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Inyo County Board of Supervisors
c/o Deputy Clerk of the Board
County of Inyo Administrative Center
224 North Edwards Street
Independence, CA 93526

**Re: Coso Water Project
CUP 2000-03**

Dear Supervisors:

You will have received numerous letters and evidence both in support and opposition to the Coso water pumping and transfer project, CUP 2007-03 ("Project"). In the view of Little Lake Ranch ("LLR"), the final environmental impact report ("FEIR") prepared for the Project cannot be certified under CEQA because it does not adequately describe all of the components of the Project, it does not accurately state the purpose of the Project, it does not properly evaluate all of the environmental impacts, and it fails to address feasible alternatives and cumulative impacts, all in violation of CEQA. The CUP for the Project should not be issued as recommended by staff, because the Project, if allowed to go forward, would cause severe environmental impacts that are not mitigated. Coso has ample alternative ways to continue producing truly "green" electrical energy without causing environmental harm.

The Board is obligated to exercise its discretion, based upon the evidence before it, to determine whether the FEIR comports with CEQA standards, the Project is in the best interests of the County of Inyo and the Project complies with all of the County's policies and ordinances. The question that must be answered is whether a private geothermal energy company should be allowed to take all of the water recharging the Rose Valley water basin to the detriment of the water sources, vegetation, wildlife and residents/owners of the Rose Valley. It is up to the Board ultimately to decide whether its fear of the loss of tax revenues from Coso justifies the likely harm to the Rose Valley and the County.

We believe that the evidence supports the outright rejection of the Project. However, if a decision is made to approve the Project, then the amount and duration of the water pumped by Coso must be severely curtailed and the mitigation measures must be strengthened for the protection of the Rose Valley, and the County of Inyo itself.

1. The Project will cause significant impacts that are not mitigated:

- Even with mitigation, (a) Little Lake will lose at least 10% of its water inflows, and (b) water table levels in Rose Valley will decline.
- A 10% loss of water is not “within natural variation” as claimed by the FEIR, and is a “significant environment impact” under CEQA.
- Whatever the initial baseline level and natural range of water changes are, the 10% reduction will permanently lower the average range of water levels and inflows.
- If the beginning underground water levels are already under stress due to drought, then the 10% will exacerbate water declines.
- The reduction of inflows and water level drawdowns will worsen the effects of drought and reduce or eliminate the ability of habitat and wildlife to recover during wetter years.
- The Rose Valley basin will not fully recover for 150 years, even after all pumping stops.
- The Project will limit future development in the Rose Valley by depriving all future projects, such as Deep Rose geothermal and LADWP, of any available water.

2. The FEIR cannot be certified under CEQA.

- The FEIR misstates the description of the Project, including its objectives, and fails to evaluate all environmental impacts and alternatives.
- The FEIR states: “The potential increase in power production at the power plants was not addressed because the project as proposed would not increase power production at the plants beyond the existing conditions (established at the time of issuance of the Notice of Preparation [NOP]). The relevant baseline in this discussion is the amount of energy that **IS** produced by the plants.”
- The current baseline condition for environmental analysis is the current generation of approximately 200 MW, and this production rate is in a state of steady decline.

- At the 11th hour, and only after all the FEIR was completed, the public learned for the first time that:
 - The real objective is to increase production, not just reduce the decline.
 - Coso is pursuing enormous new capital improvements in addition to the Project at a cost \$100,000,000, or more.
 - There has been no disclosure of the scope, details or impacts of the improvements, or their relationship to the Project.
- By phrasing the objective to reduce the decline, the FEIR improperly failed to study all environmental impacts from the operations of the Coso electrical plant itself related to an increase in energy production.
- The FEIR improperly limits the Project to the Hay Ranch wells, electrical substation, and the water pipelines, abruptly ending at the terminus of the pipeline.
- The actual Project includes all of the related capital improvements, and increase in production, none of which were studied in violation of CEQA.
- CEQA requires the analysis of the entire Project as a whole, even though some components of the Project may require the approval of other agencies.
- No detailed surveys of the wetlands communities at Little Lake were ever conducted, such that there is no baseline data.
- The FEIR contains no biological report to demonstrate whether the habitat, wetlands or wildlife at Little Lake or the Rose Valley could adapt to, tolerate or survive the predicted 10% water inflow loss at Little Lake or the lowered water levels.
- The FEIR violates CEQA by deferring any meaningful analysis of the impacts and adoption of necessary mitigation measures until after the Project is already operating and the Hydrology Model is recalibrated—without public review or input.

