Barton, Karen

From: Renee W Castor <reneewcastor@gmail.com>
Sent: Tuesday, November 08, 2011 11:02 AM
To: District1; District2; District3; District4 Supervisor John J Benoit; District5; COB
Subject: Solar Fee Vote

To Riverside Board of Supervisors:
Dear Chairman Buster:

My Name is Renee W Castor and I am a life long resident of Desert Center. I am a 3rd generation member of this community and have watched it go through its many ups and downs over the years. This is the first one to give great pause and concern. While I welcome jobs and growth to the community I am concerned about the irresponsibility of the BLM and solar industry coming in when it comes to the human inhabitants of this community.

We have watched geologists, archeologists, paleontologists and any "ologist" you can think of come and go in preparation for the solar farms. Not a single one counted the human population and its impact and displacement upon them. Currently there are 8 solar projects that I know of trying to get permitted to go into our valley. Not the 40 miles of barren lake bed that sit between Blythe and Desert Center, but in Desert Center its self. We have asked about proposed buffer zones for the human inhabitants, they have none because, "they have never had to deal with that issue before" as we were told.

Now that our first solar project is under construction we have encountered many issues. While we are trying to accommodate our new neighbors we are a community, not a town, with now existing infrastructure. For example we have no full time law enforcement and have had numerous traffic issues with the construction vehicles being utilized not only by solar but by the companies building the transmission lines and relay station. Since we have no town government and I was the founder of the Desert Center Area Chamber of Commerce my personal number is on the sign for reporting issues.

Our local fire station has had to increase its coverage to 4 full time personal. The building they are housed in was built for 2 full time fireman and the fire station that was originally budgeted to be built to accommadate the increase in staff and big fire engine (now being housed in a medal shed adjacent the station) was cut.

Our housing is maxed out and have no multi unit housing zones to accommadate building for the population increase we are currently facing. All available housing is rented out including trailer spaces at both local trailer parks.

The roads were not designed for the heavy equipment traffic now on them and many local citizens are experiencing windows broken from loose gravel, lanes not wide enough to comfortably accommodate the vehicles, and no traffic lights or even sufficient number of road signs to encourage and enforce driving laws. Poor planning has even made our school bus late because of inability to reroute traffic during construction,

Our one store while enjoying the boon in customers will eventually be unable to keep up with demand and under current county requirements and lack of commercial zoning, and no existing water and sewer system in these areas are in no position to encourage developers to build more stores and restaurants or a hotel which has become desperately needed.

Our school is a basic aide school and does not have the funding to meet the growing population and are having budget cuts from the county because the solar projects are taxed under a different system that exempts basic aid schools from receiving any monies from the solar projects going in.

This is a glimpse of the problems we are starting to face that will get bigger with each new project that begins to build.

While I agree we need the solar projects to be responsible and pay some sort of fee that can help offset some of these issues, like First Solar is currently doing, I feel the county is being irresponsible in asking 4 times the amount that First Solar paid. Greed will only cause more problems. I feel the county needs to meet closer to the middle with the solar programs, require a minimum build distance from populated areas, and asess the real impacts that this will have. I also feel you should have a policy of how this money will be allocated in place first. Why should I back a plan that does not guarantee my community will receive any funds when my community is more affected than any other community in the county?

Solar is demanding too much land to quickly and the county is demanding to much money to quickly you both need to stop thinking about your pocket books and start thinking about your constituents who have to live with this every day. There is a happy middle ground in there somewhere not just between solar and the county but with the residents of this community and others effected like us can come to a symbiotic agreement.

Thank you,

Renee W Castor
(This is my personal opinion and do not speak for the Chamber of Commerce)

MEMORANDUM

RIVERSIDE COUNTY COUNSEL

DATE: November 8, 2011

TO: Kecia Harper-Ihem, Clerk of the Board

FROM: Tiffany N. North, Deputy County Counsel

RE: Agenda Item 16.2 of November 8, 2011 Board of Supervisors Meeting – General Plan Amendment No. 1080; Resolution No. 2011-273 Amending the Riverside County General Plan – Second Cycle of General Plan Amendments for 2011; Ordinance No. 348.4734, amending Ordinance No. 348 regarding solar energy systems; Ordinance No. 348.4705, amending Ordinance No. 348 regarding solar power plants; Board of Supervisors Policy No. B-29 pertaining to solar power plants

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Please find attached additional documents concerning Agenda Item 16.2, as well as eight copies.

Thank you.

Attachments.
tnn

3960 Orange Street, Fifth Floor•Riverside CA•92501•(951)955-6300•FAX (951)955-6322 & (951)955-6363

16.2

Planning Commission **County of Riverside**

RESOLUTION
RECOMMENDING ADOPTION OF
GENERAL PLAN AMENDMENT NO. 1080

WHEREAS, pursuant to the provisions of Government Code Section(s) 65350/65450 et. seq., a public hearing was held before the Riverside County Planning Commission in Riverside, California on July 14, 2010 to consider the above-referenced matter; and,

WHEREAS, all the procedures of the California Environmental Quality Act and the Riverside County Rules to Implement the Act have been met and the environmental document prepared or relied on is sufficiently detailed so that all the potentially significant effects of the project on the environment and measures necessary to avoid or substantially lessen such effects have been evaluated in accordance with the above-referenced Act and Procedures; and,

WHEREAS, the matter was discussed fully with testimony and documentation presented by the public and affected government agencies; now, therefore,

BE IT RESOLVED, FOUND, DETERMINED, AND ORDERED by the Planning Commission of the County of Riverside, in regular session assembled on July 14, 2010, that it has reviewed and considered the environmental document prepared or relied on and recommends the following based on the staff report and the findings and conclusions stated therein:

ADOPTION/CERTIFICATION of the Notice of Exemption, and **ADOPTION** of General Plan Amendment No. 1080.

PLANNING COMMISSION
MINUTE ORDER JULY 14, 2010
EASTERN MUNICIPAL WATER DISTRICT

I. **AGENDA ITEM 4.2: GENERAL PLAN AMENDMENT NO. 1080** – CEQA Exempt/ **ORDINANCE NO. 348.4705** – CEQA Exempt

II. **PROJECT DESCRIPTION**

Proposes to add two policies to the Land Use Element of the Riverside County Integrated Plan regarding the use of both solar energy systems and solar power plants. Countywide Initiate General Plan Amendment. Proposes to amend Ordinance No. 348 to allow alternative energy facilities under two new classifications, "solar energy systems" and "solar power plants". The proposed ordinance will allow a "solar energy system" in any zone subject to the provisions described within the proposed ordinance. The proposed amendment will also modify the following zoning classifications to allow a solar power plant on ten (10) acres or larger. This modified zones include: General Commercial (C-1/C-P), Commercial Tourist (C-T), Scenic Highway Commercial (C-P-S), Rural Commercial (C-R), Industrial Park (I-P), Manufacturing Servicing Commercial (M-SC), Medium Manufacturing (M-M), Heavy Manufacturing (M-H), Mineral Resources (M-R), Mineral Resource and Related Manufacturing (M-R-A), Light Agriculture (A-1), Light Agriculture with Poultry (A-P), Heavy Agriculture (A-2), Agriculture-Dairy (A-D), Controlled Development (W-2), Regulated Development Areas (R-D), Natural Assets (N-A), Waterways and Watercourses (W-1), Wind Energy Resource Zone (W-E). Solar power plants will be allowed pursuant to a Plot Plan application, subject to Section 18.30, and subject to the approval of the Planning Director in the above-referenced zoning classifications. Countywide Initiated Change of Zone.

III. **MEETING SUMMARY**

IV. Subject proposal did not require a presentation.
Project Planner: Adam Rush at 951-955-6646 or e-mail arush@rctlma.org.

No one spoke in favor, a neutral position or in opposition of the subject proposal.

V. **CONTROVERSIAL ISSUES**

NONE

VI. **PLANNING COMMISSION ACTION**

The Planning Commission, by a vote of 5-0; recommend the Board of Supervisors;

APPROVE of **General Plan Amendment No.** 1080, based upon the findings and conclusions incorporated in the staff report and subject adoption of the Planning Commission resolution.

APPROVE of **Ordinance No. 348.4705**, based upon the findings and conclusions incorporated in the staff report.

VII. CD

The entire discussion of this agenda item can be found on CD. For a copy of the CD, please contact Desiree Bowie, Interim Planning Commission Secretary, at (951) 955-0222 or E-mail at dbowie@rctlma.org.

Correspondence Received Regarding Item 16.2 of November 8, 2011

Support:

Ricki Brodie
G. Dana Hobart
Buford Crites

Oppose:

Large-Scale Solar Association (LSA)
Independent Energy Producers Association
Citizens of the Lake Tamarisk Desert Resort
SunPower Corporation
BrightSource

Neutral:

Meriem L. Hubbard (Attorney at Pacific Legal Foundation)-wants clarification before policy is voted on.
Renee W. Castor – Thinks Solar wants too much land and the County wants too much money.

8 November 2011

By Hand and by Electronic Mail

Riverside County Board of Supervisors
4080 Lemon Street
Riverside, CA 92501

Re: Agenda Item 16.2: Proposed Board Policy B-29 Regarding Solar Energy Projects

Dear Chairman Buster and Members of the Board of Supervisors:

enXco submits this letter in regard to the proposed Board Policy B-29 ("Policy B-29") being considered as part of Agenda Item 16.2 at today's regular Board meeting. enXco has generated jobs and developed, owned and operated renewable energy projects in Riverside County for more than 20 years. enXco prides itself in its conscientious attempt to develop environmentally sound projects and to hear and actively address community concerns. As a good neighbor and as a socially responsible renewable energy company, we are committed to addressing the effects of our projects as identified during the course of environmental review. However, as discussed below, we are concerned that Policy B-29 is inconsistent with applicable law. We submit this letter in the spirit of cooperation, and urge the Board to consider our concerns before taking action on Policy B-29.

Policy B-29 Imposes a Development Impact Fee In Violation of Statutory Requirements

The staff report characterizes Policy B-29 as though it anticipates freely negotiated "agreements" that obligate applicants to pay a $640-per-acre fee. But the "agreements" contemplated by Policy B-29 are no more freely negotiated than a standard conditional use permit. Indeed, Policy B-29 specifies the types of "agreements" applicants must execute and mandates nonnegotiable fee terms and conditions. Moreover, solar projects that do not adhere to Policy B-29's terms are ineligible for County permits. As such, the fee imposed under Policy B-29 is not a mere "deal point" freely negotiated by the parties to an arms-length transaction, but, rather, an exaction that is imposed as a precondition for the privilege of developing land. As such, Policy B-29's per-acre fee falls squarely within the purview of the Mitigation Fee Act, Government Code §66000 et seq., as well as the constitutional requirement that the County first demonstrate *Nollan/Dolan* "rough proportionality" and "nexus." Policy B-29 fails to comply with the Mitigation Fee Act and related constitutional requirements because there is no evidence in the record demonstrating that the proposed $640-per-acre fee is reasonably related to the burdens placed on the County by the solar projects subject to the fee.

Submitted by Ian Black
11-8-11 (date) Item 16.2

enXco – an EDF Energies Nouvelles Company
4000 Executive Parkway, Ste 100 | San Ramon, CA | 94583
t: 925.365.3731 | c: 646.287.9912

Riverside Assumptions		
PPA Price	**$ 110.00**	
County Fee per acre	**$ 640.00**	
	Yr 1	**Yr 20**
Cost of Fee per MWh	($2.36)	($5.52)
Project IRR	**10.52%**	
Cost of Debt	7.00%	

Market Pricing		
PPA Price	**$ 85.00**	
County Fee per acre	**$ 640.00**	
	Yr 1	**Yr 20**
Cost of Fee per MWh	($2.36)	($5.52)
Project IRR	**6.65%**	
Cost of Debt	7.00%	

Riverside Assumptions		
PPA Price	$ 110.00	
County Fee per acre	**$ 140.00**	
	Yr 1	**Yr 20**
Cost of Fee per MWh	($0.52)	($1.21)
Project IRR	**10.82%**	
Cost of Debt	7.00%	

Market Pricing		
PPA Price	$ 85.00	
County Fee per acre	**$ 140.00**	
	Yr 1	**Yr 20**
Cost of Fee per MWh	($0.52)	($1.21)
Project IRR	**7.03%**	
Cost of Debt	7.00%	

Submitted by Alan Black

11-8-11 Item 16.2

(date)

11-1-11
16.1

MORRISON | FOERSTER

425 MARKET STREET
SAN FRANCISCO
CALIFORNIA 94105-2482

TELEPHONE: 415.268.7000
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MORRISON & FOERSTER LLP
NEW YORK, SAN FRANCISCO,
LOS ANGELES, PALO ALTO,
SACRAMENTO, SAN DIEGO,
DENVER, NORTHERN VIRGINIA,
WASHINGTON, D.C.
TOKYO, LONDON, BRUSSELS,
BEIJING, SHANGHAI, HONG KONG

July 5, 2011

Writer's Direct Contact
415.268.7205
DGold@mofo.com

Bill Luna, County Executive Officer
Riverside County
4080 Lemon Street
Riverside, California 92501

Re: First Solar Desert Sunlight Project

Dear Mr. Luna:

First Solar has retained Morrison & Foerster in connection with Riverside County's withholding of an approval (in the form of an encroachment permit and what the County's staff has described as a "franchise fee") needed by First Solar's Desert Sunlight project ("Project") for a right of way in order to interconnect the Project to the transmission grid at Southern California Edison Company's planned Red Bluff substation. As you are aware, the right of way sought by the Project would run approximately 6 miles from the Project over a County easement on BLM land adjacent to the Kaiser Road in the Desert Center area.

