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SAVE OUR RURAL TOWN

On Monday, August 21, 2023, SORT Director Jacqueline Ayer, wrote [via email] to the Los Angeles County Department of Regional Planning (DRP) addressing the DRP's determination of the Hecate Grid Humidor BESS project to be located in Acton, CA.

SORT's Letter to the Los Angeles County Department of Regional Planning begins on next page:

Save Our Rural Town has learned that the Department of Regional Planning has ministerially approved the proposed Humidor BESS project via a simple "site plan review" based on a conclusion that the project is similar to an "Electrical Distribution Substation"; in response to this conclusion, Save Our Rural Town respectfully offers the following comments.

BACKGROUND

The Humidor BESS is a 420 megawatt ("MW") battery storage development proposed on 20 acres of M-1 zoned property in Acton. Its only external connection will be to the California transmission grid via a new 230 kV transmission line that will terminate at the Vincent transmission substation owned by Southern California Edison ("SCE"). The Humidor BESS will receive 230 kV "Alternating Current" power ("AC" power) from the transmission grid and transform it to 34.5 kV "Direct Current" power ("DC" power) which is then stored on-site in extensive battery facilities. The battery facilities consist of more than 100 structures each of which houses thousands of battery devices. When the California Independent System Operator ("CAISO") determines that it is necessary to dispatch stored power from the Humidor BESS, CAISO will release the stored 34.5 kV DC power from the batteries, transform it back into 230 kV AC power, and then injects the power back onto the transmission grid. None of the power that is stored by the Humidor BESS facilities will ever flow into the local distribution system which is controlled by SCE and operates at 12 kV AC. In fact, the configuration of the 34.5 kV DC battery storage facilities at the Humidor BESS project specifically precludes local distribution opportunities because local distribution facilities require 12 kV AC power and cannot be served with 34.5 kV DC power.

REGIONAL PLANNING ERRS IN CONCLUDING THAT THE HUMIDOR BESS HAS THE CHARACTERISTICS OF AN ELECTRICAL DISTRIBUTION SUBSTATION.

According to an analysis provided in a letter dated August 1, 2023 that was sent to the Acton Town Council, Regional Planning has concluded that the Humidor BESS displays the characteristics of an "Electric Distribution Substation" rather than an "Electrical Transmission Substation" and, invoking Interpretation Memorandum No. 2021-03, declared that the Humidor BESS Project may be approved ministerially. Save Our Rural Town has had the opportunity to review the analysis contained in the August 1 letter and note that it is based on a number of erroneous assumptions which render the final conclusion fatally flawed; these errors are identified and discussed below. Please note that the following comments were prepared by Jacqueline Ayer, Director of Save Our Rural Town; Ms. Ayer has more than 35 years of environmental engineering experience and, for nearly 20 years, Ms. Ayer has actively participated in both adjudicatory and quasi-legislative proceedings before the California Public Utilities Commission, the Federal Energy Regulatory Commission, the Department of Energy, and the California Energy Commission. This participation has included the submission of extensive expert witness testimony regarding the need and efficacy of proposed

electrical transmission projects. Accordingly, the comments provided herein constitute "substantial evidence" as that term is defined by the CEQA Statute [California Public Resources Code §21080(e)(1)] and Guidelines [California Code of Regulations Section 15064(f)(5)].

A primary deficiency in the analysis that is presented in the August 1 letter is that it mistakenly conflates "transmission" with "subtransmission" and "distribution" and as a result, the conclusion that the Humidor BESS has the characteristics of an electrical distribution substation lacks basis and is without merit. To understand why, it is first necessary to understand the distinction between "transmission" facilities, "subtransmission" facilities, and "distribution" facilities; towit:

- The California Public Utilities Commission ("CPUC") defines "Distribution" facilities as facilities that operate at under 50 kV [General Order 131-D Section I].

- The CPUC defines "Transmission" facilities as facilities that operate at or above 200 kV [General Order 131-D]; the CPUC actively regulates transmission facilities owned by investor-owned utilities and requires the issuance of a Certificate of Public Convenience and Necessity ("CPCN") before new transmission facilities can be constructed [General Order 131-D Section III(A)].

