

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

236



FROM: Executive Office

SUBMITTAL DATE:
June 23, 2011

SUBJECT: Board Policy B-29 Pertaining to Solar Power Plants

RECOMMENDED MOTION: That the Board of Supervisors:

- (1) Approve Board Policy B-29 pertaining to solar power plants contained in Attachment A; and,
- (2) Find approval of the policy exempt from CEQA pursuant to CEQA Guidelines §15061(b)(3), in that it can be seen with certainty there is no possibility the policy may have a significant effect on the environment.

BACKGROUND: The County supports solar energy and acknowledges its benefits. The County also recognizes solar energy production can have adverse, unavoidable impacts on communities where it occurs, including impacts on visual, cultural, historic, agricultural, recreational, and biological resources, in addition to County facilities and services. These impacts will be experienced for decades, and perhaps indefinitely.

On February 8, 2011, (Item 3.29, Attachment B) the Board recognized the impact the sudden influx of renewable energy plants will have on Riverside County. Consequently, the Board unanimously amended the County's 2011 state legislative platform in support of legislative efforts to ensure the County does not disproportionately bear the burden of renewable energy production. The Board also directed staff to prepare a policy on revenue generating agreements pertaining to renewable energy projects. The proposed policy addresses the Board's directive specifically with respect to solar power plants.

(continued)


 Denise C. Harden, Principal Management Analyst

FINANCIAL DATA	Current F.Y. Total Cost:	\$ NA	In Current Year Budget:	No
	Current F.Y. Net County Cost:	\$ NA	Budget Adjustment:	No
	Annual Net County Cost:	\$ NA	For Fiscal Year:	

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY: 
 County Executive Office Signature

FORM APPROVED COUNTY COUNSEL
 BY: 
 KATHERINE A. LIND
 DATE: 06/23/11
 Departmental Concurrence

Dept's Recomm.: Policy
 Per Exec. Ofc.: Policy
 Consent
 Consent

Consistent with the County's long-standing practices, the policy compensates the County fairly for use of County assets, and for the unavoidable, adverse impacts of solar power plants. The policy also gives solar power plant developers certainty regarding the County's requirements. Combined estimates from two solar developers indicate they will pay \$9 million per year under the terms of this policy. From this, it is anticipated the potential revenue the County might receive from projects currently in process ranges from \$30-\$38 million per year.

The Bureau of Land Management identifies eastern Riverside County as the largest solar energy zone in California. This zone consists of 202,000 acres extending from Desert Center to the Colorado River. According to California Energy Commission records, more solar power plants of 100 megawatts or greater are being sited in Riverside County than in any other California county.

Already, 118,000 acres are slated for solar development, and many more projects are anticipated. 118,000 acres is equivalent to 185 square miles, an area nearly as large as Palm Springs, Cathedral City, Rancho Mirage, Palm Desert, and Indio combined. These unique solar resources, together with substantial federal and state incentives, such as loan guarantees and tax breaks to encourage renewable energy development, are generating a surge in proposals for utility scale solar power plants in Riverside County.

Riverside County and its residents must be compensated for the unavoidable adverse impacts of these massive solar developments within our borders. Miles of mirrors stretching from Desert Center to the Colorado River will alter the historic landscape for decades. Hundreds of thousands of acres in Riverside County will no longer be available for other uses important to our economy, such as recreation and agriculture. Biological diversity and historic and cultural resources also will be lost. In addition, County roads, bridges and flood control facilities will endure additional wear and tear as a direct result of building and maintaining these plants. These projects also will permanently increase demand on county services such as, emergency services, medical services, property assessment, and law enforcement.

Consistent with state law, the County has a long-standing practice of granting electricity franchises requiring payment of 2 percent of gross annual receipts arising from use of the franchise. All current grantees of electricity franchises in the County make such payments. These agreements, dating back nearly 100 years, include the electrical franchise originally granted to Southern California Edison in 1913. Other states, such as Colorado, require a payment of 3 percent of gross annual receipts.

The proposed policy applies to solar power the same standard the County has used with conventional power for nearly 100 years. Specifically, the proposed policy states that:

- No encroachment permit shall be issued for a solar power plant until the Board first grants an electricity franchise to the solar power plant developer. Such franchise shall include a term requiring the solar power plant developer to pay the County annually 2 percent of gross annual receipts arising from the use, operation, or possession of the franchise.
- No interest in the County's real property, or the real property of any special district governed by the County, shall be conveyed for a solar power plant until the Board first approves an agreement requiring the solar power plant developer to pay the County annually 2 percent of gross annual receipts arising from the use, operation, or possession of the real property interest.