3. The FEIR failed to adequately evaluate feasible alternatives in violation of CEQA.

- The use of air-cooled condensers (“ACCs”) is the only sensible solution when there is no available water to import.
- ACCs are a recognized and used technology in geothermal and other types of power plants.

- Coso's attempt to discredit the feasibility of ACCs should be rejected.
 - Coso intentionally designed a faulty ACC system, only so that its experts could then argue ACCs are infeasible.
 - Refer to the recent report from Ronald DiPippo, Ph.D., LLR's geothermal expert, that critiques Coso's misleading conclusions and confirms that:
 - Coso submitted a faulty ACC design.
 - Properly designed flash geothermal plants can and do use ACCs.
 - Coso can economically retrofit its facilities to use ACCs.
 - The FEIR presents no evidence that ACCs are not feasible.
- Other suggested alternatives, largely dismissed or ignored in the FEIR, include:
 - Reduction of geofluids production;
 - Drilling of new or deeper production wells to tap new sources of geothermal fluids;
 - Investment in upgrades to the Coso facilities, which are actually already in process by Coso contrary to the assumptions in the FEIR;
 - Purchase of water from LADWP;
 - Transport of water from nearby aquifers, such as the Owens Valley or Indian Wells water basins, using the LADWP system to deliver the water;
 - Use of reclaimed wastewater; or
 - A combination of the alternatives.
- The FEIR concedes that either Alternative 1 or 2 (reduced pumping and/or shorter duration) is clearly superior to the proposed Project, because either alternative would result in less drawdown and less impact to Little Lake.

4. CEQA analysis does not end if an alternative is more expensive.

- If profits were the only factor, no business would ever have to adopt environmentally friendly options.

- Coso rejects the alternatives only because they hurt its profits.
- The fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible under CEQA.
- It is improper for the FEIR to rely solely on the judgment of the applicant to disprove feasibility.

5. The Hydrology Model is not a reliable tool to predict impacts.

- Refer to all of the reports of our hydrogeologist, Andrew Zdon, disputing the alleged conservative nature of the Hydrology Model.
- The Hydrology Model only presents speculative conclusions.
- No CUP to allow long term pumping should be issued until the Hydrology Model can be fully recalibrated, with public input.
- If the Hydrology Model is wrong, and actually overstates the amount of available water, then severe damage may be caused before pumping can be stopped.

6. The Hydrologic Monitoring and Mitigation Plan (“HMMP”) does not mitigate the significant environmental impacts from the Project.

- The FEIR fails to define the initial baselines from which triggers are measured.
 - There is NO inflow data at Little Lake to know what a 10% decline would be.
 - The FEIR does not prescribe how the baseline water levels will be established or the basis on which they will be set.
 - The HMMP only provides pre-Project monitoring of 6 months to establish the monthly baseline levels.
 - If baseline levels are set too low, as a result of current drought conditions, the triggers (a) will not keep drawdowns within natural variation, and (b) will exacerbate habitat and wildlife stress.
- The HMMP relies upon Coso itself to conduct the monitoring, collect the monitoring data, report to the County on the implications of the data, notify the County of any problems, and voluntarily stop pumping if the County says to stop. The Inyo County Water Department (“ICWD”) only “oversees” the process.

- If drawdown triggers are reached, there is no automatic cessation of pumping, but only a recalibration of the Hydrology Model which itself could take many months.
- Coso is free to argue that its pumping did not cause a trigger to be reached.
- Pumping is only reduced or curtailed if Coso's pumping alone is the cause of drawdowns, and not seasonal variations, fluctuation in water levels, declines in precipitation or snowmelt, or increased pumping by other owners and users within the Rose Valley.
- Regardless of the cause, vegetation and wildlife will suffer from water level and inflow declines, unless pumping is curtailed.
- The HMMP would allow the triggers, maximum drawdown thresholds, pumping rates and duration to be modified by the ICWD following the recalibration of the Hydrology Model, without any public input.
- Reliance upon the conditions in the CUP to stop pumping is misplaced. Coso will not stop pumping until any County directive is resolved by a court.