- While the CPUC has not adopted a formal definition for the term "subtransmission", it exclusively utilizes the term "subtransmission" when referring to systems with operating voltages between 50 kV and 200 kV[AB]. The California Independent System Operator ("CAISO") also exclusively uses the term "subtransmission" when referring to systems with operating voltages between 50 kV and 200 kV[AC]. Southern California Edison ("SCE") and other investor-owned utilities explicitly define the term "subtransmission" to mean facilities that operate between 50 kV and 200 kV[AA]. The CPUC actively regulates subtransmission facilities owned by investor-owned utilities and requires the issuance of a Permit to Construct ("PTC") before new subtransmission facilities can be constructed [General Order 131-D Section III(B)].

[AB] See CPUC's approval of the SCE Devers-Mirage 115 kV Subtransmission project [D.10-06-014 at https://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/118975.PDF].

[AC] Page 5 of CAISO's Alberhill project analysis referring to 115 kV lines as "subtransmission lines" [http://www.caiso.com/Documents/091216DecisiononAlberhillSubstationProject-Presentation.pdf]. See also CAISO's analysis of SCE's EKWRA 66 kV subtransmission project discussed on page 221 of the approved "2010 CAISO Transmission Plan"; CAISO does not make previous transmission plans available on its website; thus, no link can be provided. However, SORT will provide an electronic copy upon request.

[AA] SCE asserts "SCE identifies electrical lines operated at voltages between 50 kilovolts (kV) and 200 kV as subtransmission lines or subtransmission circuits. Electrical lines operated at voltages at or greater than 200 kV are identified as transmission lines". Page 1, footnote 1 of SCE's Application to construct the Gorman-Kern River 66 kV subtransmission project [https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M454/K865/454865255.PDF].

- The Federal Energy Regulatory Commission ("FERC") has jurisdiction over transmission facilities which operate under FERC-approved tariffs; however, FERC has no jurisdiction "over facilities used in local distribution" [16 U.S. Code § 824(b)(1)] which comprise local distribution systems that deliver power to customers[DF].

- On page 3 of the letter dated August 1, 2023, Regional Planning states that sub-transmission voltage is "generally less than 110 kV per the California Energy Commission, 70kV per CAISO, and 50kV per California Public Utilities Commission". This statement, which is not supported by any citations or references, is completely erroneous and it suggests that Regional Planning has been given very poor guidance. As explained above, the CPUC establishes that voltages less than 50 kV are *distribution*, not subtransmission [GO 131-D Section I] and CAISO establishes that subtransmission facilities operate between 50 kV and 200 kV (as explained above).

With these definitions and clarifications firmly established, one can correctly assess whether the proposed Humidor Project displays the attributes of an EDS or an ETS. According to the Letter, an EDS is defined as "A facility that contains an assembly of equipment that is part of a system for the distribution of electric power, where electric energy is received at a sub-transmission voltage and transformed to a lower voltage for distribution for general consumer use". To be consistent with this definition, an EDS facility must exhibit at least *some* of the following characteristics:

1) It must contain "an assembly of equipment that is part of a system for the distribution of electric power"; per the abovementioned CPUC and FERC definitions of "distribution", a facility only qualifies as an EDS if the assembly of equipment that it consists of is part of a system that delivers power to customers at a voltage less than 50 kV.

2) It must receive electric energy at a subtransmission voltage; per the abovementioned definition of "subtransmission", a facility only qualifies as an EDS if the voltage of the electric energy it receives is between 50 kV and 200 kV.

3) It must transform the incoming voltage to a voltage that is even lower than a subtransmission voltage for the purpose of distributing it "for general consumer use"; per the abovementioned definitions, a facility only qualifies as an EDS if it "steps" the receiving subtransmission voltage it receives down to a voltage less than 50 kV expressly for the purpose of distributing it "for general consumer use".

The Humidor BESS does not exhibit any of these attributes.

[DF] DOE "Electricity System Overview" - Appendix A to the report "Transforming The Nation's Electricity System" [https://www.energy.gov/sites/prod/files/2017/02/f34/Appendix--Electricity%20System%20Overview.pdf at page A-7].