- No land use approval required by either Ordinance Nos. 348 or 460 shall be given for a solar power plant until the Board first approves a development agreement for the solar power plant and the development agreement is effective. Such agreement shall include a term requiring the solar power plant developer to pay the County annually 2 percent of gross annual receipts arising from the use, operation or possession of the approval.
- A solar power plant operator shall deliver a letter of credit to the County in an amount equal to the County's estimate of sales and use taxes to ensure such taxes are correctly allocated to the County.

The requirement for a developer agreement is also consistent with state law, which expressly allows counties to enter into development agreements. The County of Inyo has adopted an ordinance creating a development agreement process for renewable energy projects. In addition, Riverside County recently entered into a lease agreement with a solar power plant operating on closed County landfills requiring payment of 5 percent of gross annual receipts.

Solar power plant developers claim their solar power plants will bring significant revenue to the County. However, photovoltaic plants are completely exempt from paying property taxes on all energy generation facilities and equipment. Solar thermal plants are 75 percent exempt on their dual use energy generation facilities and equipment. While they pay possessory interest taxes on Bureau of Land Management leases, the County only retains 13 cents on the dollar. The remainder goes to the state and other taxing entities.

Solar power plants may generate sales and use taxes for the County during construction. However, it is imperative the sales be both structured and reported correctly for the County to be allocated the revenue. If reported or paid incorrectly, this revenue will not be allocated to the County, and may not be recoverable.

Solar power plant developers also claim their solar power plants will bring a significant number of jobs to Riverside County. However, the majority of these are short-term construction jobs, and there is no requirement to employ local area residents. Once construction is completed, few long-term jobs will remain to maintain and operate these highly automated power plants.

Solar power plant developers are well-capitalized commercial energy companies – many of which are multi-national corporations – which are heavily subsidized by the state and federal governments with taxpayer dollars. While the state and federal governments may be in a position to offer such incentives, they will not bear the brunt of the impact of solar energy production. Riverside County and its residents will bear that burden.

Without franchises, real property interest agreements, or development agreements, these projects will reap the lucrative benefits of locating within Riverside County without compensating the community for the unavoidable, adverse impacts they create. Pursuant to the Board direction given on February 8, 2011, proposed Board Policy B-29 will ensure the County is fairly compensated for solar energy production in a manner consistent with the County's long-standing approach to conventional energy generation.

Policy

Subject:

SOLAR POWER PLANTS

Number

B-29

Page

1 of 2

Purpose:

The Board supports solar energy and acknowledges its benefits. The Board also recognizes that solar energy production creates adverse unavoidable impacts in the communities where it occurs, including impacts to visual, cultural, historic, agricultural, recreational, and biological resources, as well as impacts to County facilities and services. The purpose of this policy is to ensure that communities do not disproportionately bear the burden of solar energy production, and to give solar energy developers certainty as to the County's requirements.

Policy:

To secure public health, safety and welfare, a solar power plant shall be subject to the requirements of any applicable ordinance, state or federal law as well as the requirements of this policy.

No encroachment permit shall be issued for a solar power plant until the Board first grants an electricity franchise to the solar power plant developer. Such franchise shall include the County's standard term requiring the grantee to pay the County annually 2 percent of gross annual receipts arising from the use, operation, or possession of the franchise.

No interest in the County's real property, or the real property of any special district governed by the County, shall be conveyed for a solar power plant until the Board first approves an agreement requiring the solar power plant developer to pay the County annually 2 percent of gross annual receipts arising from the use, operation, or possession of the real property interest.

No approval required by Ordinance Nos. 348 or 460 shall be given for a solar power plant until the Board first approves a development agreement for the solar power plant and the development agreement is effective. Such agreement shall include a term requiring the solar power plant developer to pay the County annually 2 percent of gross annual receipts arising from the use, operation or possession of the approval. When a solar power plant requires both an encroachment permit and one of the above-referenced approvals, only an electricity franchise shall be required.

When a solar power plant developer requires any combination of the above-referenced agreements in conjunction with a particular solar power plant, only one agreement shall include the term requiring the solar power plant developer to pay the County annually 2 percent of gross annual receipts arising from the use, operation or possession of the franchise, real property interest, or approval required.