Neither the proposed levy of 2% of gross receipts demanded by the County prior to June 28, nor the 1% of gross receipts approach presented at the end of last week to First Solar as a "take it or leave it" proposition bear any rational relationship to the value of the County land over which First Solar seeks a right-of-way, or to the Project's alleged impacts. Indeed, the Board established a very clear record at its June 28, 2011 hearing that the County lacks sufficient information or analysis need to establish a lawful fee. Moreover, the County has been unwilling to take into account data provided by First Solar regarding the fair market value of the land or the impacts of the Project on the County. The County only recently made vague comments regarding the Project's supposed impacts and did not make any such comments during the environmental review process over the past 4 years. The County's eleventh-hour vague assertions regarding the Project's impacts are not sufficient to justify the charge the County seeks to impose.

For the multiple reasons set forth in our letter to the County dated June 28, 2011, a copy of which is attached, the County's arbitrary "gross receipts" formula runs directly counter to federal and state laws and renewable energy policies. The gross receipts formula would also have the perverse, unfair, and unlawful effect of imposing a substantially higher fee on First Solar's Project than was imposed on the Blythe Solar Power Project, despite the significantly

06-28-2011
3.42

greater impacts the latter project will have on the County's fiscal resources due to its size, location and technology.

As you are probably aware, last week the Department of Energy announced a conditional commitment of $1.88 billion in federal loan guaranty authority for the Project. This guaranty authority has significant value for First Solar. However, the County's continued withholding of approvals from the Project places the Project's eligibility for this funding in jeopardy. As First Solar has repeatedly advised the County, time is of the essence.

You should be aware that continued delay by the County in bringing this matter to a conclusion is exposing First Solar to significant risk. Therefore, please be advised that First Solar will hold the County accountable for any and all damages arising from the County's refusal to issue approvals for the Project, including, but not limited to, the loss of the federal loan guaranty. Unless this matter can be resolved expeditiously, First Solar will pursue all legal remedies to ensure that its interests are protected.

Sincerely,

David A. Gold

Enclosure

cc: Pamela Walls, County Counsel
Kecia Harper-Ihem, Clerk to the Board of Supervisors
Lisa Bodensteiner, First Solar
Jim Woodruff, First Solar

MORRISON | FOERSTER

425 MARKET STREET
SAN FRANCISCO
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MORRISON & FOERSTER LLP
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BEIJING, SHANGHAI, HONG KONG

June 28, 2011

Writer's Direct Contact
415.268.6005
PKanter@mofo.com

By Electronic Mail

Riverside County Board of Supervisors
4080 Lemon Street
Riverside, CA 92501

Re: Agenda Item 3.112
Proposed Board Policy B-29 Pertaining to Solar Energy Projects

Dear Chairman Buster and Members of the Board of Supervisors:

This letter is submitted on behalf of my client First Solar Inc. in regards to the proposed Board Policy B-29 that would impermissibly impose a 2% levy on solar projects (the "Policy"). The proposed Policy is unlawful for a host of reasons, as set forth further below, and would impose a significant financial burden on solar development, likely limiting the growth of solar development in the County in conflict with state and federal mandates and policies. For the reasons set forth below, First Solar respectfully requests that the Board decline to adopt the proposed Policy.

If the Board wishes to tax solar development or impose development impact fees, it must do so through the proper channels and procedures, which would allow for a full and complete discussion of the merits and an opportunity to hear from all stakeholders. However, proceeding with an informal policy that is not adopted by Ordinance or put to the voters is improper and should be rejected.

1. ***The Proposed Levy Is Unconstitutionally Vague.*** The proposed Policy provides no guidance as to how solar project developers are to determine the amount of their gross receipts that arise from the use, operation, or possession of "the franchise," the "real property interest," or the "approval." Moreover, the proposed Policy does not clearly delineate which of the three tax bases should be applied in a particular circumstance. The proposed Policy notes that "[w]hen a solar power plant requires both an encroachment permit and one of the above-referenced approvals, only an electricity franchise shall be required." However, it also states that "[w]hen 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 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." The levy is therefore void for vagueness under the Due Process Clauses of the United States and California Constitutions because people of common intelligence must necessarily guess at its meaning and differ as to its application. U.S. Const. amend. XIV, § 1; Cal. Const. art. I, sec. 7; *Big Mama Rag, Inc. v. United States*, 631 F.2d 1030, 1035 (D.C. Cir. 1980) (holding that the definition of "educational" in Treasury Regulation § 1.501(c)(3)-1(d)(3) was unconstitutionally vague); *Britt v. City of Pomona*, 223 Cal. App. 3d 265 (1990) (finding local transient occupancy tax unconstitutionally vague); *City of San Bernardino Hotel/Motel Assoc. v. City of San Bernardino*, 59 Cal. App. 4th 237 (1997) (same)

2. ***Unless Passed by the Electorate, the Proposed Levy is an Unconstitutional Tax Under Proposition 218 as Amended by Proposition 26 (Cal. Const. art. XIII C).*** Article XIII C of the California Constitution (commonly referred to as Proposition 218) provides that a local government may not "impose, extend, or increase any general tax" as defined therein without a majority vote of the electorate. It also provides that a local government may not "impose, extend, or increase any special tax," as defined therein, without a vote of two-thirds of the electorate. Cal. Const. art. XIIIC sec. 2(b), (d). Proposition 26 amended article XIIIC to define "tax" to mean "any levy, charge, or exaction of any kind imposed by a local government," with only seven enumerated exceptions. Cal. Const. art. XIIIC sec. 1(e). The proposed levy does not fall within any of the seven exceptions to the definition of "tax" in section 1(e) of Article XIII C of the California Constitution because the levy bears no relationship to any costs incurred by the County and any amounts imposed on individual solar project developers are not reasonably related to any specific benefits received from the County or burdens placed on the County. Indeed, in many cases solar project developers may not be receiving any service or property from the county in return for the payment of this levy. The proposed levy is therefore a tax, and is unconstitutional unless passed by a vote of the electorate.

3. ***The County Cannot Imposed the Levy on Gross Receipts Arising From the Use, Operation, and Possession of Property Beyond that Provided by the County.*** To the extent that the levy is based on gross receipts arising from the use, operation, and possession of property beyond that which is provided by the County (e.g., if the levy is deemed to be a "franchise fee" and is imposed on gross receipts from the use, operation, and possession of property that is not the subject of a county provided franchise), the levy exceeds the County's authority. *See County of Tulare v. City of* Dinuba, 188 Cal. 664 (1922) (holding that a county cannot impose franchise fee based on gross receipts generated by property beyond that which is the subject of the franchise).

4. ***The County Cannot Grant an Electricity Franchise to a Solar Facility Owner that Sells Power at Wholesale.*** As a General Law county, the County's authority to grant an

"electricity franchise" is governed by the Broughton Act (Cal. Pub. Util. Code §§ 6601-6092), or the Franchise Act of 1937 (Cal. Pub. Util. Code §§ 6201-6302). The use of County property for gen-tie lines or other solar facilities does not constitute a franchise under either the Broughton Act or the Franchise Act of 1937. Franchises and franchise fees may be required for *utilities* that provide services to the *general public* similar to the services and function of government itself. *Copt-Air v. City of San Diego*, 15 Cal. App. 3d 984, 987-989 (1971). Here, none of the elements of a franchise are met. Wholesale power sales are private business transactions between two entities in which the solar facility owner has no obligation or relationship to the public at large. Indeed, a solar facility owner is *legally prohibited* from selling power in a retail transaction. Further, the sale of power at wholesale is not a function in which local governments typically engage, nor do local governments have legal jurisdiction over such transactions. In contrast, public utilities provide an essential service to the public and all of their facilities are dedicated for public use. By seeking to require that solar projects obtain a franchise from the County, such requirement exceeds the scope of the authority under the Broughton Act or Franchise Act of 1937.

5. ***The Proposed Policy is a Disguised Development Impact Fee and Must Meet Constitutional Standards and Follow Procedures for Adopting an Impact Fee.*** While the County characterizes the proposed Policy as requiring solar developers to enter into so-called "agreements," it appears to be a disguised development impact fee. However, it lacks any of the requisite constitutional or statutory support required by established United States Supreme Court decisions (the *Nollan/Dolan* "nexus" and "rough proportionality" requirements) and by the State of California's Mitigation Fee Act. *See also San Remo Hotel v. City & County of San Francisco*, 27 Cal. 4th 643 (2002) (observing that "arbitrary and extortionate use of purported mitigation fees, even where legislatively mandated, will not pass constitutional muster"). While the County asserts that the fees are necessary to make sure that the County does not "bear the burden" of solar development, the County has failed to show what those impacts are, how this fee relates to those impacts, or even how the estimated $30 – $38 million per year will be spent.

6. ***The Use of the "Common Sense" Exemption is Improper Under CEQA.*** The County asserts that adoption of the Policy is exempt from environmental review under the California Environmental Quality Act ("CEQA") based on the unsupported assertion that "it can be seen with certainty there is no possibility of a significant impact." Use of this "common sense" exemption to support this hastily conceived action is legally indefensible. To the contrary, the proposed Policy will greatly increase the cost of solar development and may cause some projects to not go forward or, alternatively, move out of the County or state. Any of these results will have significant environmental effects, yet the County has provided no evidence to support the CEQA exemption.

7. ***The County Cannot Require Project Proponents to Enter Into Development Agreements.*** The proposed Policy would condition required land use approvals for solar

projects on the project proponent entering into a development agreement. To mandate that a party enter into a statutory bilateral contract is completely inconsistent with State law. The purpose of the development agreement statute is to protect a project proponent's vested development rights. To that end, project proponents may *seek* development agreements, but they cannot be mandated by law, particularly if they result in a non-nexus exaction.

8. ***The Proposed Policy is Preempted by Federal Law to the Extent FERC has Exclusive Jurisdiction Over Wholesale Prices.*** The Federal Power Act gives FERC jurisdiction over the wholesale transmission and sale of electricity. 16 USC § 824 et seq.; *Federal Power Commission v. Southern California Edison*, 376 U.S. 205 (1964) (Congress displaced prior state regulation with comprehensive federal regulation of wholesale electric rates). In the similar context of FERC's jurisdiction over natural gas transactions, several cases have invalidated state laws that impose costs on wholesale purchasers of natural gas. *See Northern Gas Co. v. Kansas Comm'n.*, 372 U.S. 84 (1963); *Maryland v. Louisiana*, 451 U.S. 725 (1981); *ANR Pipeline Co. v. Schneidewind*, 801 F.2d 228 (6th Cir. 1986). As the U.S. Supreme Court stated in *Northern Gas*, "The federal regulatory scheme leaves no room either for direct state regulation of the prices of interstate wholesales of natural gas, *Natural Gas Pipeline Co. v. Panoma Corp.*, 349 U. S. 44, or for state regulations which would indirectly achieve the same result." *Northern Gas Co.*, 372 U.S. at 92. Indeed, the mere possibility of conflict with FERC regulation is impermissible: "There lurks such [an] imminent possibility of collision in orders purposely directed at interstate wholesale purchasers that the orders must be declared a nullity in order to assure the effectuation of the comprehensive federal regulation ordained by Congress." *Id.* The County's Proposal presents an even stronger case for preemption than the state laws impacting the wholesale sale of natural gas that were invalidated by these court cases. The County's proposed levy is neither an allocation of the actual costs of the transmission of electricity nor a law that imposes an indirect impact on such transmission. Rather, it is a cost imposed directly on the wholesale generation of electricity that bears no relationship to the actual costs to the County. The County's proposed levy is purposely directed at wholesale generators and will directly impact the price of wholesale power. For these reasons, it is preempted by federal law.

Conclusion

For the foregoing reasons, we respectfully request that the Board of Supervisors reject the proposed Policy.

Respectfully submitted,

Peter B. Kanter

Cc: Bill Luna, County Executive Officer
Pamela Walls, County Counsel
Kecia Harper-Ihem, Clerk to the Board of Supervisors

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

16.1

1:30 p.m. being the time set for public hearing on the recommendation from Executive Office regarding Approval of Board Policy B-29 Pertaining to Solar Energy Projects, the chairman called the matter for hearing.

The following people spoke on the matter:

Juan Yarate

On motion of Supervisor Benoit, seconded by Supervisor Stone and duly carried, IT WAS ORDERED that the above matter is continued to Tuesday, November 8, 2011 at 1:30 p.m.

Roll Call:

Ayes:	Buster, Stone, Benoit and Ashley
Nays:	None
Absent:	Tavaglione

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on November 1, 2011 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors
Dated: November 1, 2011
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
(seal) and for the County of Riverside, State of California.

By: _____ Deputy

AGENDA NO.
16.1

xc: EO, COB

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 DATE 6/23/11
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 ☐
Requires 4/5 Vote ☐

C.E.O. RECOMMENDATION: APPROVE

County Executive Office Signature BY: Bill Luna

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

Prev. Agn. Ref.: 02/08/11 #3.29 | **District:** | **Agenda Number:** 16.1

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

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:	Number	Page
SOLAR POWER PLANTS	B-29	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

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.