1) The "assembly of equipment" that constitutes the Humidor BESS is not "part of a system for the distribution of electric power" because it is not part of a system that delivers power to customers at a voltage less than 50 kV; in fact, the Humidor BESS does not deliver *any* power to *any* customers at all. To the contrary, the Humidor BESS is only connected to the *transmission* system and is therefore only part of a system for the *transmission* of electric power, not the distribution of electric power.

2) The Humidor BESS does not receive electricity at a subtransmission voltage; to the contrary, it is served by a 230 kV ***transmission*** line and will therefore receive electricity at a *transmission* voltage, not a *subtransmission* voltage.

3) The Humidor BESS transforms the voltage of the electrical energy it receives down to 34.5 kV and converts it from "Alternative Current" ("AC") to "Direct Current" ("DC"); the 34.5 kV DC power remains onsite where it is stored in battery facilities. The transformed power is never utilized "for distribution for general consumer use" nor is it intended to be utilized "for distribution for general consumer use". In fact, the transformed power could ***never*** be utilized "for distribution for general consumer use" because (as discussed above) SCE's distribution system requires AC power at 12 kV, not DC power at 34.5 kV. Notably, page 3 of the letter dated August 1, 2023 states that the operating voltage of the Humidor BESS "would be at 34.5kV or lower" and that "its primary purpose is to store and distribute electricity for consumer use". None of this is correct Neither of these statements are correct. The Humidor In other words, the Humidor BESS project is configured to specifically ensure that the transformed power is ***never*** utilized "for general consumer use".

It is clear from these facts that the Humidor BESS does not display *any* of the characteristics that the zoning code has established for electrical distribution substations; therefore, Regional Planning lacks any basis to conclude that the Humidor BESS project is sufficiently similar to an electrical distribution substation to warrant its consideration as an electrical distribution substation. Additionally, the size and scale of the 20+ acre Humidor BESS project is nothing like the size and scale of distribution substations which are typically much less than one acre in size). It is also noted that Regional Planning's conclusion that the Humidor BESS is similar to an electric distribution substation is based on a claim on page 3 of the letter dated August 1, 2023 that the Humidor BESS operates at 34.5kV or lower "and its primary purpose is to store and distribute electricity for consumer use". This statement is categorically false. As explained above, the 34.5 kV DC power that is stored by the Humidor BESS is *never* distributed for consumer use and it *can never be* distributed for consumer use because it is direct current power; distribution consumers are only able to use alternating current power. It is also the wrong voltage; SCE's local distribution customers require 12 kV power, not 34.5 kV power. Finally, because the Humidor BESS is not even connected to distribution customers, its primary purpose is not, and will never be, "to store and distribute electricity for consumer use".

THE HUMIDOR BESS DISPLAYS ALL THE CHARACTERISTICS OF AN ELECTRICAL TRANSMISSION SUBSTATION.

As indicated above, the Humidor BESS does not display any of the characteristics needed to support a conclusion that its land use is similar to that of an electrical distribution system; the logical "next step" would be to ascertain whether the Humidor BESS displays any of the characteristics needed to support a conclusion that its land use is similar to that of an electrical transmission substation. According to the August 1 Letter, the zoning code defines an electrical transmission substation as "A facility that contains an assembly of equipment that is part of a system for the transmission of electric power where electric energy is received at a very high voltage from its generating source. The facility then transforms the energy to a lower sub-transmission voltage to supply or distribute electric power to large-scale users, to interchange connections with other power producing agencies, or to supply such power to electric distribution substations for transformation to a lower voltage for distribution to small-scale users" To be consistent with this definition, an electrical transmission substation facility must exhibit at least *some* of the following characteristics:

1) It must contain an assembly of equipment that is part of (i.e. interconnected with) a system for the transmission of electric power.

2) It must receive electric energy at a very high voltage from a generating source.

3) It must transform the incoming voltage to a lower voltage to either supply electric power to large-scale users or to interchange connections with other power producing agencies or to supply power to electric distribution substations where it is again transformed for distribution to small-scale users.

Notably, the Humidor BESS project exhibits ***all*** of these characteristics:

1) The Humidor BESS will contain an assembly of equipment that is part of the transmission grid because it is interconnected to the Vincent substation and will be under CAISO control. Because CAISO controls all powerflows into and out of the Vincent substation, CAISO will control power dispatches from the Humidor BESS; therefore, the Humidor BESS will be "part of a system for the transmission of electric power".

