

**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

FORM APPROVED COUNTY COUNSEL

BY: ~~KATHERINE A. LIND~~ *A. Lind* DATE: ~~06/23/11~~ *06/23/11*

Departmental Concurrence

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 Bill Lind

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

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.

COUNTY OF RIVERSIDE, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Attachment A

Policy

Subject:

SOLAR POWER PLANTS

Number

B-29

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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

COUNTY OF RIVERSIDE, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Attachment A

Policy

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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.