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

3.17

On motion of Supervisor Buster, seconded by Supervisor Benoit and duly carried, IT WAS ORDERED that the recommendation from Executive Office regarding Approval of Board Policy B-29 Pertaining to Solar Energy Projects is continued to Tuesday, September 27, 2011 at 9:00 a.m.

Roll Call:

Ayes:	Buster, Stone, Benoit and Ashley
Nays:	None
Absent:	Stone

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on September 13, 2011 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors
Dated: September 13, 2011
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
(seal) and for the County of Riverside, State of California.

By: _____ Deputy

AGENDA NO.
3.17

xc: EO, ~~COB~~

Harper-Ihem, Kecia

From: Groeneveld, Patricia <PGROENEV@rctlma.org>
Sent: Tuesday, September 06, 2011 9:01 AM
To: Harper-Ihem, Kecia
Cc: Lind, Katherine; DeArmond, Michelle; Harden, Denise; North, Tiffany; Barton, Gail; Evenson, Dale; Field, Robert; Cooper, Ed; Johnson, George
Subject: Continuation Request: Board Policy B-29

Dear Ms. Harper-Ihem:

Please continue Board Policy B-29 Pertaining to Solar Energy Projects (Item 3.8 of 8/16/11), currently scheduled for September 13, 2011, to September 27, 2011.

If you have any comments or concerns, please don't hesitate to contact me.

Thank you,
Pat Groeneveld – TLMA – x56742

9.13.2011
3.17

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

3.26

On motion of Supervisor Ashley, seconded by Supervisor Buster and duly carried, IT WAS ORDERED that the recommendation from Executive Office regarding Approval of Board Policy B-29 Pertaining to Solar Energy Projects is continued to Tuesday, November 1, 2011 at 1:30 p.m.

Roll Call:

Ayes:	Buster, Tavaglione, Stone and Ashley
Nays:	None
Absent:	Benoit

16.1 11-1-11

(39)

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on October 4, 2011 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors
Dated: October 4, 2011
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
(seal) and for the County of Riverside, State of California.

By: _____ Deputy

AGENDA NO.
3.26

xc: EO, COB

Harper-Ihem, Kecia

From: Johnson, George <GJOHNSON@rctlma.org>
Sent: Friday, September 30, 2011 4:16 PM
To: Harper-Ihem, Kecia
Cc: Groeneveld, Patricia; Lind, Katherine; Harden, Denise; DeArmond, Michelle; Field, Robert
Subject: FW: Continuation Request: Board Policy B-29 (October 4 - Item 3.26

Dear Kecia:

Please continue Board Policy B-29 Pertaining to Solar Energy Projects Item 3.26 on October 4, 2011 (formerly: Item 3.2 of 9/27/11; Item 3.18 of 9/13/11; Item 3.8 of 8/16/11), to October 25, 2011.

If you have any comments or concerns, please don't hesitate to contact me.

Thanks,

George

10.4.2011
3.26

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

3.2

On motion of Supervisor Buster, seconded by Supervisor Ashley and duly carried, IT WAS ORDERED that the recommendation from Executive Office regarding Approval of Board Policy B-29 Pertaining to Solar Energy Projects is continued to Tuesday, October 4, 2011 at 9:00 a.m.

Roll Call:

Ayes:	Buster, Tavaglione, Stone and Ashley
Nays:	None
Absent:	Benoit

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on September 27, 2011 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors
Dated: September 27, 2011
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
(seal) and for the County of Riverside, State of California.

By: _____ Deputy

AGENDA NO.
3.2

xc: EO, COB

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

3.8

On motion of Supervisor Buster, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the recommendation from Executive Office regarding Approval of Board Policy B-29 Pertaining to Solar Energy Projects is continued to Tuesday, September 13, 2011 at 9:00 a.m.

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on August 16, 2011 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors
Dated: August 16, 2011
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
(seal) and for the County of Riverside, State of California.

By: _____ Deputy

AGENDA NO.
3.8

xc: EO, CØB

Harper-Ihem, Kecia

From: Groeneveld, Patricia <PGROENEV@rctlma.org>
Sent: Thursday, August 11, 2011 5:02 PM
To: Harper-Ihem, Kecia
Cc: Harden, Denise; Gann, Alex; Lind, Katherine; North, Tiffany; Grande, Tina; Johnson, George
Subject: Request to Continue Item 3.8 (Board Agenda - August 16, 2011)

Dear Ms. Harper-Ihem:

Please continue Item 3.8, *Board Policy B-29 Pertaining to Solar Power Plants*, to the Board of Supervisor's agenda on September 13, 2011.

If you have any questions or concerns, please feel free to contact Denise Harden or George Johnson.

Thank you,
Pat Groeneveld – TLMA – x56742

ATTACHMENT B

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 L. Sargent

County Executive Office Signature

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: Deputy

Prev. Agn. Ref. | **District:** All | **Agenda Number:** 3.29

☒ Policy ☑ Policy
☐ Consent ☐ Consent
Dep't Recomm.: Per Exec. Ofc.:

Revised 3/4/10 by R. Juarez - C:\Documents and Settings\gjohnson\Local Settings\Temporary Internet Files\Content.Outlook\ICLVBFXN\Renewable Energy Projects Form 11.doc

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

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

3.112

On motion of Supervisor Benoit, seconded by Supervisor Ashley and duly carried by unanimous vote, IT WAS ORDERED that the recommendation from Executive Office regarding Approval of Board Policy B-29 Pertaining to Solar Energy Projects is continued to Tuesday, August 16, 2011 at 9:00 a.m.

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on June 28, 2011 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors
Dated: June 28, 2011
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
(seal) and for the County of Riverside, State of California.

By: _____ Deputy

AGENDA NO.
3.112

xc: EO, COB

MEMORANDUM

EXECUTIVE OFFICE, COUNTY OF RIVERSIDE

Bill Luna
County Executive Officer

Jay E. Orr
Assistant County Executive Officer

TO: Kecia Harper-Ihem, COB

FROM: Jay E. Orr, Assistant CEO

DATE: June 23, 2011

RE: **CONTINUANCE**

Please continue the item below to the 1:30 p.m. agenda:

3.112 EXECUTIVE OFFICE: Approval of Board Policy B-29 Pertaining to Solar Energy Projects.

H:\dGRANT\form 11s\continuance.doc

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 on 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

VALLEY ACTION

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

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.

73-710 FRED WARING DRIVE, SUITE 106 · PALM DESERT, CALIFORNIA 92260 · PH: 760.340.1575 · FX: 760.340.9212 · WWW.CVEP.COM

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,

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

73-710 FRED WARING DRIVE, SUITE 106 · PALM DESERT, CALIFORNIA 92260 · PH: 760.340.1575 · FX: 760.340.9212 · WWW.CVEP.COM

MORRISON | FOERSTER

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SAN FRANCISCO
CALIFORNIA 94105-2482

TELEPHONE: 415.268.7000
FACSIMILE: 415.268.7522

WWW.MOFO.COM

MORRISON & FOERSTER LLP
NEW YORK, SAN FRANCISCO,
LOS ANGELES, PALO ALTO,
SACRAMENTO, SAN DIEGO,
DENVER, NORTHERN VIRGINIA,
WASHINGTON, D.C.
TOKYO, LONDON, BRUSSELS,
BEIJING, SHANGHAI, HONG KONG

June 28, 2011

Writer's Direct Contact
415.268.6005
PKanter@mofo.com

By Electronic Mail

Riverside County Board of Supervisors
4080 Lemon Street
Riverside, CA 92501

Re: Agenda Item 3.112
Proposed Board Policy B-29 Pertaining to Solar Energy Projects

Dear Chairman Buster and Members of the Board of Supervisors:

This letter is submitted on behalf of my client First Solar Inc. in regards to the proposed Board Policy B-29 that would impermissibly impose a 2% levy on solar projects (the "Policy"). The proposed Policy is unlawful for a host of reasons, as set forth further below, and would impose a significant financial burden on solar development, likely limiting the growth of solar development in the County in conflict with state and federal mandates and policies. For the reasons set forth below, First Solar respectfully requests that the Board decline to adopt the proposed Policy.

If the Board wishes to tax solar development or impose development impact fees, it must do so through the proper channels and procedures, which would allow for a full and complete discussion of the merits and an opportunity to hear from all stakeholders. However, proceeding with an informal policy that is not adopted by Ordinance or put to the voters is improper and should be rejected.

1. ***The Proposed Levy Is Unconstitutionally Vague.*** The proposed Policy provides no guidance as to how solar project developers are to determine the amount of their gross receipts that arise from the use, operation, or possession of "the franchise," the "real property interest," or the "approval." Moreover, the proposed Policy does not clearly delineate which of the three tax bases should be applied in a particular circumstance. The proposed Policy notes that "[w]hen a solar power plant requires both an encroachment permit and one of the above-referenced approvals, only an electricity franchise shall be required." However, it also states that "[w]hen a solar power plant developer requires any combination of the above-referenced agreements in conjunction with a particular solar power plant, only one agreement

Lisa Bodensteiner
Oral 3.112 - 6/28/11

shall include the term requiring the solar power plant 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." The levy is therefore void for vagueness under the Due Process Clauses of the United States and California Constitutions because people of common intelligence must necessarily guess at its meaning and differ as to its application. U.S. Const. amend. XIV, § 1; Cal. Const. art. I, sec. 7; *Big Mama Rag, Inc. v. United States*, 631 F.2d 1030, 1035 (D.C. Cir. 1980) (holding that the definition of "educational" in Treasury Regulation § 1.501(c)(3)-1(d)(3) was unconstitutionally vague); *Britt v. City of Pomona*, 223 Cal. App. 3d 265 (1990) (finding local transient occupancy tax unconstitutionally vague); *City of San Bernardino Hotel/Motel Assoc. v. City of San Bernardino*, 59 Cal. App. 4th 237 (1997) (same)

2. ***Unless Passed by the Electorate, the Proposed Levy is an Unconstitutional Tax Under Proposition 218 as Amended by Proposition 26 (Cal. Const. art. XIII C).*** Article XIII C of the California Constitution (commonly referred to as Proposition 218) provides that a local government may not "impose, extend, or increase any general tax" as defined therein without a majority vote of the electorate. It also provides that a local government may not "impose, extend, or increase any special tax," as defined therein, without a vote of two-thirds of the electorate. Cal. Const. art. XIIIC sec. 2(b), (d). Proposition 26 amended article XIIIC to define "tax" to mean "any levy, charge, or exaction of any kind imposed by a local government," with only seven enumerated exceptions. Cal. Const. art. XIIIC sec. 1(e). The proposed levy does not fall within any of the seven exceptions to the definition of "tax" in section 1(e) of Article XIII C of the California Constitution because the levy bears no relationship to any costs incurred by the County and any amounts imposed on individual solar project developers are not reasonably related to any specific benefits received from the County or burdens placed on the County. Indeed, in many cases solar project developers may not be receiving any service or property from the county in return for the payment of this levy. The proposed levy is therefore a tax, and is unconstitutional unless passed by a vote of the electorate.

3. ***The County Cannot Imposed the Levy on Gross Receipts Arising From the Use, Operation, and Possession of Property Beyond that Provided by the County.*** To the extent that the levy is based on gross receipts arising from the use, operation, and possession of property beyond that which is provided by the County (e.g., if the levy is deemed to be a "franchise fee" and is imposed on gross receipts from the use, operation, and possession of property that is not the subject of a county provided franchise), the levy exceeds the County's authority. *See County of Tulare v. City of* Dinuba, 188 Cal. 664 (1922) (holding that a county cannot impose franchise fee based on gross receipts generated by property beyond that which is the subject of the franchise).

4. ***The County Cannot Grant an Electricity Franchise to a Solar Facility Owner that Sells Power at Wholesale.*** As a General Law county, the County's authority to grant an

"electricity franchise" is governed by the Broughton Act (Cal. Pub. Util. Code §§ 6601-6092), or the Franchise Act of 1937 (Cal. Pub. Util. Code §§ 6201-6302). The use of County property for gen-tie lines or other solar facilities does not constitute a franchise under either the Broughton Act or the Franchise Act of 1937. Franchises and franchise fees may be required for *utilities* that provide services to the *general public* similar to the services and function of government itself. *Copt-Air v. City of San Diego*, 15 Cal. App. 3d 984, 987-989 (1971). Here, none of the elements of a franchise are met. Wholesale power sales are private business transactions between two entities in which the solar facility owner has no obligation or relationship to the public at large. Indeed, a solar facility owner is *legally prohibited* from selling power in a retail transaction. Further, the sale of power at wholesale is not a function in which local governments typically engage, nor do local governments have legal jurisdiction over such transactions. In contrast, public utilities provide an essential service to the public and all of their facilities are dedicated for public use. By seeking to require that solar projects obtain a franchise from the County, such requirement exceeds the scope of the authority under the Broughton Act or Franchise Act of 1937.

5. The Proposed Policy is a Disguised Development Impact Fee and Must Meet Constitutional Standards and Follow Procedures for Adopting an Impact Fee. While the County characterizes the proposed Policy as requiring solar developers to enter into so-called "agreements," it appears to be a disguised development impact fee. However, it lacks any of the requisite constitutional or statutory support required by established United States Supreme Court decisions (the *Nollan/Dolan* "nexus" and "rough proportionality" requirements) and by the State of California's Mitigation Fee Act. While the County asserts that the fees are necessary to make sure that the County does not "bear the burden" of solar development, the County has failed to show what those impacts are, how this fee relates to those impacts, or even how the estimated $30 – $38 million per year will be spent.