Every electricity franchise, real property interest agreement, and development agreement shall also include a term requiring delivery of a letter of credit to the County in an amount equal to the sales and use taxes the County estimates will be generated by construction of the solar power plant to ensure such taxes are allocated correctly to the County. The solar power plant developer shall provide the information needed by the County to make this estimate. The

Policy

Subject:

SOLAR POWER PLANTS

Number

B-29

Page

2 of 2

County shall release annually a portion of the letter of credit equal to the amount of taxes paid, as reported by the State Board of Equalization. If, upon completion of construction, the sales and use taxes paid are less than the County's estimate, the County shall call the remaining portion of the letter of credit.

As used in this policy, the following terms shall have the following meanings:

"Solar Power Plant." A facility used to generate, store, transmit or distribute electricity generated from solar energy where the power plant will be connected to the power grid and the electricity will be used primarily (i.e. more than 50 percent) at locations other than the site of the solar power plant. A solar power plant includes a power plant using either a solar thermal or photovoltaic system to convert solar energy to electricity. A solar power plant does not include a solar energy system, defined below.

"Solar Energy System." A system that is:

- (1) An accessory use to any residential, commercial, industrial, mining, agricultural or public use, used primarily (i.e. more than 50 percent) to reduce onsite utility usage; and,
- (2) Which is either of the following:
 - (a) Any solar collector or other solar energy device the primary purpose of which is to provide for the collection, storage and distribution of solar energy for electric generation, space heating, space cooling, or water heating; or,
 - (b) Any structural design feature of a building the primary purpose of which is to provide for the collection, storage and distribution of solar energy for electric generation, space heating, space cooling, or water heating.

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

439



SUBMITTAL DATE:
January 27, 2011

FROM: TLMA - Planning Department

SUBJECT: Renewable Energy Projects - 2011 State Legislative Platform; Position Regarding the Desert Renewable Energy Conservation Plan

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Approve and direct the Executive Office to add Attachment No. 2 to the 2011 State Legislative Platform to ensure that the County does not disproportionately bear the burden of renewable energy production;
- 2) Direct the Transportation and Land Management Agency to prepare a Board policy requiring County staff to negotiate revenue generating agreements (such as

Carolyn Syms Luna

Carolyn Syms Luna
Planning Director

Initials:
RJ:rj

CONTINUED ON ATTACHED PAGE

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	n/a
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	n/a
	Annual Net County Cost:	\$ 0	For Fiscal Year:	n/a

SOURCE OF FUNDS: n/a

Positions To Be Deleted Per A-30

Requires 4/5 Vote

C.E.O. RECOMMENDATION:

APPROVE

BY: *Jennifer V. Sargent*

County Executive Office Signature Jennifer V. Sargent

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Buster, seconded by Supervisor Ashley and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
 Nays: None
 Absent: None
 Date: February 8, 2011
 xc: Transp., TLMA, EO, State Rep's.

Kecia Harper-Ihem
Clerk of the Board

By: *Kecia Harper-Ihem*
Deputy

3.29

Prev. Agn. Ref.

District: All

Agenda Number:

Policy
 Policy
 Consent
 Consent
 Dep't Recomm.:
 Per Exec. Ofc.:

development agreements and franchise agreements) for renewable energy projects, including power plants, transmission lines, and related facilities, to further ensure that the County does not disproportionately bear the burden of renewable energy production; and,

- 3) Approve, and authorize the Chairman to sign, the attached letter to Mr. Dave Harlow, Director, California Desert Renewable Energy Conservation Plan.

BACKGROUND:

Federal and State initiatives to encourage the development of renewable energy projects have led to an influx of utility scale solar power plants in Riverside County because it is uniquely suited for the location of such facilities. The County supports renewable energy production and acknowledges the positive effects it will have. The County also recognizes that such production will result in lost economic development potential (including lost employment opportunities and lost property tax revenue), lost recreation potential, lost historical resources and the unreimbursed costs of additional transportation facilities, public safety facilities and related services. Without appropriate ways to reduce these losses, Riverside County will bear a disproportionately heavy burden for renewable energy production. This is particularly true for renewable energy projects that do not fall under the permitting jurisdiction of the County (see Attachment 1 Riverside County Statement of Jurisdiction) because the County has no opportunity to address their effects. The 2011 State Legislative Platform (see Attachment 2) identifies potential legislative remedies that would assist Riverside County in reducing its disproportionate share of renewable energy production. Directing staff to negotiate revenue generating agreements, such as development agreements and franchise agreements, will further ensure that the County is made whole.