7. Why does Coso want the water?

- Coso uses water-cooling towers to boost production, but at the cost of enormous losses of water through evaporation, which is drying out the geothermal reservoir.
- Coso does a worse job of re-injecting water than virtually every other geothermal plant of similar design. The FEIR does provide the answer—why?
- Coso wants to defer an upgrade of its facilities, which would eliminate the need to import water, to maintain its profits.

8. The importation and injection of water at Coso is a temporary fix.

- Eventually, Coso will have to stop pumping from the Rose Valley water basin.
- When the water is depleted, Coso will have to upgrade its facility anyway.
- Coso should be encouraged to upgrade its facility now, not later.

9. The Inyo County Water Commission recommendations should be upheld.

- At the heart of the Project are the water-related impacts.

- Under the Inyo County water ordinance, the Water Commission is the group most knowledgeable about water issues and was specifically formed to protect the County regarding all water projects.
- The individual Water Commissioners, appointed by the Supervisors, exhaustively studied the Project, held hours of public hearings, and voted to reject the Project and adopt more stringent monitoring and mitigation measures, if the County approved some pumping.
- Given the Water Commission's expertise, the Board must not simply ignore its advice, thereby negating its crucial role and efforts.
- All of the Water Commissioners expressed concerns about the scope of the Project, which comments include:
 - Any loss of water in the Rose Valley should be considered a significant environmental impact.
 - Any drawdown of the water table is negative.
 - There is a chance of overdraft.
 - A complete biological survey of Little Lake Ranch should be performed.
 - Mitigation of impacts needs to continue after all pumping is stopped---even after the CUP of 30 years expires.
 - The mere re-calibration of the Hydrology Model is not the same as stopping of pumping in the event of problems.
 - The burden of proof should be on Coso to prove that pumping did not cause drawdowns.
 - The Project looks like a "rape and run" project, whereby Coso pumps the maximum amount for as long as it can, and then leaves behind the environmental impacts.
 - Coso should only start pumping at a reduced rate and perhaps only for 2 years.
 - Pumping should stop while the impacts to wells or springs are resolved and the Hydrology Model can be recalibrated.
- The Board should accept the Water Commission's rejection of the Project.

10. Coso will not shut down or file bankruptcy.

- Fitch and Moody's reports both confirm that Coso can maintain energy production without the Hay Ranch Project.
- Coso, the EIR and Fitch all estimate a cost of \$110,000,000 for capital improvements to maintain production.
- Fitch estimates Coso's cash flow at \$70,000,000 to over \$100,000,000 per year after expenses.
- Regardless of what happens, Coso will continue to pay taxes and operate a profitable business.

11. Tax Revenues.

- Coso paid nearly \$11, 900,000 in property taxes in 2008, but only \$4,500,000 in the preceding year.
- No production declines will return the County to pre-project tax levels, so the County is preserving its tax base.
- The FEIR projects a decline in production of about 3.6% per year without injection, and 2.3% with the Project, a difference of only 1.3% per year.
- A 1.3% decline is equal to about \$155,000 per year in property taxes.
- If Coso spends \$100,000,000 or more in capital improvements, including ACCs, that will increase Coso's value and increase the County's tax revenues.
- Will Coso really stop paying taxes? The obvious answer is NO.

12. Who should bear the risk?

- Coso has no legal right to transport the water without the CUP, regardless of the land it owns in the Rose Valley.
- Coso is the appropriator taking the water off-basin and not using it on the basin.
- It is fundamentally unfair for Coso, an owner of 1% of the land in the Rose Valley, to take 100% of the water.

- If a lower pumping rate for a shorter time is approved, the water will still be there in a year or two---Coso can pump later.
- But, if the pumping rate is too high or the duration is too long, damage is done for over 100 years with no recourse.