6. The Use of the "Common Sense" Exemption is Improper Under CEQA. The County asserts that adoption of the Policy is exempt from environmental review under the California Environmental Quality Act ("CEQA") based on the unsupported assertion that "it can be seen with certainty there is no possibility of a significant impact." Use of this "common sense" exemption to support this hastily conceived action is legally indefensible. To the contrary, the proposed Policy will greatly increase the cost of solar development and may cause some projects to not go forward or, alternatively, move out of the County or state. Any of these results will have significant environmental effects, yet the County has provided no evidence to support the CEQA exemption.

7. The County Cannot Require Project Proponents to Enter Into Development Agreements. The proposed Policy would condition required land use approvals for solar projects on the project proponent entering into a development agreement. To mandate that a party enter into a statutory bilateral contract is completely inconsistent with State law. The purpose of the development agreement statute is to protect a project proponent's vested

development rights. To that end, project proponents may *seek* development agreements, but they cannot be mandated by law, particularly if they result in a non-nexus exaction.

8. The Proposed Policy is Preempted by Federal Law to the Extent FERC has Exclusive Jurisdiction Over Wholesale Prices. The Federal Power Act gives FERC jurisdiction over the wholesale transmission and sale of electricity. 16 USC § 824 et seq.; *Federal Power Commission v. Southern California Edison*, 376 U.S. 205 (1964) (Congress displaced prior state regulation with comprehensive federal regulation of wholesale electric rates). In the similar context of FERC's jurisdiction over natural gas transactions, several cases have invalidated state laws that impose costs on wholesale purchasers of natural gas. *See Northern Gas Co. v. Kansas Comm'n.*, 372 U.S. 84 (1963); *Maryland v. Louisiana*, 451 U.S. 725 (1981); *ANR Pipeline Co. v. Schneidewind*, 801 F.2d 228 (6th Cir. 1986). As the U.S. Supreme Court stated in *Northern Gas*, "The federal regulatory scheme leaves no room either for direct state regulation of the prices of interstate wholesales of natural gas, *Natural Gas Pipeline Co. v. Panoma Corp.*, 349 U. S. 44, or for state regulations which would indirectly achieve the same result." *Northern Gas Co.*, 372 U.S. at 92. Indeed, the mere possibility of conflict with FERC regulation is impermissible: "There lurks such [an] imminent possibility of collision in orders purposely directed at interstate wholesale purchasers that the orders must be declared a nullity in order to assure the effectuation of the comprehensive federal regulation ordained by Congress." *Id.* The County's Proposal presents an even stronger case for preemption than the state laws impacting the wholesale sale of natural gas that were invalidated by these court cases. The County's proposed levy is neither an allocation of the actual costs of the transmission of electricity nor a law that imposes an indirect impact on such transmission. Rather, it is a cost imposed directly on the wholesale generation of electricity that bears no relationship to the actual costs to the County. The County's proposed levy is purposely directed at wholesale generators and will directly impact the price of wholesale power. For these reasons, it is preempted by federal law.

Conclusion

For the foregoing reasons, we respectfully request that the Board of Supervisors reject the proposed Policy.

Respectfully submitted,

Peter B. Kanter

Cc: Bill Luna, County Executive Officer
Pamela Walls, County Counsel
Kecia Harper-Ihem, Clerk to the Board of Supervisors

LSA
LARGE-SCALE SOLAR ASSOCIATION

OPPOSE

June 27, 2011

Honorable Supervisors of Riverside County
Submitted by email to: cob@rcbos.org

RE: Opposition to Board Policy B-29 Pertaining to Solar Power Plants

Dear Supervisors of Riverside County,

The Large-scale Solar Association[1] (LSA) writes to you today to express our opposition to Board Policy B-29, which would charge solar generating facilities an amount equal to 2 percent of gross annual receipts. This charge will derail existing projects awaiting their final project approvals and will significantly discourage new solar development in Riverside County. Rather than generating new income for the County, this charge would preclude the County from receiving the economic benefits offered by solar projects.

Despite representations in the analysis offered by the County in support of the policy, the County provides no evidence of a relationship between the proposed charges and any the burden placed on the County by the use of the County's resources. With respect to projects awaiting County approval, the mitigation measures *already* imposed by other agencies could adequately address impacts or, where appropriate, compensate the County. Quite tellingly, the policy does not commit any of the money to be exacted from solar developers to specific projects designed to address the adverse impacts that allegedly necessitate the imposition of additional charges. In short, the County has not provided a justification for its proposed charge.

From a competition standpoint, the proposed charges are completely disproportionate to fees charged in surrounding areas with a similarly strong solar resource. For instance, Los Angeles and Kern County have imposed fees on solar projects on a per-acre basis and Riverside's proposed Board Policy B-29 will cost companies nearly 40 times more compared to the fees levied in other counties.[2] Solar developers, constrained by the terms of power purchase agreements over which they have little control, cannot absorb these excessive and

[1] LSA represents fourteen of the nation's largest developers and providers of utility-scale solar generating resources. Collectively, LSA's members, whose technologies and models span both photovoltaic and solar thermal applications, have contracted to provide over 7 gigawatts of clean, sustainable solar power in the western United States. LSA, and its individual member companies, are leaders in the renewable energy industry, advancing solar generation technologies and advocating competitive market structures that facilitate deployment of renewable energy throughout the West. LSA actively represents the interests of utility-scale solar development at both the local and state levels in California and other western states.

[2] Riverside's proposed tax would cost the Desert Sunlight project an estimated $3,436,856 per year, while applying the Los Angeles and Kern fees would only cost an estimated $91,680 per year. From First Solar's Presentation to the Board of Supervisors (June 22, 2011).

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unreasonable costs. Board Policy B-29 is in direct contrast to the efforts of the state and federal governments to encourage renewable projects.

By adopting Board Policy B-29, Riverside County would signal to developers that the County is not interested in attracting solar development or the economic benefits that solar offers. Specifically, utility-scale solar facilities offer significant economic benefits to the communities where they are located including sales taxes, property taxes, and fees for public safety and use of public right-of-way, not to mention the construction and operations jobs generated by these facilities. To give a sense of the job potential for large-scale solar facilities generally[3] –

- A 150 MW photovoltaic plant will create 275 jobs during construction and 7 jobs during operation.
- A 550 MW solar thermal plant will create 995 jobs during construction and 120 jobs during operation.

Two solar projects pending before the Board of Supervisors will provide about 1,500 green jobs and approximately $1 billion in economic benefits for the County. Riverside County stands to benefit significantly from solar generation, however Board Policy B-29 puts all of these potential economic benefits at risk.

Not only does the proposed policy deter future solar development in the County, but the Board's action could put at risk the currently proposed projects that are relying on Federal loan guarantees for their financing. The Board's recent action to delay pending project approvals threatens these projects' ability to meet deadlines to receive this critical federal funding and affects overall project financing.

In closing, LSA strongly opposes this board policy. We ask that you vote 'no' on Board Policy B-29 and allow pending project approvals to proceed expeditiously.

Sincerely,

Shannon Eddy

Digitally signed by Shannon Eddy
DN: cn=Shannon Eddy, o, ou, email=shannon@consciousventuresgroup.com, c=US
Date: 2011.06.27 16:10:24 -08'00'

Shannon Eddy
Executive Director, Large-scale Solar Association

Cc: Bob Buster, Chair - district1@rcbos.org
John F. Tavaglione, Vice Chair – district2@rcbos.org
Jeff Stone, Board Member – district3@rcbos.org
John J. Benoit, Board Member – district4@rcbos.org
Marion Ashley, Board Member – district5@rcbos.org
Bill Luna, County Executive Officer – ceo@rceo.org

[3] Based on the preliminary results of an economic survey conducted for LSA. Jobs reported as full-time equivalents (FTEs).

Duplicate

BrightSource

June 28, 2011

Honorable Supervisors of Riverside County
4080 Lemon St., 5th Floor
Riverside, CA 92502

RE: Opposition to Board Policy B-29 Pertaining to Solar Power Plants (June 28, 2011 Agenda Item 3.112)

Dear Chairman Buster and Members of the Board of Supervisors of Riverside County,

BrightSource Energy, Inc. (BSE) would like to express our opposition to the proposal before the Board to impose on solar generating facilities an assessment equal to 2 percent of gross annual receipts. Whether imposed in exchange for an encroachment permit, as a pre-condition to the grant of an approval required by the county land use ordinance (No. 348) or the county subdivision ordinance (No. 460), or as a term of a lease agreement, the proposed assessment is unreasonable and arguably illegal (for a list of these issues, please refer to the attached letter submitted by Morrison & Foerster on behalf of BSE). As a practical matter, the assessment will undoubtedly discourage, if not impede altogether, the siting of future utility-scale solar energy generation projects in Riverside County. Consequently, rather than generating new revenue, the proposed assessment will in all likelihood only serve to deprive the County of the significant economic benefits offered by solar projects, including the many good jobs that solar projects are now bringing to other counties.

<u>BrightSource's Large-Scale Solar Projects Bring Substantial Benefits to Counties.</u>

Overall, the policy proposed by the Board appears to have grown out of a misconception that, as a result of special tax privileges designed to facilitate the growth of an infant industry, solar projects will not pay their fair share. While we cannot speak for other companies on this issue, we can say that a BSE project would make significant contributions directly to the County.

BSE is currently planning a new development in eastern Riverside County, south of the City of Blythe. This facility will be capable of producing twice as much energy as our Ivanpah facility, which is currently under construction in San Bernardino County. In terms of taxes and service fees that our Riverside County project will provide, it is too early to start estimating these numbers. At roughly twice the size of Ivanpah, and in light of new developments in our technology, the benefits of this project to Riverside County should be at least twice those soon to be realized by San Bernardino County on the Ivanpah project for most metrics. Specifically, these benefits include significant property tax payments (approximately $3.1 million, because not all of BSE's equipment is subject to the solar property tax exemption), as well as annual payments to the San Bernardino County Fire Department to mitigate for cumulative impacts on fire and emergency services (a onetime fee of approximately $204,500 and annual payments of

BrightSource Energy, Inc.
1999 Harrison St.
Suite 2150
Oakland, CA 94612

www.BrightSourceEnergy.com

BrightSource

just over $150,000), *permanent* employment of roughly 90 facility workers,[1] and substantial amounts in use taxes. Agreements such as the one that BSE reached with San Bernardino County allow significant payments to be directed to the services that the project directly affects and the county needs most, a valuable and flexible contribution that would not be possible where county contributions are specified by a set fee that must be associated with a particular purpose.

Concerns Regarding the Proposed Policy as Drafted.

As noted above, we have several questions about the legality of the proposed policy as drafted and the manner in which the County intends to adopt it. These concerns are addressed in detail in the attached memo. In addition, we have real concerns that Policy B-29 might needlessly make the development of utility-scale solar in Riverside County infeasible.

The assessment proposed by the County is significant and could make the development of utility-scale solar project in Riverside County prohibitively expensive. BSE is a young, U.S.-based startup company with research and development operations based in Israel. We do not have a well-funded foreign (or domestic) parent with unlimited resources to tap, as the County's policy rationale suggests is true of all solar developers. Our operations, like many of the other utility-scale solar developers', depend on third party investments. The margins for these transactions are slim and unlike a fee assessed on a public utility, this increase in cost cannot be passed on the customer since Power Purchase Agreements are not sensitive to such changes. Consequently, a loss of a percentage or two on the return on investment could mean the difference between a project that is financeable and one that is not.[2]

In addition to being potentially devastating for developers, a 2 percent annual assessment on the gross receipts of a project is simply not justified by the reasoning that accompanies the policy. Without citing to any project site-specific studies, the analysis offered by the County in support of the policy concludes that every solar power plant, regardless of size or technology, will have unavoidable, adverse impacts on agriculture, recreation, biological diversity, historic and cultural resources, and county infrastructure and services. This conclusion, which is asserted without any support whatsoever and which we believe is demonstrably untrue, ignores the fact that, with respect to projects awaiting County approval, other government agencies have already performed a detailed environmental review and imposed appropriate mitigation measures designed to lessen the impacts of the projects (including, where appropriate, payments to the County to cover impacts of the projects on County services). This same review will be performed for all utility-scale solar projects in the County and in some instances can be managed by the County. In contrast to the mitigation measures imposed through the environmental review

[1] Although our numbers are preliminary at this point, we expect that our project in Riverside County will provide at least 120 full time jobs.

[2] An assessment of this magnitude also has the potential to change the financial calculus behind project siting decisions. Alternatives that may have been prohibitively expensive under the status quo (e.g., alternative sites that might require the construction of new transmission) could become feasible, leading solar companies to flee to other jurisdictions.

BrightSource

process, the policy proposed by the County does not commit any of the money taken from solar developers to specific projects designed to address the alleged adverse impacts of these developments. The County cannot reasonably demand compensation from developers that is completely divorced from project impacts and in any event duplicative of mitigation amounts already imposed.

Conclusion.