2) The Humidor BESS will receive electric energy from generation sources connected to the CAISO-controlled transmission grid via the Vincent transmission substation at a very high voltage exceeding 200 kV which, according to definitions commonly applied by the CPUC and CAISO and SCE is a "transmission" voltage.

3) The Humidor BESS will transform the incoming very high voltage power to a lower voltage and then convert it to direct current to supply electric power to a large scale user located onsite (specifically, to a co-located battery storage facility).

This analysis clearly demonstrates that the Humidor BESS exhibits all of the characteristics that the zoning code associates with an electrical transmission substation; therefore, Regional Planning is obligated to process the Humidor BESS Project as the electrical transmission substation project that it is. The discretion that the zoning code grants to the Director of Regional Planning to approve a proposed use based on its similarities with another use that is described in the code is not boundless and it certainly may not be abused by ignoring a use that precisely matches the proposed use and instead declaring that is similar to an entirely dissimilar use. Finally, because it is an electrical transmission substation that is proposed on M1 zoned land, the Zoning Code requires the Humidor BESS project to undergo the "Conditional Use Permit" process.

ADOPTED FERC STANDARDS DEMONSTRATE THAT THE HUMIDOR BESS IS A TRANSMISSION FACILITY, NOT A DISTRIBUTION FACILITY.

The letter from Regional Planning dated August 1, 2023 states on page 2 that "The Humidor BESS is subject to CAISO oversight due to its point of interconnection to the CAISO-controlled grid via the Vincent Substation." This statement is not correct. The Humidor BESS is subject to CAISO control and oversight because it is a transmission facility under the CAISO Tariff which was approved by the Federal Energy Regulatory Commission ("FERC")[CA]. CAISO has control and oversight over all electrical facilities that meet FERC's criteria for "transmission" facilities and which are therefore transmission facilities subject to FERC jurisdiction; these criteria are set forth in the FERC's "5 factor Mansfield Test"[AY]. Application of the FERC "5 factor Mansfield Test" reveals that the Humidor BESS is indeed a "transmission" facility and ***not a*** "distribution" facility[AZ]. Furthermore, because FERC has no jurisdiction over "distribution" facilities, FERC has established additional criteria by which it

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[CA] FERC Order 841 required CAISO to revise its tariff to remove barriers to the participation of electric storage resources in the RTO/ISO markets; as a result, BESS projects like Humidor that are connected to the CAISO transmission grid are subject to the CAISO Tariff and CAISO control. 162 FERC ¶ 61,127 https://www.ferc.gov/media/order-no-841.

[AY] Opinion No. 454, 97 FERC ¶ 61,134 (2001), reh'g denied, Opinion No. 454-A, 98 FERC ¶ 61,115 (2002).

[AZ] FERC Opinion 454 establishes that electrical facilities are "transmission" and therefore part of the transmission grid if 1) They "loop back" into the transmission system and therefore provide power to the transmission system; 2) Power flows in two directions; 3) they serve transmission customers; 4) They provide benefits to the transmission grid in terms of reliability and whether the facilities can be relied on for coordinated operation of the grid; and 5) Whether an outage on the facilities would affect the transmission grid. FERC has determined that electrical facilities which meet any of these criteria are transmission facilities. The Humidor BESS meets ***all*** of these criteria. Humidor BESS puts power into the transmission (*continued*)

distinguishes "distribution" facilities; these criteria are set forth in FERC's "7 factor test"[AX]; application of the FERC "7 Factor Test" reveals that the Humidor BESS is ***not*** a distribution facility[AD]. In other words, not only does the zoning code clearly establish that the Humidor BESS is almost identical to an electrical transmission substation; adopted FERC orders and the CAISO Tariff also establish that the Humidor BESS constitutes transmission facilities and not distribution facilities. Accordingly, Regional Planning's conclusion that the Humidor BESS constitutes electrical distribution facilities that warrant ministerial review is contrary to FERC Orders and the CAISO Tariff (in addition to being contrary to the zoning Code).

