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December 10, 2008

<b>DOCKET</b>	
<b>07-AFC-8</b>	
DATE	DEC 10 2008
RECD.	JAN 09 2009

### Via Facsimile and U.S. Mail

Chair James R. Patterson  
Board of Supervisors  
San Luis Obispo County  
1055 Monterey Street, Room D430  
San Luis Obispo, CA 93408  
Fax: (805) 781-1350

Re: Carrizo Energy Solar Farm Project – Land Use

Dear Chair Patterson:

We are writing on behalf of California Unions for Reliable Energy (“CURE”) regarding the Carrizo Energy solar manufacturing and generation project. The project, which will be owned by Ausra CA II, LLC, is a 177 megawatt solar power plant with associated manufacturing operations on 1,020 acres on State Route 58 in the Carrizo Plains in unincorporated San Luis Obispo County (“Project”). We ask that San Luis Obispo County make a formal determination whether the Project’s proposed **manufacturing** in an **agriculture** zone is a permitted use under the San Luis Obispo County Land Use Ordinance.

On October 25, 2007, Ausra filed an application for the Project with the California Energy Commission. On July 3, 2008, Ausra filed a supplement to the application. Generally, the Project proposes development on a 640-acre site located immediately adjacent to California State Route 58 approximately 3 miles west of Simmler on land zoned for agriculture, and on a 380-acre, agriculture-zoned site located south and adjacent to the larger site. The Project proposes the following:

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- Construction and operation of a 177 megawatt solar thermal power plant;
- Construction of a 40,000 square foot **manufacturing** building with a 6-inch reinforced concrete foundation, insulated walls and roof, openings to receive truck deliveries of product and to move finished products out of the building, reflector frame production processes and fume extraction systems, and evaporative cooling and utility services;
- 195 solar concentrating lines that concentrate solar energy on pipes in 195, fifty-six foot tall elevated receiver structures;
- Steam drums, steam turbine generators, air cooled condensers, an emergency diesel generator, and related infrastructure;
- Chain link fencing around both the 640-acre and 380-acre sites; and
- A new 230 kV switchyard and new single-circuit 230 kV overhead transmission line, among other components.

The Project site is located approximately 1,400 feet from the Carrisa Plains Elementary School and 400 feet from the nearest resident.

Under California's Warren Alquist Act, the California Energy Commission is evaluating whether the Project conforms to San Luis Obispo County's ordinances.<sup>1</sup> The Energy Commission must determine whether Ausra's proposed manufacturing is consistent with the SLO Land Use Ordinance.

Based on our review of the Land Use Ordinance and the proposed Project, it appears that the Land Use Ordinance does **not** permit the Project's proposed manufacturing building and uses on the 380-acre site, which is zoned for agriculture. The Land Use Ordinance allows electrical generation in an agricultural zone, subject to a conditional use permit.<sup>2</sup> However, the Land Use Ordinance **prohibits** manufacturing buildings and manufacturing activities in an agricultural zone.

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<sup>1</sup> Pub. Res. Code § 25500 *et seq.*

<sup>2</sup> Land Use Ordinance, Section 22.06.030.

As described above, the Project proposes a 40,000 square foot manufacturing building to manufacture reflector frames.<sup>3</sup> The building will have a 6-inch reinforced concrete foundation, insulated walls and roof, openings to receive truck deliveries of product and to move finished products out of the building, reflector frame production processes and fume extraction systems, and evaporative cooling and utility services, among other components. The manufacturing process involves welding reflector frames and using polyurethane adhesives to affix mirrors to welded reflector components. The manufacturing process will produce zinc particulates, volatile organic compounds and hazardous air pollutants. The Project site is located approximately 1,400 feet from the Carrisa Plains Elementary School and 400 feet from the nearest resident.