With our upcoming project, BSE will be part of the Riverside County community for decades to come, providing jobs and many other economic benefits. At Ivanpah, we have demonstrated our commitment to working with the County to ensure that it reaps some of the benefits of utility-scale solar development. We want to be good neighbors on our upcoming project and to establish a solid relationship in the County that will help encourage additional development in this area. The likelihood that we will succeed in these endeavors is directly dependent on the policies that the County may adopt, and the extent to which we can make our projects economically viable in Riverside County. We believe that the goals the County is seeking to accomplish through the Policy B-29 (benefits to the local community where projects are sited and mitigation of adverse impacts) would be far better accomplished through the various project approval proceedings, without creating a barrier to future projects. The imposition of a 2 percent franchise fee is not an appropriate tool for accomplishing the County's ends, and we believe could well prove counterproductive. We accordingly urge you to reject this proposal.

Sincerely,

Arthur Haubenstock
Vice President, Regulatory Affairs
BrightSource Energy

Attachment: Letter from Peter B. Kanter

BrightSource

June 28, 2011

Honorable Supervisors of Riverside County
4080 Lemon St., 5th Floor
Riverside, CA 92502

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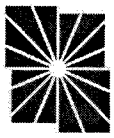

BrightSource

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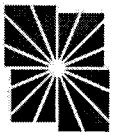

BrightSource

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Sincerely,

/S

Arthur Haubenstock
Vice President, Regulatory Affairs
BrightSource Energy

Attachment: Letter from Peter B. Kanter

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June 28, 2011

Writer's Direct Contact
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PKanter@mofo.com

By Electronic Mail

Riverside County Board of Supervisors
4080 Lemon Street
Riverside, CA 92501

Re: Agenda Item 3.112
Proposed Board Policy B-29 Pertaining to Solar Energy Projects

Dear Chairman Buster and Members of the Board of Supervisors:

This letter is submitted on behalf of my client First Solar Inc. in regards to the proposed Board Policy B-29 that would impermissibly impose a 2% levy on solar projects (the "Policy"). The proposed Policy is unlawful for a host of reasons, as set forth further below, and would impose a significant financial burden on solar development, likely limiting the growth of solar development in the County in conflict with state and federal mandates and policies. For the reasons set forth below, First Solar respectfully requests that the Board decline to adopt the proposed Policy.

If the Board wishes to tax solar development or impose development impact fees, it must do so through the proper channels and procedures, which would allow for a full and complete discussion of the merits and an opportunity to hear from all stakeholders. However, proceeding with an informal policy that is not adopted by Ordinance or put to the voters is improper and should be rejected.

1. ***The Proposed Levy Is Unconstitutionally Vague.*** The proposed Policy provides no guidance as to how solar project developers are to determine the amount of their gross receipts that arise from the use, operation, or possession of "the franchise," the "real property interest," or the "approval." Moreover, the proposed Policy does not clearly delineate which of the three tax bases should be applied in a particular circumstance. The proposed Policy notes that "[w]hen a solar power plant requires both an encroachment permit and one of the above-referenced approvals, only an electricity franchise shall be required." However, it also states that "[w]hen a solar power plant developer requires any combination of the above-referenced agreements in conjunction with a particular solar power plant, only one agreement

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3. ***The County Cannot Imposed the Levy on Gross Receipts Arising From the Use, Operation, and Possession of Property Beyond that Provided by the County.*** To the extent that the levy is based on gross receipts arising from the use, operation, and possession of property beyond that which is provided by the County (e.g., if the levy is deemed to be a "franchise fee" and is imposed on gross receipts from the use, operation, and possession of property that is not the subject of a county provided franchise), the levy exceeds the County's authority. *See County of Tulare v. City of* Dinuba, 188 Cal. 664 (1922) (holding that a county cannot impose franchise fee based on gross receipts generated by property beyond that which is the subject of the franchise).

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Conclusion

For the foregoing reasons, we respectfully request that the Board of Supervisors reject the proposed Policy.

Respectfully submitted,

Peter B. Kanter

Cc: Bill Luna, County Executive Officer
Pamela Walls, County Counsel
Kecia Harper-Ihem, Clerk to the Board of Supervisors

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June 28, 2011

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By Electronic Mail

Riverside County Board of Supervisors
4080 Lemon Street
Riverside, CA 92501

Re: Agenda Item 3.112
Proposed Board Policy B-29 Pertaining to Solar Energy Projects

Dear Chairman Buster and Members of the Board of Supervisors:

This letter is submitted on behalf of my client First Solar Inc. in regards to the proposed Board Policy B-29 that would impermissibly impose a 2% levy on solar projects (the "Policy"). The proposed Policy is unlawful for a host of reasons, as set forth further below, and would impose a significant financial burden on solar development, likely limiting the growth of solar development in the County in conflict with state and federal mandates and policies. For the reasons set forth below, First Solar respectfully requests that the Board decline to adopt the proposed Policy.

If the Board wishes to tax solar development or impose development impact fees, it must do so through the proper channels and procedures, which would allow for a full and complete discussion of the merits and an opportunity to hear from all stakeholders. However, proceeding with an informal policy that is not adopted by Ordinance or put to the voters is improper and should be rejected.

1. ***The Proposed Levy Is Unconstitutionally Vague.*** The proposed Policy provides no guidance as to how solar project developers are to determine the amount of their gross receipts that arise from the use, operation, or possession of "the franchise," the "real property interest," or the "approval." Moreover, the proposed Policy does not clearly delineate which of the three tax bases should be applied in a particular circumstance. The proposed Policy notes that "[w]hen a solar power plant requires both an encroachment permit and one of the above-referenced approvals, only an electricity franchise shall be required." However, it also states that "[w]hen a solar power plant developer requires any combination of the above-referenced agreements in conjunction with a particular solar power plant, only one agreement

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Respectfully submitted,
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Peter B. Kanter

Cc: Bill Luna, County Executive Officer
Pamela Walls, County Counsel
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June 28, 2011

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By Electronic Mail

Riverside County Board of Supervisors
4080 Lemon Street
Riverside, CA 92501

Re: Agenda Item 3.112
Proposed Board Policy B-29 Pertaining to Solar Energy Projects

Dear Chairman Buster and Members of the Board of Supervisors:

This letter is submitted on behalf of my client Bright Source Energy, Inc. in regards to the proposed Board Policy B-29 that would impermissibly impose a 2% levy on solar projects (the "Policy"). The proposed Policy is unlawful for a host of reasons, as set forth further below, and would impose a significant financial burden on solar development, likely limiting the growth of solar development in the County in conflict with state and federal mandates and policies. For the reasons set forth below, Bright Source Energy respectfully requests that the Board decline to adopt the proposed Policy.

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Respectfully submitted,

Peter B. Kanter

Cc: Bill Luna, County Executive Officer
Pamela Walls, County Counsel
Kecia Harper-Ihem, Clerk to the Board of Supervisors

Riverside County

To Whom it may concern

I am in favor of any and all attempts to collect revenue from corporate interests for the benefit the people. Get some EXXON and GE while you're at it. When it means getting money from Desert Center area Solar Companies then I am in favor as long as the proceeds from such endeavors benefits us the residents of Desert Center. YES I say, HELL YES.

However, if the money is to go to the beaurocrats in riverside to spend on projects contrary to the benefit of Desert Center area then I say no. Especially if it is in direct conflict, like a raceway in Thermal. As Sara Palin whould say "WTF"

Best regards,
Harold J Foster
44230 Shasta Dr
Lake Tamarisk
Desert Center

Margot Chiriaco Rusche

June 28, 2011

Board of Supervisors:

My name is Margit Chiriaco Rusche, a lifelong resident of Chiriaco Summit and this very sunny desert. Many of the residents in the Desert Center community and Chiriaco Summit have wondered what has taken the County so long to institute some kind of an assessment on the solar farm industry and now it is happening and certainly better late than never.

I hope that people truly understand what the 2% is about, not necessarily the popular road, but the one that will ensure that the County of Riverside and the remote Eastern areas of the County will not become just a pass through for solar companies to reap billions and our County not receive a fair share. It is very important to note that construction dollars that may, and I use the word may lightly, will be fast and furious with most of the dollars earned being spent in the cities and towns where the employed live, not in the Eastern County and then after construction is finished there will be a minimal return...certainly not enough money to revitalize Desert Center or Blythe.

I, as a life long desert resident support the 2% or whatever percent becomes the mitigated fee to provide for the unavoidable impacts of these projects on our desert and infrastructure. The roads, the bridges, law enforcement and other government services will be affected by the solar projects and we need to think outside the box, and get this right, and we need to do it now for the sake of all of the residents of Riverside County, not just for the hurry up let's be green California which could put all of us at risk in the long term--

Considering the solar industry as a business, we, the County needs to respond as a business and require the 2% fee. It is after all ,,,,,only good business to do so.

margit f. chiriaco rusche
62 450 chiriaco road
chiriaco summit, california 92201
760 485 1576

Subj: **Re: (no subject)**
Date: 6/26/2011 10:33:43 A.M. Pacific Daylight Time
From: jjbenoit@rcbos.org
To: MChiriacor@aol.com
At church. Call you later.

jjb

John J. Benoit
Riverside County Supervisor
760-863-8211
jjbenoit@rcbos.org

On Jun 26, 2011, at 9:55 AM, "MChiriacor@aol.com" <MChiriacor@aol.com> wrote:

> Great response in today's paper...I hope people read it and understand what you are doing...not the popular road, but the one that will ensure the County and these remote areas will not become just a pass through for solar companies to make billions and our County not receive any benefit. I know there is a big movement against your 2% by the Blythe folks and also word went out from the Desert Center area....Should we try and attend the meeting Tuesday and speak on behalf or send a letter to be read...what would help your proposal the most...and finally, the argument about why two days before the dedication.... better now than taking it in the shorts down the road and realizing what a gross mistake had been made by not franchising...
>
> And what is this water pipeline connecting at Desert Center? I have heard of the Cadiz group but only in the Northern desert regions, not in our Southern area? Is this really happening? Wouldn't they have to have an agreement with MWD to wheel through the aqueduct? Just had to get this off to you , even if it is Sunday. Sorry. Margit
> *Margit F. Chiriaco Rusche*
> *62450 Chiriaco Road, Sp. 1*
> *Chiriaco Summit, CA 92201*
> *(760)485-1576*

3.2

Harper-Ihem, Kecia

From: Groeneveld, Patricia <PGROENEV@rctlma.org>
Sent: Thursday, September 22, 2011 5:24 PM
To: Harper-Ihem, Kecia
Cc: Lind, Katherine; DeArmond, Michelle; Harden, Denise; North, Tiffany; Barton, Gail; Evenson, Dale; Field, Robert; Cooper, Ed; Johnson, George; Grant, Diana
Subject: RE: Continuation Request: Board Policy B-29

Dear Ms. Harper-Ihem:

I checked with George Johnson, who chairs the Solar Working Group. Mr. Johnson asked that this item be continued and not taken off calendar.

I was not able to reach you via telephone, when you have a moment, would you give me a jingle at x56742?

Many thanks,
Pat Groeneveld – TLMA – x56742

From: Harper-Ihem, Kecia [mailto:KHarper-Ihem@rcbos.org]
Sent: Thursday, September 22, 2011 4:58 PM
To: Groeneveld, Patricia
Cc: Lind, Katherine; DeArmond, Michelle; Harden, Denise; North, Tiffany; Barton, Gail; Evenson, Dale; Field, Robert; Cooper, Ed; Johnson, George; Grant, Diana
Subject: RE: Continuation Request: Board Policy B-29

Hi Pat,

Will do. Would it be better to continue this item off calendar until it is ready to come back?

Thanks,
Kecia

Kecia Harper-Ihem
Clerk of the Board
Riverside County, Ca
ph. 951.955.1061 fax 951.955.1071
kharper-ihem@rcbos.org

Embrace the process, and the end result will speak for itself. – Unknown

9.27.2011
3.2

Effective August 14, 2009 the County Administrative Center will be closed every Friday until further notice. Business hours for the Clerk of the Board Office will be Monday through Thursday, 7:30 a.m. to 5:00 p.m.

From: Groeneveld, Patricia [mailto:PGROENEV@rctlma.org]
Sent: Thursday, September 22, 2011 4:53 PM
To: Harper-Ihem, Kecia
Cc: Lind, Katherine; DeArmond, Michelle; Harden, Denise; North, Tiffany; Barton, Gail; Evenson, Dale; Field, Robert; Cooper, Ed; Johnson, George
Subject: Continuation Request: Board Policy B-29
Importance: High

Dear Ms. Harper-Ihem:

Please continue Board Policy B-29 Pertaining to Solar Energy Projects (Item 3.8 of 8/16/11 and Item 3.18 of 9/13/11), currently scheduled for September 27th, (Item 3.2) to October 4, 2011.

If you have any comments or concerns, please don't hesitate to contact me.

Thank you,
Pat Groeneveld – TLMA – x56742

Wagner, Lisa M

From: Gdanahobart@aol.com
Sent: Tuesday, June 28, 2011 9:24 AM
To: Wagner, Lisa M
Subject: Re: Solar Energy Franchise Fee

Support

Dear Ms. Wagner: Could you please have the following expression of opinion passed to the supervisors? Thank you. Dana Hobart

Dear Supervisors:

I am Mayor of the City of Rancho Mirage, but my comments below are intended only to express my personal views regarding this issue. I am not speaking on behalf of the City Council or as Mayor of the city.