REGIONAL PLANNING'S MINISTERIAL APPROVAL OF THE HUMIDOR BESS PROJECT VIOLATED CEQA

Save Our Rural Town understands that Regional Planning has already ministerially approved the Humidor BESS and concluded that the California Environmental Quality Act ("CEQA") does not apply to the Humidor BESS because CEQA does not apply to "Ministerial projects proposed to be carried out or approved by public agencies" citing

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[AZ] (*continued*) system. Humidor BESS generates power flows in two directions (from the grid and to the grid). Humidor BESS serves transmission customers by putting power onto the transmission grid. Humidor BESS provides reliability and other transmission grid benefits (in fact, that is its core purpose). An outage of the Humidor BESS can affect the transmission grid because it would force curtailment of renewable resources.

[AX] FERC Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996) [https://www.ferc.gov/sites/default/files/2020-05/rm95-8-00w.txt at p. 402].

[AD] FERC Order 888 establishes that electrical facilities are "distribution" if 1) they are in close proximity to retail customers; 2) they are radial in character; 3) power flows into the facilities and rarely (if ever) flows out; 4) Power that flows into the facilities are not transported to some other market; 5) Power flowing into the facilities is consumed in a comparatively restricted geographical area; 6) there are meters placed at the at the facility interface with the transmission grid to measure flows into the local distribution system; and 7) they operate at reduced voltage. To qualify as a distribution facility, ***all*** of these criteria must be met. The Humidor BESS does not meet any of these criteria. Humidor BESS is not located in close proximity to retail customers; in fact, it does not serve any retail customers at all. Humidor BESS It does not have a radial configuration and is not "radial in character"; to the contrary, it is a single point user. Humidor BESS power flow is bi-directional and significant powerflows out of the Humidor BESS will occur (in fact, that is its core purpose). The power that flows into the Humidor BESS storage facilities will be transported to some other market once it flows back out onto the transmission grid. Power flowing into the Humidor BESS is merely stored and not consumed at all; thus, it is not "consumed in a restricted geographical area". The Humidor BESS does not provide power flows into the local distribution system so it has no meters to measure flows into the local distribution system; in fact, it provides no "interface" at all between the transmission system and the distribution system. The Humidor BESS receives and emits power at a high voltage and while it *stores* power onsite at a low (34.5 kV) voltage, it does not *operate* at a low voltage.

Government Code 21080(b)(1). However, and as discussed above, Regional Planning's conclusion that the Humidor BESS project can be ministerially approved is based on a faulty analysis which erroneously mischaracterizes the Humidor BESS project as an electrical distribution substation that can be approved "by right" rather than the electrical transmission substation that it actually is and which can only be approved via a discretionary conditional use permit. In other words, because the Humidor BESS project requires a Conditional Use Permit, it is subject to CEQA review.

Regional Planning also concludes that the Humidor BESS project is exempt from CEQA because the "Categorical Exemptions" Section 15300.1 of the CEQA Guidelines states that "Since ministerial projects are already exempt, categorical exemptions should be applied only where a project is not ministerial under a public agency's statutes and ordinances"; however, this conclusion is flawed. While it is true that public agencies are barred from applying CEQA to projects such as building permits that do not require the exercise of any discretion by a public official or involve "personal judgment" regarding the wisdom or manner of carrying out the project; these are not the circumstances presented by the Humidor BESS project. In fact, the Director of Regional Planning has already exercised extensive discretion regarding the character and nature of the Humidor BESS and personally adjudged (wrongly) that it warrants ministerial review rather than discretionary review via a CUP; this exercise of judgement facially invalidates Regional Planning's claim that approval of the Humidor BESS involves no exercise of discretion and is therefore ministerial.

Save Our Rural Town also understands that Regional Planning claims that the Humidor BESS qualifies for various Categorical Exemptions from CEQA, including "Class 3", "Class 4", and "Class 5" exemptions[CC]. All of these claims are insupportable:

- Class 3 Categorical Exemption applies only to the construction of limited numbers of new, small structures; the total number of structures must be less than 4 and the total area must be less than 10,000 square feet. The Humidor BESS does not qualify because it involves more than one hundred structures occupying more than 20 acres.

