



DEPARTMENT OF PLANNING AND BUILDING

Promoting the wise use of land – Helping to build great communities

DATE: FEBRUARY 5, 2015
TO: PLANNING COMMISSION
FROM: JAMES CARUSO, SENIOR PLANNER

SUBJECT: CONTINUED HEARING to consider a request by the **COUNTY OF SAN LUIS OBISPO** to amend portions of the following documents in order to encourage the development of certain renewable energy projects in the most suitable locations in unincorporated inland areas of the county through a Renewable Energy Streamlining Program (RESP): 1) Framework for Planning (Inland), Part I of the Land Use and Circulations Elements (LUCE) of the County General Plan; 2) the Carrizo, North County, San Luis Obispo, and South County Area Plans, Part II of the LUCE; 3) the Official Maps, Part IV of the LUCE; 4) the Conservation and Open Space Element of the County General Plan; 5) the Land Use Ordinance, Title 22 of the County Code; and 6) the Rules of Procedure to Implement the California Land Conservation Act of 1965.

CEQA Review

A Draft EIR (DEIR) was prepared for the RESP, distributed in late November 2014 and circulated for public comment.

The Final EIR is scheduled to be available and delivered to Commissioners by January 30, 2015. The Commission can have a thorough discussion of the RESP starting on January 22nd, continuing on February 5th and concluding on February 26th, with sufficient time at the latter two meetings to consider the Final EIR. Staff does not expect the Final EIR to contain substantial revisions to the Draft EIR. The Final EIR will include responses to comments that are summarized at the end of this report, and will be accompanied by the CEQA findings.

This EIR is known as a “program” (or programmatic) EIR. According to the CEQA Guidelines, a Program EIR is:

“...is an EIR that may be prepared on a series of actions that can be characterized as one large project, and are related....in connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program....”

The environmental impacts are assessed at a “program” level of detail, because site-specific development plans or other project-level details are not a component of the RESP. Rather, the EIR evaluates indirect impacts that are reasonably foreseeable given proposed changes to County policies affecting renewable energy project review and entitlement processes. CEQA requires neither perfection nor an exhaustive analysis of every potential scenario, but rather a good-faith effort at disclosing reasonably foreseeable outcomes of the program.

The EIR (in the Project Description, Chapter 2.0) evaluates a conservative “buildout” scenario of 150 MW and 1,500 acres of ground disturbance. This “buildout scenario” is based on energy infrastructure, industry trends, environmental constraints, and market conditions. It is derived from the County EnergyWise Plan, which includes a goal to increase renewable energy production from small and large-scale renewable energy facilities to account for 10% of total local energy use. Based on current demand, that goal is 150 MW on 1,500 acres of land. That is the basis for the environmental analysis in the DEIR. The majority of projects making up this scenario are assumed to be solar energy facilities (SEF).

The County employed an iterative approach to development of the RESP that was informed by the EIR analyses. As each section of the RESP was completed, environmental analysis was conducted and then changes were made to the code or performance standards were added to reduce or eliminate impacts that were identified. In essence, this project analysis and feedback loop constituted a comprehensive alternatives analysis where a version of the RESP was analyzed and then revised to avoid environmental impacts.

The performance standards contained in the RESP are intended to result in “self-mitigation” for most projects. Projects that cannot demonstrate avoidance of environmental impacts (i.e., do not meet the standards) are required to complete a discretionary review process and comply with CEQA. This self-mitigating aspect is why there are no mitigation measures in the EIR. Any action that would be considered a mitigation measure for the RESP is included as a performance standard.

Not all of the potential environmental impacts could be reduced to less than significant levels. Impacts to Aesthetics and Visual Resources, Agricultural Resources, and Land Use and Planning have potential to remain significant and unavoidable as discussed in greater detail below.

Aesthetics and Visual Resources – This impact relates to potential development of ground-mounted SEFs that introduce industrial elements into the landscape that could contrast with surrounding undisturbed areas in form, line, color, and texture. To reduce associated visual impacts, ground-mounted SEFs would be subject to performance standards such as height limitations and minimum setbacks of solar facilities from adjacent parcels. Setback standards would further minimize visual intrusion to foreground views, the distances in which streamlined solar facilities would have the greatest daytime visibility. Similarly, height standards would also reduce visual impacts by helping to minimize vertical massing and line-of-sight intrusions from adjacent viewsheds.

Existing and proposed standards will minimize the visual impacts of solar installations. However, it's reasonably foreseeable that unique aesthetic and visual elements of some streamlined projects could result in impacts because the site-specific visual characteristics and setting of projects proposed under the RESP cannot be known.

Agricultural Resources – This impact relates to the potential for the RESP to result in the conversion of Important Agricultural Soils to nonagricultural uses. Specifically, ground-mounted Tier 1 SEFs up to 20 acres are not precluded from being developed on Important Agricultural Soils, as disturbed soils can also be Important Agricultural Soils. While a conservation easement requirement could be applied to mitigate these instances, such mitigation would run counter to the primary objectives of streamlining. The County is seeking to encourage development of these smaller-scale SEFs by removing barriers to approval. Requiring conservation easements for SEFs that are 20 acres or less in size would place additional financial and legal burden on agricultural landowners, essentially discouraging applications and defeating streamlining efforts. Therefore, a conservation easement requirement for this potential subset of Tier 1 SEFs was rejected and as a result, this impact is considered significant and unavoidable.