13. Limit the duration of the CUP.

- The only sure way to stop Coso's pumping is by limiting the length of the CUP.
- Ample hydrologic data can be developed at a pumping rate of 750 AFY over a period of no more than 2 years.
- Once Coso spends millions to begin pumping, how will the County force Coso to stop?
- Coso will never accept the determination of the County, particularly if cessation requires a finding that Coso caused the decline.

14. Prior agricultural pumping on the Hay Ranch does not support the Project.

- The amount and effects of prior agricultural pumping on the Hay Ranch are based on little actual evidence and should be ignored.
- FEIR says water of 3,000 AFY was pumped at the Hay Ranch.
- BLM's estimate of 6 AFY per acre for alfalfa production leads to an estimated pumping of 1,800 AFY at the Hay Ranch, not 3,000 AFY.
- There is no actual evidence of acreage farmed, amount of water pumped, length of pumping, or impacts from the pumping within the Rose Valley.
- None of this considers the on-basin use, partial recharge, lowering of evapotranspiration rates, and seasonality related to the former pumping.

15. What should the Board's decision be?

- Refuse to certify the FEIR.
- Reject the Project outright.
- If not a rejection, issue a CUP based on any of the alternatives specified in the FEIR, all of which are superior to the proposed Project:

- 180 AFY 30 years.
- 750 AFY for 6 years.
- 1,500 AFY for 3 years.
- 3,000 AFY for 1.75 years.
- 4,800 AFY for 1.2 years.
- During the more limited pumping, the Hydrology Model can be recalibrated based upon accurate and complete information.
- Coso can always petition for a modification of its CUP after a public hearing to allow more pumping based on real data and not speculation.
- Adopt more stringent monitoring and mitigation requirements, including those recommended by the Water Commission, such as:
 - Adopt as the Mitigation Standard, as previously suggested by one of the County's lawyers: "The County will ensure that the natural environment of the Little Lake area will not be adversely impacted by water extraction and export from the Hay Ranch water wells. This standard will be enforced by ensuring that groundwater levels, flows, and discharge in the vicinity of Little Lake are unaffected by water extraction from the Hay Ranch Wells."
 - Prohibit any overdrafting of the Rose Valley basin.
 - Set baseline water table levels to avoid adverse impacts during drought or other natural causes.
 - Monitor all the wells and springs in the Rose Valley.
 - Triggers should be set for all wells and springs in the Rose Valley to reduce or curtail pumping according to the HMMP.
 - Implementation of pumping reductions must be mandatory and not discretionary, if any trigger is reached.
 - No alterations of the triggers, maximum drawdowns, pumping rate or duration of pumping should be made only after a public hearing is held.
 - If a trigger or maximum drawdown threshold is reached in any one (1) monitoring well or spring, (a) cessation of pumping should be mandatory,

without any requirement to prove that Coso's pumping caused the drawdown, (b) the Hydrology Model must be recalibrated with the new pumping data, (c) the results of the Model recalibration and new predictive scenarios circulated for public review, and (d) before any pumping can resume, a public hearing on the resumption must be conducted.

- If Coso pumping is curtailed only because Coso caused the drawdown, then Coso should bear the burden of proving, by clear and convincing evidence, that its pumping did not cause the exceedance.
- Regardless of reaching triggers, the recalibrated Hydrology Model must be completed no later than 1 year after pumping commences. If the Hydrology Model has not been recalibrated by this time, then all pumping should automatically cease until the Hydrology Model is recalibrated, its results are known, and a public hearing is completed.
- Automatically reduce the allowable pumping by Coso by the amount of any increased pumping or consumption of water by owners within the Rose Valley, including LADWP for its seepage recovery project.
- Coso should be responsible for mitigation of impacts for so long as adverse impacts exist.
- All monitoring data should be readily available to all property owners.

CONCLUSION

The County should not gamble with its water resources needlessly. It is the obligation of the Board of Supervisors to protect the environment for the current and future residents of Inyo County, while recognizing the admirable benefits of geothermal energy. Coso will survive and even prosper regardless of the Project. We urge the Board to reject the Project, or at most only approve a far smaller pumping rate for no more than 2 years to allow everyone to make decisions on meaningful data, rather than the speculation contained in the suspect Hydrology Model.

Very truly yours,

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