Securing a period of short term jobs in Riverside County is both beneficial and desirable. But it cannot stand alone as justification to ignore the broader public need for there to be a meaningful continuing partnership between the public and private sectors when it comes to Solar Millennium LLC, a German company in partnership with Chevron, who together will own and build in our desert the *world's* largest solar power project.

What is the intrinsic value of Riverside County becoming, as some say, "the solar Mecca" or the "vortex of renewable energy" if there is no meaningful *long term* partnership benefiting both public and private interests? The projected income to be generated is surely sufficient to support a 2% franchise fee without significant infringement on their business plan.

Municipal government is frequently maneuvered away from protecting the interests of its residents by claims that a proposed project will be abandoned or moved elsewhere. Regardless, it is the *responsibility* of local government to establish financial policies that provide private enterprise opportunities to flourish while *simultaneously doing the same for the general public.*

If the companies who stand to earn multi-millions of dollars annually do abandon their federally funded and guaranteed plans to develop solar energy in Riverside County, they will soon be followed by others who will appreciate the value of a true economic partnership with the County.

With the federal government's virtual guarantee of profits without financial risk to these international solar companies it is unreasonable to impose on the *county* the burdens of shouldering the long term costs these projects will create. Edison pays a 2% franchise fee; others similarly situated pay 2% or more. A 2% franchise fee is a fair and

balanced approach for major companies who will, before long, control much of America's green energy supplies.

If we do not protect the county's interests now, there will be no tomorrow where a timid policy decision can be reversed. Every future solar energy project would oppose a County franchise fee claiming, "no previous solar energy company had to pay a franchise fee..." *With virtual certainty, it is now or* never *to protect the public's interests regarding franchise fees and solar energy.*

Thank you for your consideration.

Dana Hobart

Riverside COUNTY BOARD Supervisors
Meeting June 28, 2011

letters in support of:
Policy Calendar 3.112
Board Policy B-29

Thank you

copies for:
BOARD of Supervisors
MR. BILL LUNA, RIVERSIDE COUNTY CEO
Clerk - BOARD of Supervisors.

Please make copies for each member
Board of Supervisors. — Thank you.

2011-6-10201

June 26, 2011

Riverside County Board to Supervisors
Bob Buster, Chairman
Riverside, CA

Attention: Bob Buster, Chairman and John Benoit, 4th District Supervisor

RE: Letter of Support for 2% Franchise Tax for Solar Power Plants in the 4th district

Dear Chairman Buster and Supervisor John Benoit,

We were glad to see that we, the 2.1 million residents of Riverside County, will benefit from the taxation of the foreign solar developers. It is our misfortune, that our government has granted these companies the right to make millions of dollars in profits from the destruction of the ecosystems and cultural resources on public lands. Unfortunately, our city leaders totally disregarded the negative impact these mega solar power plants will have on our water supply, desert flora and fauna and cultural resources.

As residents of Blythe and Riverside County, we were sad to read about the millions of dollars solar companies expect to make in our own backyard. With so many city and county employees, (law enforcement and fire fighters), losing their jobs, I am grateful that at least, our county supervisors are thinking about the well being of their constituents.

These solar power plants will indeed increase the demand on our county services, yet, those same county services are being targeted by budget cuts. As tax payers, I believe the people of Riverside County have the right to receive compensation.

In this time of budget cuts and financial crises, we definitely should tax them. The future of our city and county depends on it; our schools, our communities and children are counting on it.

Respectfully,

Angelica Rodriguez

Angelica Rodriguez
Blythe, CA

June 26, 2011

Riverside County Board to Supervisors
Bob Buster, Chairman
Riverside, CA

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I am currently an unemployed retail/sales director and despite my efforts to seek full time employment, businesses in Riverside County are cutting back on their employees. With an increasing unemployment rate in our county, it is unquestionable as to why we would not want to tax these multi-million corporations who are using our public lands to make their profits. Many of my friends are county employees, and they fear they will also be losing their jobs.

I thank you as our county supervisors, for thinking about the well being of your constituents. These solar power plants will indeed increase the demand on our county services, yet, those same county services are being targeted by budget cuts. As tax payers, I believe the people of Riverside County have the right to receive compensation.

In this time of budget cuts and financial crises, we definitely should tax them. The future of our county depends on your vote. Please vote in favor of the future of our county.

Respectfully,

Roy Robles
La Quinta, CA

June 26, 2011

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As a public school teacher, I was recently unemployed due to budget cuts. At the same time, I read about the millions of dollars solar companies expect to make in my own backyard. With so many county employees, (law enforcement and fire fighters), losing their jobs, I am grateful that our county supervisors are thinking about the well being of their constituents.

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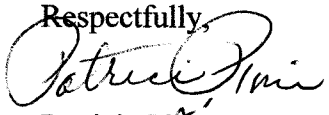

Patricia Piñon
Palm Desert, CA

June 26, 2011

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Bob Buster, Chairman
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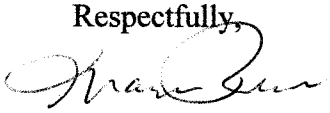
Respectfully,



Maria Rivera
Blythe, CA

June 26, 2011

Riverside County Board to Supervisors
Bob Buster, Chairman
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Respectfully,

Martinique Ramirez

Martinique Ramirez
Indio, CA

June 26, 2011

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Bob Buster, Chairman
Riverside, CA

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Respectfully,

Guadalupe Velez

Guadalupe Velez
Blythe, CA

Palo Verde Valley Times

Sunday, June 26, 2011

Blythe City Council opposes Benoit solar tax

Riverside County 4th District Supervisor John J. Benoit.

The Blythe City Council voted 5-0 last Tuesday to oppose an 11th hour county proposed 2 percent franchise fee on gross revenue aimed at Solar Millennium, which is building the world's largest solar project just north of the Blythe Airport.

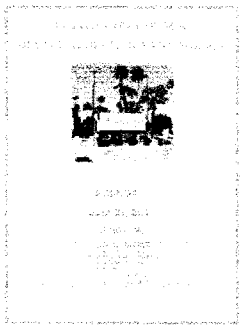
Any Blythe residents interested in attending the Riverside County Board of Supervisors meeting at 9:30 a.m. Tuesday, to oppose the proposed "Sun Tax" on solar projects near Blythe, please contact Louis at (760) 265-1473.

Thursday, June 23, 2011

Monday 's City Council special meeting agenda **Benoit's proposed tax on solar could mean no jobs for Blythe.**

Latest News

Local | Regional



- June 28 Blythe City Council agenda
- Monday 's City Council special meeting agenda
- Blythe Chamber issues Customer Service Awards
- Day School donates to hospital auxiliary
- Ruth Brown Honor Roll and students of the month

Opinions

Letters | Columns

- LETTER: One rule for citizens and another for the government
- LETTER: Thank a teacher
- LETTER: Reader shares why he likes Blythe
- COLUMN: Go fishing
- LETTER: Remembering my father's hands

Out & About

Sports

Local | Regional

- Blythe Bass Club Tournament of Champions results
- Jacket off-season workout schedule
- Blade-Budweiser Softball All-Nighter Tournament results
- Blythe Little League Minor League Softball Champs
- All-League Jackets honored

pvvt Multimedia

Galleries | Videos | Blogs

- BLOG: Wake up people, Blythe is about to become a boom town

Features

Adopt a Pet | Church Calendar | Club News & Briefs

Blythe, CA
Currently | Hourly | 10 Days | Wind

Sunny 107°F
RealFeel®: 112°F
Winds: N at 6 mph

Your Extended Forecast

Today: High 111°/Low 82° Clear
Tomorrow: High 109°/Low 80° Clear and warm
Tuesday: High 110°/Low 84° Clear, windy and warm
Wednesday: High 107°/Low 80° Clear and windy

Weather Forecast | Weather Maps | Weather Radar

Solar projects face millions in rent

THE PRESS-ENTERPRISE FRIDAY, June 11, 2010

ENERGY: Federal officials detail the fees for use of public land, including in Riverside and S.B. counties.

BY DAVID DANELSKI
THE PRESS-ENTERPRISE

Some solar energy developers will have to pay millions a year to use public land for their projects, according a federal rent formula released Thursday.

The fees could be a windfall for the federal government. For example, seven solar projects selected for fast-track approval in San Bernardino and Riverside counties eventually could generate more than $33 million a year, according to numbers verified by U.S. Bureau of Land Management officials.

Energy companies had little to say.

"We are not commenting on pricing," said Monique Hanis, spokeswoman for the Solar Energy Industries Association, when contacted in Washington, D.C.

"We are still evaluating it," said Sean Gallagher, a Berkeley-based official with Tessera Solar, which has its main offices in Houston.

Tessera wants to build an 850-megawatt solar plant on 8,230 acres in the Mojave Desert, about 37 miles east of Barstow.

Several companies did not return phone calls.

Approvals from the BLM and the California Energy Commission are pending on Tessera's plan and six other projects that U.S. Secretary of the Interior Ken Salazar identified last fall for expedited approval. Decisions are expected this fall.

Renting public land for the Tessera project would cost the company about $2.1 million during its first year. The price would increase annually for five years, leveling off at $6.6 million a year, according to a formula the BLM released Thursday.

A project near Blythe would pay the highest rent in Riverside and San Bernardino counties — $9.5 million after five years of operation. Solar Millennium LLC has filed applications to build the Blythe Solar Power Project on 9,400 acres of public land. Solar Millennium spokeswoman Rachel McMahon did not return a phone call Thursday.

The rent formula bases the price on the age of the project, the type of technology and the average electrical output, plus a fixed charge based on the acreage.

The per-acre price differs greatly from county to county. Solar projects in Riverside County would pay $313.88 per acre per year — about 2.5 times more than the $125.56 per acre for developments in San Bernardino County. Land in Arizona's Pima County would rent for $15.70 an acre.

Linda Resseguie, a Washington-based spokeswoman for the BLM, said the per-acre rate is not based on appraisals of particular properties. Instead, the rates were calculated using average rural and agricultural land values in each county. The prices don't take habitat value into account, she said.

Environmentalists are concerned that solar projects will consume too much habitat for desert tortoises, a species threatened with extinction. The most valuable habitat is in San Bernardino County.

Elden Hughes, a Joshua Tree-based environmentalist, said he was perplexed by the pricing criteria.

"It is not making sense to me," Hughes said. "BLM land is not average agricultural land or ag land at all."

Both Gov. Arnold Schwarzenegger and President Barack Obama have made renewable energy development a priority, citing climate change, national security and new jobs.

Companies have submitted applications for more than 150 wind and solar projects on public land in Southern California's desert, with the potential to cover hundreds of square miles of wildlife habitat.

Reach David Danelski at 951-368-9471 or ddanelski@PE.com

Riverside County Board of Supervisors
Request to Speak

Submit request to Clerk of Board (right of podium), Speakers are entitled to three (3) minutes, subject Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: JUAN ZARATE

Address: 2630 W COAN HGWCS HWY
(only if follow-up mail response requested)

City: IMPERIAL CA **Zip:** 92251

Phone #:

Date: 11-1-11 **Agenda #** 16.1

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

_____**Support** _____**Oppose** _____**Neutral**

Note: If you are here for an agenda item that is filed for "Appeal", please state separately your position on the appeal below:

_____**Support** _____**Oppose** _____**Neutral**

I give my 3 minutes to:

David X. Kolk, Ph.D.

41422 Magnolia St.
Murrieta, CA 92562
Phone: (951) 283 1097
Email: DKolk@compenergy.com

Education

B.S. in Economics, University of California, Riverside
M.A. in Economics, University of California, San Diego
Ph.D. in Economics, University of California, Riverside

Background

Dr. Kolk has held senior and executive positions at a number of public and private utilities in the Southwest. In addition to managing two electric utilities, he has held senior positions in resource planning, legislative and regulatory affairs, transmission planning, conservation and demand-side management and finance groups at several municipal utilities.

Dr. Kolk has extensive consulting experience and ran his own utility and economic consulting company.

Regulatory Experience

Dr. Kolk has presented testimony or comments on industry restructuring or transmission access to the following bodies:

- Federal Energy Regulatory Commission
- California Independent System Operator
- California Public Utilities Commission
- California Energy Commission
- California State Legislature
- Pennsylvania House of Representatives
- Pennsylvania Public Utilities Commission
- Virginia Public Utilities Commission
- Vermont Public Utilities Commission
- Arizona Corporation Commission
- New Mexico Public Utilities Commission
- New Hampshire Public Utilities Commission

Electric Services Industry Participation

Dr. Kolk has been responsible for negotiating power sales agreements and transmission contracts, as well as participating in various regulatory forums dealing with industry restructuring and transmission open access issues. Has participated in the following California industry groups:

- California Working Group on electric services industry restructuring;
- California Municipal Utilities Association industry restructuring forum;
- Various subcommittees dealing with the technical aspects of power pooling;
- Western Association for Transmission System Coordination (WATSCO);
- Westconnect Regional Transmission Organization;
- California Transmission Planning Group;
- Western Regional Transmission Group.

In addition, Dr. Kolk was a consultant to the New Hampshire Public Utilities Commission, and has extensive experience in evaluating generation and transmission resources in new market structures.

