

San Bernardino County Position on Desert Renewable Energy Projects

April 2010

San Bernardino County supports renewable energy and looks forward to the positive economic impact the development of these projects will bring to our local economy. The proliferation of utility scale and smaller energy projects in the Mojave Desert portions of our County have caused careful evaluation and consideration of the appropriate mitigation measures that are needed to protect the environment, future development, and the economy of our region. Projects fall into three general categories:

1. Solar thermal projects producing less than *50 Megawatts (MW)* , and all wind energy and solar photovoltaic projects on *private land* are completely within the County's land use jurisdiction.
2. Projects on *public land* (typically BLM) fall under the jurisdiction of the applicable federal land owner. The County's role in these cases is that of a cooperating agency. As such we are able to review and contribute to draft environmental documents before public distribution.
3. Solar thermal energy projects producing *50 MW or greater, whether on private or public land*, fall under the jurisdiction and procedures of the California Energy Commission (CEC) for permitting and environmental review. If on federal land, a joint permitting and environmental review is conducted with the applicable federal agency. The County may provide public comment or intervene, in which case it may participate in the evidentiary hearing proceedings with the ability to pursue legal action if necessary.

Projects in the first category described above can be conditioned to address impacts on County infrastructure and operations/maintenance costs. Projects in categories 2 and 3 will require a different approach to protect the County's interests. The most critical issues to address in these categories include the following:

□ **Endangered Species Mitigation**

- Support the implementation of an in lieu fee program that will provide much needed funding for conservation, habitat restoration, implementing species recovery strategies, and predation control, but not be used to purchase vast tracts of mitigation lands or impose additional restrictions on public or private land.
- Oppose the acquisition of habitat at a multiplied (e.g. 3:1) mitigation ratio for desert renewable energy projects because the scale of the proposed projects would render vast portions of private land unavailable for future use and could severely limit the ability of future development to adequately mitigate its impacts.
- Rationale to support these positions includes:
 1. Federal ownership (84%) of land within the County significantly reduces tax revenue needed to serve these public lands.

2. The County general fund already subsidizes fire service in the desert and maintains roads on BLM lands – further development of federal properties exacerbates an existing problem.
3. Current proposed renewable energy projects could require 1 million acres for project sites and another 3 million acres or more for mitigation, effectively using up all available mitigation land for future development.

□ **Mechanism to Address Infrastructure Impacts**

- No current mechanism exists to address the impacts these projects will have on public safety facilities and transportation infrastructure in San Bernardino County.
- Large scale development in desert areas already underfunded for public safety facilities because of significant federal ownership, will only exacerbate impacts on the County's limited financial resources.
- The County is open to a variety of approaches to address this issue, including targeted Development Impact Fees and/or direct mitigation in the form of developer constructed facilities, and is requesting that the state and federal energy and resource agencies (Fish and Game, Fish and Wildlife Service, CEC, BLM, etc) implement policies and procedures requiring developers of utility scale renewable energy projects to enter into mitigation agreements, pay appropriate fees, or develop other mechanism to mitigate impacts on local agencies.

□ **Mechanism to Address Ongoing Operation/Maintenance Cost Impacts**

- No current mechanism exists to address the impacts these projects will have on the ongoing costs of providing adequate public safety and transportation services, as well as the loss of recreation/tourism revenue.
- The County is open to a variety of approaches to address this issue, including Possessory Interest Tax, Federal Lease Revenue Sharing, Community Facilities District Formation, and others. Preliminarily it appears that the ongoing operation and maintenance costs will be addressed by a Possessory Interest Tax, which should approximate property tax revenue given the expected long term of a federal land lease.

If the County is unsuccessful in negotiating appropriate impact mitigation for these energy projects, its recourse would be to legally challenge the environmental document for projects in category 2, and to legally challenge the CEC decision for projects in category 3.