- Class 4 Categorical Exemption applies only to minor alterations in the condition of land such as grading, landscaping, and gardening and minor temporary land uses having negligible effects on the environment. The Humidor BESS does not qualify because it establishes a permanent use on more than 20 acres of land that will have a significant effect on the environment in terms of aesthetics, wildfire risk, water quality, etc.

- Class 5 Categorical Exemption applies only to projects that consist of minor alterations in land use in areas that have an average slope of less than 20% and

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[CC] The "Notice of Exemption" filed by Regional Planning on August 16, 2023 identifies these exemptions; the notice can be found here: https://apps.lavote.net/ceqa under Filing #: 2023178859.

which do not result in any changes in land use. The Humidor BESS does not qualify for this exemption because it does not involve a mere "minor alteration" in land use; to the contrary, it eliminates the existing land use (a community oriented "paintball" recreational facility) and replaces it with a 20-acre industrial battery storage facility that poses a very real and very significant wildfire risk to the Community of Acton which has been designated as a "Very High Fire Hazard Severity Zone" by CALFIRE.

In short, none of the Categorical Exemptions that Regional Planning claims for the Humidor BESS project actually apply; therefore, the Humidor BESS is subject to CEQA.

Finally, Save Our Rural Town points out that Section 15061(b)(2) of the CEQA Guidelines requires a lead agency to consider whether a claimed Categorical Exemption is barred by one or more of the exceptions set forth in Section 15300.2; if it is barred, then the lead agency cannot claim that the project qualifies for any Categorical Exemption. Had Regional Planning staff considered the exceptions to Class 3, Class 4, and Class 5 exemptions that are set forth in Section 15300.2, they would have found that at least three are applicable:

- The 15300.2 (a) Location exception establishes that Class 3, Class 4, and Class 5 projects are not categorically exempt from CEQA if they are located in a particularly sensitive environment and may "impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies". These are the circumstances presented by the Humidor BESS project which places a high concentration of explosion-prone battery facilities[DA] in a very high wildfire hazard area that has been precisely mapped and adopted by CALFIRE[DB]. Because it is a mapped very high wildfire hazard area, Acton is a "particularly sensitive environment" as that term is contemplated in CEQA and therefore will be substantially affected by the placement of a high concentration of explosion-prone battery facilities. The 15300.2 (a) Location exception nullifies Regional Planning's claim that the Humidor BESS qualifies for any Categorical Exemption.

[DA] As Regional Planning has been told on multiple occasions, battery storage facilities are prone to explosion and deflagration due to "thermal runaway" concerns. https://www.spglobal.com/marketintelligence/en/news-insights/latest-newsheadlines/burning-concern-energy-storage-industry-battles-battery-fires-51900636 , https://www.publicpower.org/periodical/article/recent-california-energy-storage-battery-firedraws-renewed-attention-storage-safety-issues, https://www.azfamily.com/2022/04/30/fire-smolders-chandler-battery-storage-facilitynearly-two-weeks-later/ and https://pv-magazine-usa.com/2022/09/22/fire-at-pges-teslabattery-in-california-is-now-under-control/.

[DB] See CALFIRE's Fire Hazard Severity Zone Maps found here: https://egis.fire.ca.gov/FHSZ/

- The 15300.2 (b) Cumulative Impact exception establishes that all Categorical Exemptions are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant. As Regional Planning is aware, at least 3 additional large battery storage projects are proposed in the same area of Acton where the Humidor BESS will be located[DR]; these projects will result in the construction of more than 2,000 MW of explosion-prone battery storage facilities adjacent to the Vincent substation and present a cumulatively considerable wildfire risk to the Community of Acton. The 15300.2 (b) Cumulative Impact exception nullifies Regional Planning's claim that the Humidor BESS qualifies for any Categorical Exemption.

- The 15300.2 (c) Significant Effect exception establishes that "a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." The area where the Humidor BESS is proposed has the highly unusual circumstance of being designated as a Very High Fire Hazard Severity Area; therefore, the explosion-prone batteries that will be installed with the Humidor BESS project present a reasonable possibility that Humidor BESs will have a significant wildfire effect on the environment. The 15300.2 (c) Significant Effect exception nullifies Regional Planning's claim that the Humidor BESS qualifies for any Categorical Exemption.