The Land Use Ordinance prohibits manufacturing that includes welding and the use of adhesives in an agricultural zone. There are only two types of land uses that include welding. First, welding is included in the definition of “small-scale manufacturing” under the land use category “Industry, Manufacturing & Processing Uses.” Thus, the Project’s proposed manufacturing may be categorized as “small-scale manufacturing,” which is defined as follows:

[m]anufacturing establishments not classified in another major manufacturing group, including: jewelry, silverware and plated ware; musical instruments; toys; sporting and athletic goods; pens, pencils, and other office and artists’ materials; buttons; costume novelties; miscellaneous notions; brooms and brushes; caskets; and other miscellaneous manufacturing industries...also includes small-scale blacksmith and **welding** services when accessory to another use.<sup>4</sup>

Small-scale manufacturing use on land zoned for agriculture “is limited to establishments accessory or secondary to full-time farming or ranching operations on the same site, and which produce farm or ranch-related equipment, or small products sold off-site to supplement farm income.”<sup>5</sup> Since the Project’s proposed manufacturing is not accessory or secondary to full-time farming or ranching operations, the proposed manufacturing is not permitted.

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<sup>3</sup> *Id.* at pp. 1-3-1-4.

<sup>4</sup> Land Use Ordinance, p. 8-64 (emphasis added).

<sup>5</sup> *Id.* at p. 4-117.

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Alternatively, welding in a manufacturing building is included in the “metal industries, fabricated” land use category, which is also not permitted in an agricultural zone. “Metal industries, fabricated” is defined as follows:

manufacturing establishments engaged in assembly of metal parts, including blacksmith and *welding* shops, sheet metal shops, machine shops and boiler shops, which produce metal duct work, tanks, towers, cabinets and enclosures, metal doors and gates, and similar products.<sup>6</sup>

However, the Land Use Ordinance does not permit fabricated metal industries in an agricultural zone.<sup>7</sup>

If the County has made a determination regarding whether the Project’s proposed manufacturing is a permitted use in an agricultural zone under the Land Use Ordinance, we request a copy of all written materials related to the determination pursuant to the California Public Records Act.<sup>8</sup> If the County has not made a determination regarding the manufacturing’s consistency with the Land Use Ordinance, we request that it do so. Please let us know whether you expect such a determination to be made and the timing of your consideration of this issue.

The County must comprehensively plan before allowing manufacturing, welding, the use of adhesives, and other related activities in an agricultural area. Such planning is vital to orderly development in the County and would include, among other analyses, environmental review, pursuant to the California Environmental Quality Act.<sup>9</sup> Such planning is also critical to protecting public health for nearby residents and children at the Carrisa Plains Elementary School.

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<sup>6</sup> *Id.* at p. 8-41 (emphasis added).

<sup>7</sup> *Id.* at p. 2-14.

<sup>8</sup> Govt. Code 6250 §§ *et seq.*

<sup>9</sup> Cal. Pub. Res. Code §§ 21000 *et seq.*

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Thank you for your attention to this matter.

Sincerely,

*/s/*

Tanya A. Gulesserian  
Rachael E. Koss

REK:bh

cc: Warren R. Jensen, County Counsel  
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1055 Monterey Street, Room D320  
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Victor Holanda, Director  
Planning and Building  
San Luis Obispo County  
976 Osos Street, Room 200  
San Luis Obispo, CA 93408  
Fax: (805) 781-1242

**STATE OF CALIFORNIA**  
**Energy Resources Conservation**  
**and Development Commission**

In the Matter of:

The Application for Certification for the  
Carrizo Energy Solar Farm by Carrizo  
Energy, LLC

Docket No. 07-AFC-8

**PROOF OF SERVICE**

I, Bonnie Heeley, declare that on January 14, 2009, transmission via electronic mail of the attached **letter dated December 10, 2008, from Tanya A. Gulesserian addressed to Chair James R. Patterson, Board of Supervisors, San Luis Obispo County re Carrizo Energy Solar Far Project – Land Use** was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.6, and 1210. All electronic copies sent to all those identified on the Proof of Service listed below.

Via U.S. Mail to:  
CALIFORNIA ENERGY  
COMMISSION  
DOCKET UNIT  
ATTN: Docket Unit 07-AFC-8  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512

Environmental Center of  
San Luis Obispo (ECOSLO)  
c/o Babak Naficy  
P.O. Box 13728  
San Luis Obispo, CA 93406

Via email to:  
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[cholmes@energy.state.ca.us](mailto:cholmes@energy.state.ca.us)  
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[tgulesserian@adamsbroadwell.com](mailto:tgulesserian@adamsbroadwell.com)

I declare under penalty of perjury that the foregoing is true and correct.  
Executed at South San Francisco, California, on January 14, 2009.

\_\_\_\_\_  
/s/  
Bonnie Heeley