Power Purchase Agreements

Dr. Kolk was responsible for determining the bulk power needs of various public and private utilities and acquiring generation resources to meet these needs. Responsible for negotiations on operational issues and litigation with various utilities and energy marketing companies. Accomplishments included:

- Negotiated a cross-border (US-Mexico) pipeline agreement to supply natural gas to an generator that involved two governments, three states and five companies;
- Negotiated one of the nation's most successful cluster interconnection agreements with a variety of solar and geothermal companies to pay for necessary upgrades of the transmission grid to export renewable energy to the surrounding balancing authorities;
- Negotiated a power purchase agreement for a 23 MW photovoltaic generation facility and various other renewable energy contracts;
- Negotiated the purchase of over 250 MW of long-term capacity and asset sales from various western utilities, including a 50 MW purchase of San Juan Generating Station, Unit 4, from Public Service Company of New Mexico, and peaking and intermediate power sales arrangements with PG&E, Southern California Edison Company, Deseret Generation and Transmission Cooperative, California Department of Water Resources and Bonneville Power Administration;
- Negotiated a long-term power purchase agreement between for 58 MW of geothermal generation;
- Hedged over $50 million annually in 2009, 2010 and 2011 of natural gas supplies using a variety of fixed price, financial swaps, caps and collars;
- Negotiated with Southern California Edison Company on settlement of litigation and operational issues;
- Prepared and defended long-term Integrated Resource Plans before the California Energy Commission on behalf of a number of different entities;
- Developed natural gas purchasing cooperative for major industrial customers.

Project Management

Served as Project Manager on various projects including:

- Project Manager of the Adelanto-Lugo Transmission Project, overseeing the planning and environmental phase of a 500 kV transmission project on behalf of twelve utilities and public agencies;
- Anaheim's representative on the San Onofre Nuclear Generation Station Board of

Review;
- Anaheim's representative on the Mead-Phoenix and Mead-Adelanto 500 kV Transmission Projects Management Committees;
- Project Manager during the construction phase of Anaheim's 49 MW combustion turbine;

Academics and Selected Publications

Dr. Kolk has taught energy economics, statistics, quantitative economics and mathematics at a number of colleges and universities. His publication record includes:

Sherman, Howard and Kolk, David, Business Cycles and Forecasting, Harper Collins College Press, NY, 1995.

Rose, A. and Kolk, D., Forecasting Natural Gas Demand in a Changing World, JAI Press, Greenwich, CT., 1987.

Hall, D., Hall, J. and Kolk, D., "Energy in the Unit Cost Index to Measure Scarcity, Energy: The International Journal, Volume 13, Number 3.

Kolk, D., "Economic Growth in the Inland Empire, Southwest Journal of Administration, Volume 2, Fall, 1985.

Kolk, D. "The Regional Employment Impacts of Rapidly Escalating Energy Prices, Energy Economics, April, 1983.

Kolk, D. and Rose, A. "The Role of Sectoral Energy Intensities on Regional Import Growth, Modeling and Simulation, 1983.

Rose, A. and Kolk, D., et al, "Energy Development and Urban Employment Creation, Energy: The International Journal, Volume 6, Number 10.

Rose, A. and Kolk, D. "A Policy Simulation Model for Natural Gas Utilities: An Application to Conservation Programs, Modeling and Simulation, 1983.

Kolk, D., "The Economic Effects of Kaiser Steel Corporation Upon the Community, Southwest Journal of Administration, Volume 1, Number 1.

Kolk, D., "The 1982/83 Economic Forecast for South Bend/Elkhart, Indiana Business Review, June, 1982.

Effect of Proposed Board Policy B-29 on Solar Power Plant Projects

Prepared by:

Complete Energy Consulting, LLC
David X. Kolk, Ph.D.

November, 2011

16.2

Effect of Proposed Board Policy B-29 on Solar Power Plant Projects

Introduction

The Riverside County Board of Supervisors is considering a policy that would require utility scale solar power plants to annually pay the County up to $640/acre for each acre used in the power production process. Proponents of these projects claim that the proposed payment would make the projects uneconomic and drive them out of the County.

The analysis presented here suggests that the County's proposed payment will have a minimal impact on solar power plants and will not affect the County's ability to attract and retain those projects. Moreover, the impact of the payment will be reduced by property tax credits and can be even further reduced if the projects take advantage of the incentive programs the County is proposing: a local employment incentive, property tax credit and collocation incentive.

Background

California State Senate Bill 1078[1] initially established the Renewables Portfolio Standard (RPS), requiring investor owned utilities (IOUs) to increase renewable purchases by one percent per year until the total reaches 20 percent of their retail sales by 2017. The 2003 Energy Action Plan accelerated the target date from 2017 to 2010.

Two legislative bills, SB 14 and AB 64, passed the California legislature in September 2009, both of which would have increased the RPS to 33 percent by 2020. However, the Governor vetoed these bills, criticizing their complexity and their failure to streamline the permitting process. Governor Schwarzenegger subsequently issued Executive Order S-21-09, instructing the California Air Resources Board (CARB) to use its authority under AB 32, California's Green House Gas (GHG) legislation, to adopt regulations requiring the state's load serving entities to meet a 33 percent renewable energy standard (RES) target by 2020.

CARB was originally scheduled to vote on the proposed regulation in July 2010 but Governor Schwarzenegger requested that CARB postpone the vote until its September 23, 2010 board meeting, due to the momentum surrounding Senate Bill 722 (SB 722), which would have, among other things, codified a 33 percent RPS by 2020. SB 722 did not pass the legislature before it went to permanent recess on September 1, 2010. The CARB did pass the RES at its September, 2010 meeting, although questions remained regarding the extent to which those regulations would be implemented by a new Governor, the legality of CARB's authority to implement such a regulation and the outcome of state Proposition 23 to delay the implementation of AB 32.

[1] Sher, Chapter 516, Statutes of 2002.

In the November 2010 elections, Proposition 23 was defeated and Jerry Brown was elected governor. Most key state-level stakeholders, including the California Public Utilities Commission (CPUC), the California Energy Commission, the legislature and CARB, expressed a preference for a statutory RPS goal versus an executive order.

On April 12, 2011, Governor Brown signed Senate Bill X1-2 (aka SB 2), codifying into law an increase of the RPS mandate to 33 percent by 2020.

SB 2 made major modifications to the RPS program, including the use of multi-year compliance periods with incremental targets, the specification of a minimum product content for retail sellers' RPS portfolios that changes with each compliance period and the requirement to enter into contracts with 10-year or longer duration.

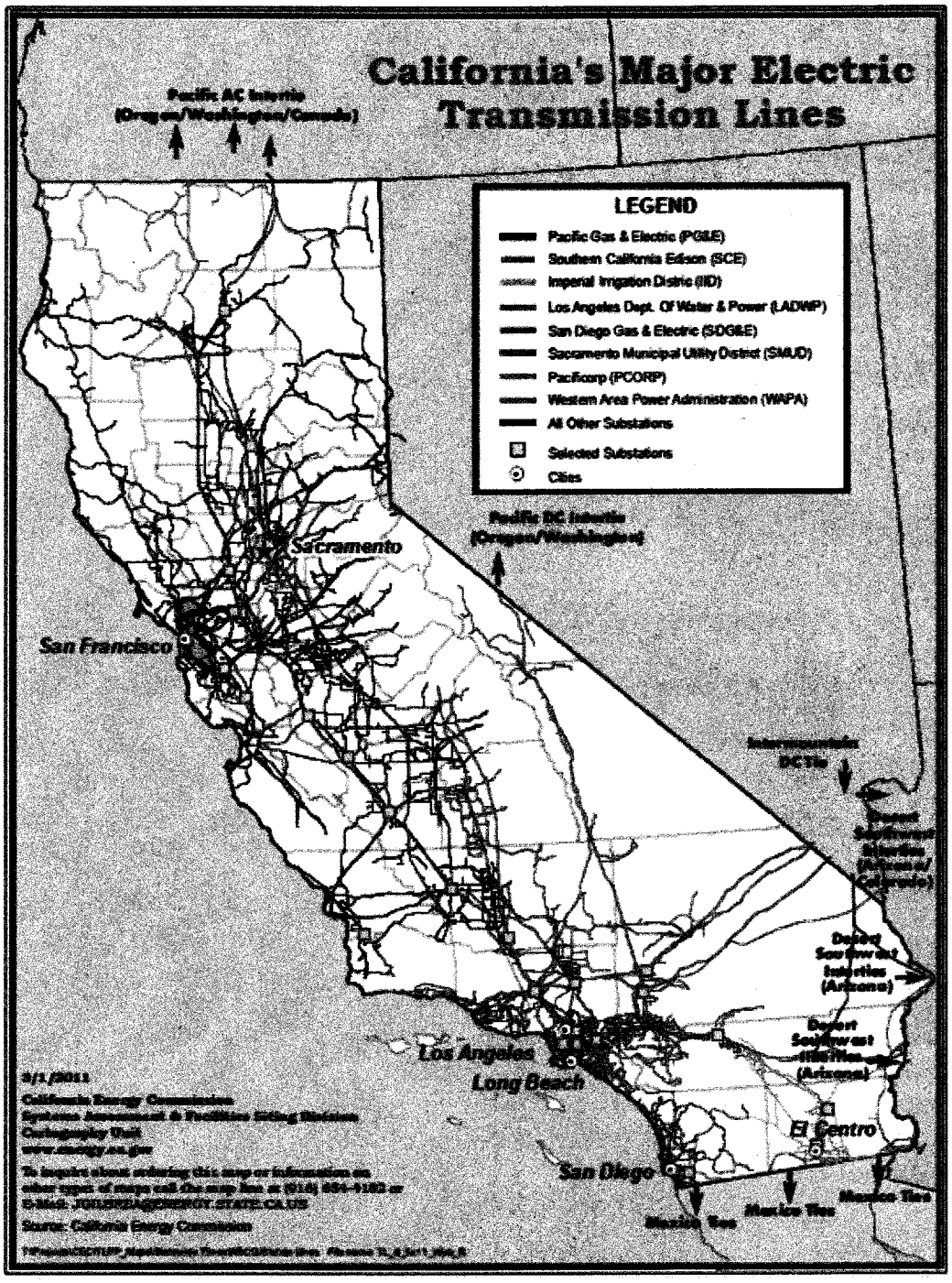
SB 2 also imposed a requirement for in-state resources, modified delivery requirements for out-of-state resources and required the CPUC to establish cost containment limits. SB 2 formally extended the RPS program to publicly owned utilities.

Requiring 75 percent of all renewable resources to be from in-state sources by 2017 has set off a land rush by solar power plant developers to identify and site facilities. Solar power plants cannot be sited just anywhere. Photovoltaic projects require between 5 and 7 acres of land per mega-watt (MW) or between 250 and 350 acres for a typical 50 MW project.

Solar power plants cannot be located near major air routes or military installations because they interfere with visibility. They cannot be located near urban areas with high pollution because the efficiency of the solar collection equipment is adversely affected. They must be sited in areas with no shade, hills or mountains that interfere with the amount of solar energy received. They must also be located near existing transmission lines or the developer has to pay the cost of building expensive interconnection facilities.

Eastern Riverside County is one of the more attractive areas for solar power plants in California. Major transmission lines from the east pass through the I-10 corridor with significant new lines proposed in the 2013-2014 time period. The area has sufficient flat, open areas with high levels of solar radiation. The County is also close to the coastal load centers of Los Angeles, Orange and San Diego counties, helping minimize the need for expensive transmission line upgrades.

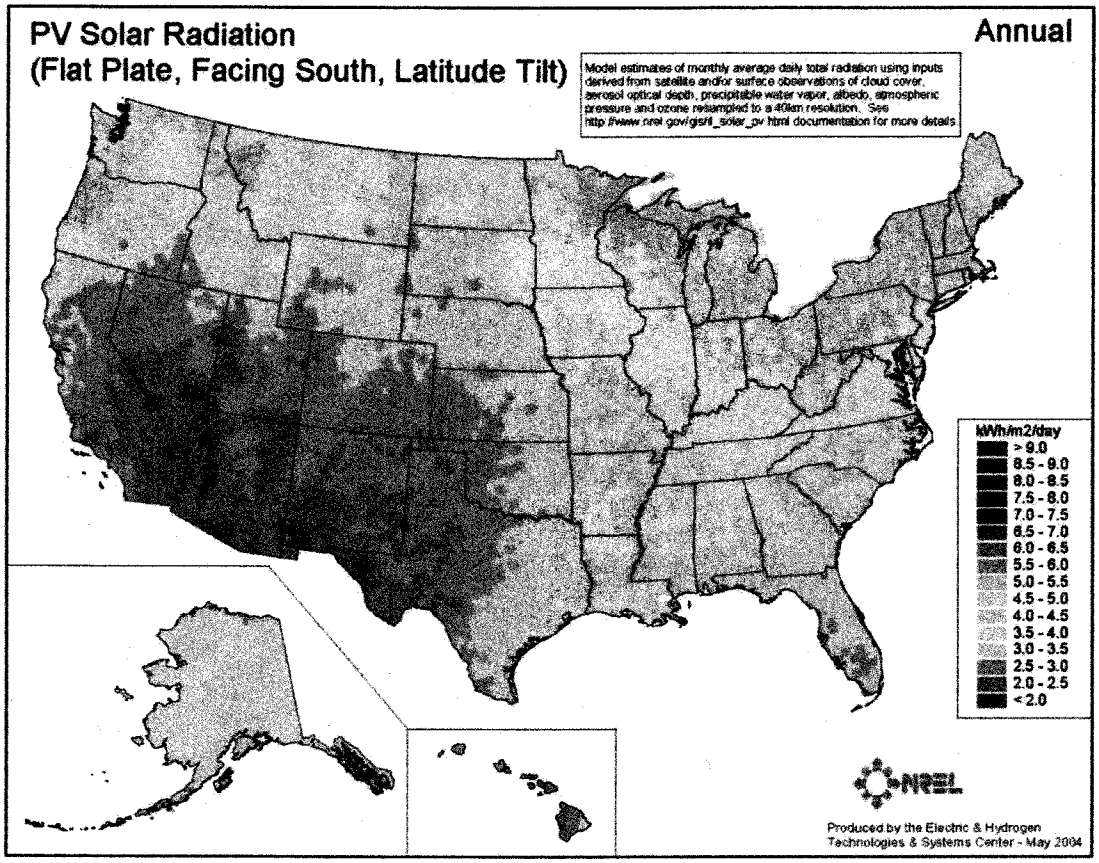
While other areas of California are attempting to attract solar and other renewable developers, transmission constraints and the complexities of finding areas with the necessary environmental attributes and transmission access will continue to make Riverside County a preferred area for solar development even with the County's modest payment proposal.