For all these reasons, Save Our Rural Town respectfully disagrees with Regional Planning's conclusion that the Humidor BESS is exempt from CEQA.

BY APPROVING THE HUMIDOR BESS BATTERY STORAGE PROJECT SEPARATELY FROM THE HUMIDOR BESS TRANSMISSION LINE PROJECT, COUNTY HAS IMPROPERTLY SEGMENTED THE "WHOLE" HUMIDOR BESS PROJECT IN VIOLATION OF CEQA.

As Regional Planning is aware, the County is contemplating a proposed franchise ordinance that will approve a new 230 kV transmission line to connect the Vincent transmission substation to Hecate's proposed Humidor BESS project (as well as connect to Hecate's proposed "Flea Flicker" BESS project and Hecate's proposed "Maathai" BESS project). Because the Franchise Ordinance is not exempt from CEQA, it will undergo a proper environmental analysis which considers the "whole of the action" that could result in either direct or indirect physical changes to the environment. CEQA requires an environmental assessment of the "whole of the action" to prevent an impermissible "piecemeal" review in which a project is chopped into smaller parts that

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[DR] These projects include Hecate's "Flea Flicker" BESS (that is proposed for APN 3056-004-059 which is adjacent to the Humidor BESS and will use the Humidor transmission line), Hecate's Maathai BESS (which is also adjacent to Vincent and will connect using the Humidor transmission line); and the Angeleno BESS which is on 6 different parcels near the Vincent substation (including APN 3056-017-007).

individually undergo minimal or ministerial permit review but which cumulatively pose significant environmental consequences (*Planning & Conservation League v. Castaic Lake Water Agency* [2009] 180 Cal.App.4th 210, 235). "A narrow view of a project could result in the fallacy of division . . . that is, overlooking its cumulative impact by separately focusing on isolated parts of the whole" (*McQueen v. Bd. of Directors* [1988] 202 Cal.App.3d 1136, 1144*; City of Sacramento v. State Water Resources Control Bd.* [1992] 2 Cal.App.4th 960; *Lexington Hills Ass'n v. State* [1988] 200 Cal.App.3d 415; *City of Carmel- by the-Sea v. Board of Supervisors* [1986] 183 Cal.App.3d 229). CEQA prevents evasive environmental reviews by defining "project" broadly and requiring that environmental considerations not be concealed by separately focusing on isolated parts and overlooking the cumulative effect of the whole of an action. (*Arviv Enterprises v. South Valley Area Planning Com.* [2002] 101 Cal.App.4th 1333, 1345–1351; *Nelson v. County of Kern* [2010] 190 Cal.App.4th 252, 268–270). Individual project elements are deemed to be parts of the "whole project" under CEQA if they are interdependent and have no "independent utility". For example, the 230 kV transmission line that is at issue in the proposed Franchise Ordinance is entirely dependent on the three Hecate BESS projects (Humidor, Flea Flicker, and Maathai); without these BESS projects, the 230 kV transmission line will have nothing to connect to and will therefore serve no purpose. Similarly, the three proposed Hecate BESS Projects are entirely dependent on the 230 kV transmission line franchise ordinance; without the 230 kV transmission line, none of the three proposed Hecate BESS projects will be able to store energy or connect to the transmission grid. Together, these four individual project elements (the 230 kV transmission line, the Humidor BESS, the Flea Flicker BESS, and the Maathai BESS) comprise the "whole of the action" which must undergo a collective CEQA review. Instead of recognizing this and preparing a proper CEQA review of the "whole" project, Regional Planning violated CEQA by improperly segmenting the "whole" project and peremptorily approving the Humidor BESS component without considering other elements of the "whole" project. Worse yet, Regional Planning failed to conduct any CEQA review of the Humidor BESS by improperly claiming that it is exempt from CEQA; nothing could be further from the truth.

CONCLUSION.

For all the reasons set forth above, Save Our Rural Town respectfully requests that the Department of Regional Planning put aside the ministerial approval that it has processed for the Humidor BESS project and conduct a proper environmental review of the Humidor BESS project which fully addresses the "whole" project as required by CEQA.

Sincerely;

/S/Jacqueline Ayer
Jacqueline Ayer
Director, Save Our Rural Town