The Desert Renewable Energy Conservation Plan (DRECP) is a State launched effort to create a joint Natural Communities Conservation Plan (NCCP) that will ensure long-term species protections while facilitating renewable energy production. The County is actively engaged in the Stakeholder Committee that is guiding development of the DRECP. The letter to the Director of the DRECP (see Attachment 3) identifies the following matters that must be resolved before Riverside County will support the DRECP:

- a. The number of renewable energy projects anticipated to be permitted and the amount and kind of mitigation anticipated to be required must be defined;
- b. Renewable energy production must be encouraged at or near the point of consumption;
- c. Already permitted Habitat Conservation Plans must not be impacted or have additional requirements imposed;
- d. Riverside County must have an integral role in planning, management, and research in order to maintain local control and involvement; and,
- e. The conservation impacts of renewable energy production must be appropriately reduced so that the County does not bear a disproportionate burden of such impacts.

ATTACHMENTS:

- 1) Riverside County Statement of Jurisdiction
- 2) 2011 State Legislative Platform
- 3) Letter to Mr. Dave Harlow, Director, California Desert Renewable Energy Conservation Plan

VALLEY ACTION

President
Patrick Swarthout
Imperial Irrigation District

Vice President
Juan DeLara
Federated Insurance/
Travertine Point

Secretary/Treasurer
Fred Bell
Noble & Company, LLC

Phil Smith
Sunrise Company

Bill Green
RBF Consulting

Lee Haven
Granite Construction

Mark Gran
Cal Energy

Wes Ahlgren
Coachella Valley
Economic Partnership

Paul Quill
Federated Insurance/
Travertine Point

Riverside County Board of Supervisors
4080 Lemon Street, 5th Floor
Riverside, CA 92502

June 21, 2011

Dear Supervisors:

As business men and women of Riverside County, we are extremely concerned with the proposal being considered by the Board on June 28th to tax solar energy projects 2 percent of gross revenue annually. This "Sun Tax" is anti-competitive and threatens tens of millions of dollars of direct tax revenue to the County and hundreds of millions of dollars of secondary economic benefit. This is particularly troubling at a time when our region ranks among the highest in unemployment in the nation and desperately needs financial recovery.

For the last few years, residents, businesses and schools have rallied to attract utility-scale solar development in Riverside County. This is a cornerstone to the Coachella Valley Economic Partnership's Blueprint because it will bring green jobs and clean energy to the County, which will in turn provide economic strength and diversity to the economy.

Other jurisdictions offer open space, abundant sunshine and no similar tax. Make no mistake about it - Riverside County is competing with other Counties and States in our region. Solar projects will be built in areas that do not have such outrageous taxes.

The County is also holding up the approvals for two projects (First Solar – Desert Sunlight and Solar Millennium – Blythe). These projects would provide over \$1 billion in economic benefits to the County. These approvals are urgent because their funding is tied to a Federal loan guarantee program that is about to expire. Further delay will stall these projects. We need the jobs and economic impact NOW!

The County would be better served by *attracting* the solar industry with tax incentives. Creating a NEW tax is short sighted and will not ultimately create revenue to bolster the County coffers. Say NO to the Sun Tax. Approve the pending projects. Get Riverside County back to work.

Sincerely,



Patrick Swarthout
President
Valley Action Group



CITY OF BLYTHE

235 North Broadway / Blythe, California 92225
Phone (760) 922-6161 / Fax (760) 922-4938

VIA FACSIMILE

June 22, 2011

Mr. Bill Luna, County Executive Officer
Riverside County
County Administration Center
4080 Lemon St.
Riverside, CA 92501

Dear Mr. Luna:

Re: Proposed 2% Franchise Fee on Solar Projects

Please be advised that, during a special meeting of the City Council held late yesterday, the Council voted unanimously to oppose the proposed franchise fee. Concerns expressed by the Council included:

- While the Board of Supervisors is scheduled to vote on the new policy as soon as next Tuesday (June 28, 2011), as of the time of the special council meeting, a draft copy of the policy had not yet been made public. As such, the council members were not apprised as to the full content of the proposed policy.
- Solar Millennium has been working with the City on its project, slated to be constructed just northwest of the Blythe Airport, for approximately two years. The Council's understanding is that the approval process was winding down and, with the formal groundbreaking attended by Governor Brown and Interior Secretary Salazar held just last Friday, final County approval was imminent. This new requirement to pay 2% of gross has seemingly taken everyone by surprise and, because the policy is being proposed so late in the game, the Council members feel that this project should be exempt from any such policy.
- The Council members did not have all the facts on how specific deal points, vis-à-vis exactions that would be realized by the City itself, were determined. The Council was concerned further that, at this late date, it did not have the option of negotiating any of those deal points.
- The City Council acknowledges that there will likely be negative impacts as a result of this project and it is very likely that many of those impacts will manifest themselves within city limits, thereby potentially taxing police and fire services,