Land Use and Planning – The proposed RESP is consistent with the County's overall goals, objectives, plans, and policies, as established in the General Plan (in particular, the Conservation and Open Space Element) and codified in the Land Use Ordinance. The one exception is the potential for the RESP to indirectly result in the conversion of agricultural land uses to renewable energy uses, as discussed above. Accordingly, this impact is similarly identified as significant and unavoidable.

Comment letters received in response to Draft EIR

Prior to the close of the public review period for the Draft EIR, the County received comments from the following agencies, organizations, and individuals:

1. City of San Luis Obispo,
2. San Luis Obispo County Air Pollution Control District (APCD),
3. Sierra Club, Santa Lucia Chapter,
4. Defenders of Wildlife and The Nature Conservancy (joint letter),
5. Eric Greening,
6. California Native Plant Society (2),
7. Federal Emergency Management Agency (FEMA), and
8. San Luis Obispo County Agriculture Department.

A confirmation letter was also received from the State Clearinghouse indicating that no state agencies provided comments. The comments focused mostly on biological and agricultural resource issues and the County review process for qualifying projects. A summary of the comments and responses is included in the following table.

RESP DEIR - Summary of Comment Letters

Commenting Party	Summary of Issues	Summary of Responses
Brian Leveille, AICP, City of San Luis Obispo	<ul style="list-style-type: none"> Scenic resource impacts in the San Luis Obispo area and the ability to review discretionary projects per 2005 City/County MOA. 	<ul style="list-style-type: none"> Projects to be eligible for ministerial approvals are strictly defined in order to avoid visual impacts. RESP provides greater restrictions and protections concerning visual resources.
Melissa Guise, San Luis Obispo County Air Pollution Control District	<ul style="list-style-type: none"> APCD rules and emissions control measures apply to renewable energy projects, both for construction and operation. 	<ul style="list-style-type: none"> While no specific projects are evaluated in the EIR, County acknowledges that future projects proposed under the RESP will need to comply with APCD rules and control measures, as under current practices.
Andrew Christie, Santa Lucia Chapter of the Sierra Club	<ul style="list-style-type: none"> Supports the RESP and proposes 20 acres as maximum Tier 3 REF project eligible for Site Plan Review. 	<ul style="list-style-type: none"> Tier 3 SEFs up to 160 acres are only eligible for Site Plan Review if they meet highly restrictive siting and performance standards in the code.
Kate Kelly, Defenders of Wildlife and Laura Crane, The Nature Conservancy	<ul style="list-style-type: none"> Supports the proposed tiered permitting approach to favor small distributed RE projects. RE Combining Designation designed around substation locations with little regard for environment. Suggests refinements to RE Combining Designations (CDs) that will provide greater assurances to developers and avoid impacts. 	<ul style="list-style-type: none"> RE CDs were designed specifically to avoid environmental impacts. Substation location was a starting point. Numerous environmental factors were then screened to refine the boundaries to avoid sensitive areas.
Eric Greening	<ul style="list-style-type: none"> Conversion of agriculture and changes to Williamson Act program not adequately reviewed in EIR. Biological impact conclusions not supported in EIR. Information needed regarding County process and public input. 	<ul style="list-style-type: none"> RESP updated to specify eligibility for conversion of land under Williamson Act contract. Agricultural conversion impacts disclosed as significant. Eligible projects must avoid biological impacts. If biology reports indicate presence of species and need for mitigation measures, the project can not be streamlined.
David Chipping, California Native Plan Society	<ul style="list-style-type: none"> RESP violates CEQA by limiting public review. CNPS listed plants should have been included in the EIR. 	<ul style="list-style-type: none"> Ministerial approvals would not be subject to CEQA and public comment periods. Projects only qualify for this streamlining if they meet strict requirements to avoid

Commenting Party	Summary of Issues	Summary of Responses
	<ul style="list-style-type: none"> • Biological resource impact conclusions not supported. • Biological consultants preparing reports for site plan review eligible projects should be County- approved. 	<p>biological resources.</p> <ul style="list-style-type: none"> • As with current practices, CNPS plant and vegetation communities lists will continue to be used in the preparation of any RE project biology report. • Based on the strict eligibility criteria and performance standards contained in the RESP, there is no evidence to support conclusion that significant biological impacts would occur. • Only consultants on the County's approved biologist list will be eligible to prepare reports.
Gregor Blackburn, FEMA	<ul style="list-style-type: none"> • Specifies floodplain management building requirements. 	<ul style="list-style-type: none"> • The RESP does not propose any changes to floodplain management requirements.
Lynda Auchinachie, County of San Luis Obispo Agriculture Department	<ul style="list-style-type: none"> • Propose change to eligibility language for Site Plan Review affecting property designated as Important Agricultural Soils. • Unclear how agricultural easements will be implemented through site plan review process. 	<ul style="list-style-type: none"> • Eligibility language in question revised as requested to read "not sited on any type of Important Agricultural Soils as defined in the Conservation and Open Space Element, unless sited on Important Agricultural Soils <u>that are designated solely as</u> Highly Productive Rangeland Soils." • Easements would be developed and implemented in consultation with the Agriculture Department.

Additional Materials

Staff will forward to your Commission under separate cover any additional comments and responses to comments as they become available, as well as a response to any direction received from the Commission at the January 22, 2015 hearing.