives shall be identified to provide the following mitigation services:
  - (1) Consultation and project support during the project planning stages related to cultural resources and mitigation under the California Environmental Quality Act (CEQA), Public Resources Code section 21080.3.1, subdivision (b), (d) and €.
  - (2) Professional Native American monitoring procurement.
  - (3) Management of Native American monitoring activities and related project oversight.

#### 5. INFRASTRUCTURE/CAPACITY PLANNING - Regional Water Quality Control Board (RWQCB) and Unethical Behaviour.

Assuming past behaviour is the best indicator of future behaviour, the inconsistencies in the Notice of Preparation documentation and the obvious contradictions to the truth are troubling at best and criminal at worst.

There are significant legal challenges to ethical administration and implementation of the project on multiple levels (e.g. not a single initiative, legislative implications and procedures not followed.)

- (a) "Section X – Hydrology and water quality of the Initial Study (pp 27-31 of the report <https://www.sandiegocounty.gov/content/dam/sdc/pds/ceqa/JVR/NOP/Final%20NOP%20-%20Figure%20-%20Initial%20Study.pdf> ) discusses there will be several potentially significant impacts related to water quality and supply. Specifically in regards to supply (Section X, part d), a Groundwater Investigation Report will be prepared and this topic will be addressed in the draft EIR. The lead agency is JVR Energy Park and consultant contact is David Hochart from Dudek. **Shawn will work on getting a copy of this Groundwater Investigation Report to us, so that we can evaluate the capacity.**

Lastly, the **NOP was filed with the State Clearinghouse on 3/1/19 and SWRCB Water Quality (i.e. I believe our division) was checked to be part of the distribution list to provide comments. While I have not yet received a copy of the NOP from this list, I was able to find it on the County's website at the above links and I appreciate Shawn contacting us regarding this matter.** – email 3/21/19, cc: S. Sterchi, [-State Water Resource Control Board](#)

- (b) On 3/21/19 a request was made to the lead agency for translated copies of NOP documents to include the large number of Spanish speaking residents in the Southeastern Sub-Empire Region of San Diego County. Equitable ability to participate in the public solicitation of comments has been denied by the lead agency.
- i) San Diego County is relying on the lead contractor (DUDEK) for the purposes of environmental assessment of impact to human health and wellbeing, while simultaneously engaging in grant making transactions and gifting stipends to major stakeholders and land owners in the region.
  - ii) Regional leadership has a long history of perpetuated aggression evidenced by the 10+ year stagnant decision-making framework that has effectively held community resident's hostage to white nationalism.
- (1) Over the last ten years, according to data analyzed by the Anti-Defamation League (ADL), "73.3% of all domestic extremist-related killings have been perpetrated by right-wing extremists, compared to 23.4% perpetrated by terrorists motivated by Salafi-jihadism and 3.2% by left-wing extremism."
- (2) Last year, domestic extremists killed at least 50 people in the United States and "every one of the perpetrators had ties to at least one right-wing extremist movement," and "[w]hite supremacists were responsible for the great majority of the killings." These attacks are on the rise. "The number of terrorist attacks by far-right perpetrators rose over the past decade, more than quadrupling between 2016 and 2017," according to the Center for Strategic and International Studies.

“ A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or, perhaps both

James Madison

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 POPULAR INFORMATION

1. The report/mitigation should extend to insure the application of democratic principles of inclusion, majority rules/minority rights, an informed, educated majority and a reasonable standard of living, required under the law, as follows:

- I. Future Legislative Acts. An initiative measure is invalid if it directs a legislative body to perform a legislative act in the future. An illustration of this is *Marblehead v. City of San Clemente* (1991) 226 Cal. App. 3d 1504, where an initiative required the city council to revise zoning ordinances to reflect the concepts expressed in the measure.
- II. Delegation to Legislative Body. When State law provides that certain actions are delegated to the local legislative body, and discretion must be exercised by that body, the courts will find such actions are not subject to control by initiative and referendum. For example, in *Committee of Seven Thousand v. Superior Court* (1988) 45 Cal. 3d 491, the Court held that state law enabling local governments to engage in decisions regarding funding and location of highways precluded an initiative measure on the subject. (See also *Citizens for Jobs and the Economy v. County of Orange* (2002) 94 Cal.App.4th 1311, 1128-29; *City of Burbank v. Burbank-Glendale-Pasadena Airport Authority* (2003) 113 Cal.App.4th 465, 474.)
- III. Interference with Essential Government Functions. In *City of Atascadero v. Daly* (1982) 135 Cal.App.3d 466, the Court held that a local initiative measure that redefined the term “special tax” and that curtailed the power of the city to raise revenue was an unlawful attempt to impair essential governmental functions through interference with the administration of the City’s fiscal powers. (See also *Citizens for Jobs*, supra, 94 Cal.App.4th 1311, 1124; 1327-28; *Rossi v. Brown* (1995) 9 Cal.4th 688, 703 [“If essential governmental functions would be seriously impaired by the referendum process, the courts, in construing the applicable constitutional and statutory provisions, will assume that no such result was intended”]; *Gieger v. Board of Supervisors* (1957) 48 Cal.3d 832, 837-840)
- IV. Matters Beyond the Power of the Electorate to Enact Through the Initiative Process. As a general matter, acts that would be illegal if taken by the legislative body, are also beyond the power of the people to adopt by initiative or referendum. For example, a proposed initiative measure which, if approved, would result in altering the terms of private parties cannot be adopted by initiative. (See e.g., *Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805 [Prop. 103 requirements to cut insurance rates by 20% and prohibiting insurance companies from voiding policies was unconstitutional impairment of contract, but severance clause allows other provisions to take effect].)
- V. Other examples of illegal acts arise in the context of contract and development approvals, private real estate interests, and collusion with major stakeholders, i.e., that a measure would result in a “taking” or would create a land use scheme that is inconsistent with the general plan or state land use laws.

## 6. ENVIRONMENTAL JUSTICE – SAN DIEGO PUBLIC AGENCY ROLES AND RESPONSIBILITIES UNDER CEQA

ENVIRONMENTAL JUSTICE (EJ)= defined as the fair treatment of all people, regardless of incomes with no one group bearing a disproportionate burden.

ADDRESSING POTENTIALLY DISPROPORTIONATE IMPACTS = Addressing potentially disproportionate requires a proactive EJ Analysis to better quantify potentially disproportionate impacts related to project footprints.

CEQA requires analysis of “significant physical impacts”, Alternatives & possible mitigation measures, while the intention is clearly consideration of the social and economic cumulative impacts that may result from a particular project.

- i) Many factors may contribute to a disproportionately high and adverse human health or environmental impact, including: social, psychosocial, economic, physical, chemical or biological determinants.
- ii) Special consideration of the public health impacts on already overburdened, disadvantaged communities must be considered.

1. The report/mitigation should extend to identify, analyse and compare data as follows:

- i) Proactive consideration of social, demographic, economic factors on disproportionately overburdened community.
- ii) Establish an existing conditions baseline for the census tracts surrounding the unincorporated areas of San Diego County.
- iii) Compare that existing conditions data to the data for the rest of the census tracts and the County as a whole.
- iv) Impact Analysis = to examine the proposed General Plan Amendment and Rezoning, with measures to implement the Healthy Communities Transformation Initiative (HCTI) methodology developed by [HUD’s Office of Lead Hazard Control and Healthy Homes \(OLHCHH\)](#), The HCI framework defines what constitutes a healthy community along with the range of neighborhood-level conditions that support human development and health outcomes.

(a) Potential Sources to utilize:

Community EJ Listening Session (SFE 2014)

BVHP Community Health Assessment (DPH/SFE 2011)

DPH Report on BVHP (2006)

Environmental Racism Report (HR C2003)

SF Indicators Project

Cal EnviroScreen

(b) Primary Environmental Justice indicators to consider:

Health, ie. prevalence of asthma rates, low-birth weights, etc.

Educational attainment levels

Income disparities

Others, local cost of living

Access to Nutritious food

Equitable protection under the law (e.g. sexually violent predator ration to elderly citizen)

CEQA defines "Environment" as the physical conditions which exist within the area which will be affected by a proposed project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historical or aesthetic significance. The area involved shall be the area in which significant effects would occur either directly or indirectly as a result of the project. The "environment" includes both natural and man-made conditions.

1. The report/mitigation should extend to the aesthetic significance of denying Jacumba citizens their right to landscape situated within wider concerns about "just transitions" and global climate justice as defined by *UNESCO, Final Declaration of the UNESCO International meeting on 'The International Protection of Landscapes', Florence Declaration on Landscape, 2012.*

Drawing on preliminary empirical research undertaken in southwestern Ontario in 2015...

[opposition to] solar farms is based on arable land and food justice concerns, and in both cases, grounded their resistance in a generalized claim, which might be termed a "right to landscape". In these accounts, landscape pertains to "the expression of the relationship between people and environment" with a recognition of "landscape [as] a common good" and "the right to the landscape [as] a human necessity."

Regards,

S. Ray