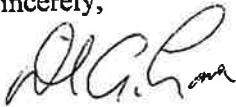
at a minimum. Although additional revenue as an offset to those future expenditures would be warranted and certainly welcomed, the Council is concerned with the potential that the new policy may result in Solar Millennium canceling the project and moving it elsewhere. The Council is desirous of ensuring that, primarily because of the potential job creation, this project moves forward and does so as quickly as possible. To that end, the City Council is respectfully requesting that the County re-agendize consideration of Resolution 2011-097 for the Board of Supervisors meeting of June 28, 2011.

The City Council is open to further discussions on a potential policy, however it feels it is too late, especially in light of the absence of a draft policy to review, for imposing this on the Solar Millennium project.

Finally, it is important to note the Council continued yesterday's meeting to next Monday, June 27, 2011 at 7:00 a.m. This final meeting has been scheduled specifically to allow the council members the opportunity to discuss the detailed content of the proposed policy (the Council's understanding is that the policy will be made public late tomorrow). It may be helpful for the County to have a representative present at the meeting, or available by telephone, for the purpose of answering questions. Please note that the meeting is scheduled for early morning.

Thank you for your time and consideration, and, as always, thank you for your interest in the City of Blythe.

Sincerely,



David A. Lane
City Manager

cc: Honorable members of the Blythe City Council
Honorable members of the Riverside County Board of Supervisors



June 17, 2011

Mr. Bill Luna
County Executive Officer
County of Riverside
4080 Lemon Street – 4th Floor
Riverside, CA 92501

Dear Bill:

On behalf of the Coachella Valley Economic Partnership (CVEP), I am writing to express our concern regarding the proposed 2% gross receipts tax on solar energy projects. It is our understanding that the Board of Supervisors will be considering this proposal at its June 28th meeting. At its June 16 meeting, the CVEP Renewable Energy Roundtable members unanimously adopted the following motion:

“That CVEP transmit a communication to the County of Riverside regarding its concerns about the proposed 2% gross receipts tax proposal and its potential impacts on the development of solar energy projects in Riverside County. Further, those potential impacts need to be more thoroughly assessed with solar industry representatives to ensure that a policy that is acceptable to the County and industry results. Finally, the First Solar and Solar Millennium projects which precipitated this new tax proposal should not be delayed but receive approvals from the County to meet upcoming federal loan guarantee requirements.”

This action was taken after a robust discussion that included County representatives. There were a number of different concerns and issues discussed; many were left unanswered because no one – including those directly involved – seems to understand the entire rationale associated with the County’s proposal. At the very least, this appears to represent a lack of communication between the parties on the proposed policy.

As an economic development organization, CVEP has emphasized the importance of improving our competitive profile if we expect to successfully compete for jobs and investment. This means we need to have a business-friendly environment which entails two key elements: (1) the cost of doing business, and (2) the predictability for doing business. Based on information we currently have on the County’s proposal, we are concerned about both of these.



First, according to First Solar the fee to be paid to Riverside County annually from this proposal is approximately \$3.5M. In Los Angeles and Kern counties, this fee is said to be \$92,000 annually. This type of discrepancy raises questions; there may be a logical explanation but no one seems to have it. The real concern is how this proposed fee compares with fees charged by other states pursuing solar projects – Nevada, Arizona, Colorado and others. No one seems to have answers for this either and these are the serious competitors to Riverside County for solar power. We need to ensure that we are not creating an incentive for solar companies to take their jobs and investment to other states.

Second, the predictability associated with being able to conduct business “without surprises” is essential. From our understanding of the County review process, this tax proposal was introduced at a very late stage in the approval process. When this occurs in the process of government, it immediately raises suspicions and can result in a perception that a jurisdiction is not business friendly. Since Riverside County has always had a good reputation among California government agencies as “business-friendly”, we want to ensure that we maintain and enhance that reputation.

Finally, if Riverside County determines it wishes to receive more input on this matter before final action, CVEP would be happy to host County officials and industry representatives at an event in which these ideas can be exchanged. We think this approach would result in a fee policy that meets County objectives, industry needs and long-term economic development goals.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Thomas E. Flavin', written in a cursive style.

Thomas E. Flavin
President/CEO
CVEP

cc: Chairman Bob Buster
Vice-Chairman John F. Tavaglione
Supervisor Jeff Stone
Supervisor John J. Benoit
Supervisor Marion Ashley
CVEP Executive Committee