Types of Solar Power Plants

Solar power plants can be divided into two categories, photovoltaic (PV) and solar thermal. PV plants convert the sun's energy into electricity without the need for generation facilities. Solar thermal plants use solar energy to create a high temperature

liquid that is used to create steam and turn a generator. Solar thermal generation tends to be more efficient than PV, but PV is easier to construct and operate.



In the past few years, the efficiency of PV has increased and costs have declined making PV plants more competitive with solar thermal plants. A number of solar thermal plants have been re-designed as PV plants to take advantage of the declining costs of PV. The price decline of PV has been due to reduced PV demand in Spain and Germany as well as increased PV production capacity in China.

Solar thermal plants use land more intensively and have much higher initial capital costs than PV plants. However, solar thermal plants produce more energy than PV plants and tend to match the needs of utilities better than PV plants.

Capacity versus Energy

In California, wholesale electricity is priced and sold based upon energy or on a dollar per MWh basis. To understand what this means, it is helpful to see the relationship between land use, capacity and energy.

A generating facility's capacity is the maximum amount of electricity that a generator can produce. A 50 mega-watt (MW) plant can then produce 50 MW at maximum output. Energy is the amount of electricity that it produces during a period, measured in MWh. A 50 MW plant generating 50 MW for 1 hour produces 50 MWh. A 50 MW plant producing 50 MW for 24 hours produces 1,200 MWh.

Most thermal plants can produce during all hours of the day, so they produce more energy than a PV plant. A PV plant can only produce during the day-light hours and even then only reaches full capacity for a few hours during the summer months.

Over a year, a PV plant will only produce energy at around a 23 – 25 percent capacity[2]. A 50 MW PV plant might produce 100,700 MWh over the entire year (as compared to a traditional gas-fired plant that would produce around 394,000 MWh when accounting for maintenance and unplanned outages).

As already noted, PV plants require between 5 and 7 acres of land per MW. So a 50 MW PV plant would need 250 – 350 acres. Solar thermal plants generally require much less land although the amount of land depends upon the technology.

Acreage Based Payment

The County has proposed an annual acreage-based payment of $640/acre escalating at the CPI. For a typical 50 MW PV project, this equates to an annual payment of approximately $160,000 (5 acres per MW times 50 MW [250 acres] times $640/acre). This size and type of project is used throughout this report as the basis for analysis.

Impact of Payment on Solar Power Plant Projects

Electricity in California is priced and sold on a dollar per MWh basis ($/MWh). Currently, major utilities are purchasing solar energy at a cost of around $105 - $115/MWh with an annual escalation of around 2 percent. This price is substantially lower than even 5 years ago when solar developers were able to enter into long-term power purchase agreements (PPAs) for $135 - $145 MWh or more.

Obviously, there are many ways to structure payments, financing costs and other cost associated with a project. Some entities may choose a higher $/MWh cost with lower escalation rates or a flat payment over time. Others may choose a lower initial $/MWh rate with higher escalation.

[2] A single axis, fixed PV project. Dual axis PV projects with tracking capability have higher capacity factors

Regardless, from the developer's viewpoint, the key is minimizing the cost of land and transmission interconnection and maximizing generation for the particular technology being employed. Of these factors, the cost paid for transmission interconnection is the most significant.

At $105/MWh, revenues from a 50 MW PV project will be around $10,600,000 per year.

The County's proposed payment for a 50 MW PV plant will be around $160,000 per year.

This base payment translates into a cost per MWh of $1.59 to the solar developer. Or, at current market levels of $105-$115.MWh, the payment is approximately 1.4 to 1.5 percent of total sales revenues.

Incentives to Reduce the Base Payment

The County has identified incentives to solar generator developers that could reduce the base payment. These incentives, which have been discussed with developers during negotiations, provide a credit for property taxes and reward developers that employ Riverside County residents or that are willing to minimize the construction of interconnection facilities by sharing (or collocating) transmission facilities.

Property Tax Payment Credit

To avoid double-charging solar developers for County services, a credit of the County's 12.44 percent and the Fire Departments 2.58 percent of the 1.00 percent general purpose property tax (or possessory interest taxes) paid in the prior year would be credited to the developer. These credits would be site specific and cannot be valued precisely.[3]

Local Hire Incentive

During the construction phase each developer may receive a credit of up to $1,500 against the base payment for each full time employee (equivalent). The value of this credit will depend upon the number of employees hired by the developer. For a 250 acre project that required 50 workers for two years to construct a new project the value of the incentive would be $75,000 per year.

Collocation Incentive

One of the major problems with multiple generation facilities located in a region is the visual blight caused by multiple transmission lines used to interconnect the projects. To minimize the number of interconnection facilities, a collocation incentive of up to 5

[3] For a 250 acre facility with a land cost of $5,000/acre, property taxes will be around $12,500 per year of which the County will credit its 1`2.44 percent share and the Fire Departments 2.58 percent share, resulting in an annual credit of around $1,880.

percent of the base pay is proposed. This incentive, which would be up to $8,000 per year for a 250 acre project, would be given to projects that share transmission facilities and would be applied to each generator that collocates transmission lines and jointly uses transmission right-of-ways.

Impact of the Proposed Incentives

The three proposed incentives have the potential to reduce the base payment to approximately $80,000 during the construction phase $150,120 during the operations phase of the project, as shown in the following table.

	Number of Employees	Credit per Employee ($)	Construction Phase	Operations Phase
Annual Base Payment			$ 160,000	$ 160,000
Less Annual Incentives for:				
Local Hire During Construction	50	$ 1,500	$ (75,000)	
Property Tax Payment Credit			$ (1,880)	$ (1,880)
Collocation Credit			$ (8,000)	$ (8,000)
Total Value of Incentives			$ (84,880)	$ (9,880)
Recommended Limit on Incentives			$ 80,000	$ 80,000
(Based upon 250 acres)				
Estimated Annual Payment			$ 80,000	$ 150,120
Figures based upon a 50 MW PV Facility with 250 acres				

Additional Incentives

Other incentives could be offered to the solar developers to further reduce the base payment. These incentives include an early construction incentive and a permanent employee incentive during the operations phase.

Early Construction Incentive

A possible incentive to encourage solar developers to aggressively build their projects is an early construction incentive. This incentive would be provided to a solar developer who began construction prior to a specific date and then worked continuously on their project.

The proposed incentive could be a percentage of the base payment for projects that begin construction within a designated time frame of the County policy being implemented.

The purpose of this incentive would be to encourage solar projects to begin construction as soon as possible to provide needed construction jobs during the current stagnant economic conditions.

Permanent Employment Incentive

Permanent jobs offer a substantial benefit to the County's economy. An incentive for creating permanent positions at the solar generation project could be offered at a specific amount a year per job, perhaps a higher amount than the incentive offered for short-term jobs created during the construction phase.

The purpose of this incentive would be to recognize the benefits to the County of creating permanent employment opportunities to County residents with the secondary income effects on the County economy.

Total Impact of All Incentives

The following table illustrates the potential annual value of all identified incentives to solar developers for a typical 50 MW PV facility with the following assumptions: an early construction incentive that reduces the base payment by 10 percent, a $2,500 reduction for each permanent job created and 15 permanent jobs created. The values presented below are illustrative and will vary from project to project depending upon a variety of factors. They would likely be greater for a solar thermal facility.

The Table shows that the proposed base payment could be reduced by 50 percent during the construction phase and 30 percent (or more) during the operations phase as a result of the additional incentives.

	Number of Employees	Credit per Employee ($)	Construction Phase	Operations Phase
Annual Base Payment			$ 160,000	$ 160,000
Less Annual Incentives for:				
Local Hire During Construction	50	$ 1,500	$ (75,000)	
Property Tax Payment Credit			$ (1,880)	$ (1,880)
Collocation Credit			$ (8,000)	$ (8,000)
Early Construction Incentive (10 percent of base payment)			$ (16,000)	
Permanent Employee	15	$ 2,500		$ (37,500)
Total Value of Incentives			$ (100,880)	$ (47,380)
Recommended Limit on Incentives			$ 80,000	$ 80,000
(Based upon 250 acres)				
Estimated Annual Payment			$ 80,000	$ 112,620
Figures based upon a 50 MW PV Facility with 250 acres				

As noted, solar thermal plants will benefit more from these credits and incentives than PV plants. Depending upon the technology, thermal storage plants may use anywhere from 65 – 80 percent of the land required by PV facilities on a kW basis. In addition, solar thermal plants generally employee more people than PV plants. Finally, the

advantage of solar thermal plants is that they produce more energy per MW than PV plants.

Limitation on Incentive Payments

Even if a developer takes advantage of all the different incentives offered, it has been recommended that the base payment not be reduced by more than 50 percent. This is appropriate to ensure that the County is properly compensated for the use of its property and does not disproportionately bear the burden of solar energy production.

Summary

The County is attempting to work with solar developers to identify incentives that could be implemented. These incentives can substantially reduce the base payment over time if the developer chooses to make use of them.

The major driver of locating solar projects within California will continue to be transmission interconnection costs. To the extent Riverside County offers better access to new transmission facilities it will continue to have an advantage over other parts of the state in attracting solar projects after the proposed payment is adopted.

There are currently two new transmission lines being planned for eastern Riverside County, the Desert Southwest Project and SCE's Colorado River – Devers Transmission Project. The Desert Southwest Project hopes to be constructed by 2013 although at this time this appears to be optimistic and a 2014 or 2015 time frame appears more likely. The Colorado River – Devers Transmission Project also had a 2013 in-service date and also appears to be delayed by 18 to 24 months. Both of these projects anticipate providing wheeling services to the solar projects in the Blythe to Eagle Mountain area. Either of these projects will provide necessary transmission access for 1,200 – 1,400 MW of solar energy.

Accordingly, the solar power plant payment will not have a significant impact on the size or number of solar projects proposed for Riverside County. It may have a greater impact on the types of projects proposed, with the payment providing a slight advantage for solar thermal plants, given the higher number of jobs created, in comparison to PV facilities.

The County's proposed solar power plant payment is a reasonable way for the County to ensure that it is properly compensated for the use of its property and does not disproportionately bear the burden of solar energy production.

OFFICE OF
CLERK OF THE BOARD OF SUPERVISORS
1st FLOOR, COUNTY ADMINISTRATIVE CENTER
P.O. BOX 1147, 4080 LEMON STREET
RIVERSIDE, CA 92502-1147
PHONE: (951) 955-1060
FAX: (951) 955-1071

KECIA HARPER-IHEM
Clerk of the Board of Supervisors

KIMBERLY A. RECTOR
Assistant Clerk of the Board

November 16, 2011

THE PRESS ENTERPRISE
ATTN: LEGALS
P.O. BOX 792
RIVERSIDE, CA 92501

FAX: (951) 368-9018
E-MAIL: legals@pe.com

RE: ADOPTION OF ORDINANCE NO. 348.4734 and 348.4705

To Whom It May Concern:

Attached is a copy for publication in your newspaper for **ONE (1) TIME** on **Friday, November 18, 2011.**

We require your affidavit of publication immediately upon completion of the last publication.

Your invoice must be submitted to this office in duplicate, WITH TWO CLIPPINGS OF THE PUBLICATION.

NOTE: PLEASE COMPOSE THIS PUBLICATION INTO A SINGLE COLUMN FORMAT.

Thank you in advance for your assistance and expertise.

Sincerely,

Mcgil
Cecilia Gil, Board Assistant to
KECIA HARPER-IHEM, CLERK OF THE BOARD

Gil, Cecilia

From: PE Legals <legals@pe.com>
Sent: Wednesday, November 16, 2011 8:47 AM
To: Gil, Cecilia
Subject: RE: FOR PUBLICATION: Adoption of Ord. No. 348.4734 & 348.4705

Received for publication on Nov. 18

Please Note: The Press-Enterprise offices will be closed on Thursday, November 24th and Friday, November 25th in observance of the Thanksgiving Day Holiday. Below are our Thanksgiving Holiday Deadlines.

Deadlines:

- Thurs., Nov. 17th at 10:30 am for all ads publishing on Sat. Nov. 19, Sun. Nov. 20 & Mon. Nov. 21
- Fri., Nov. 18th at 10:30 am for all ads publishing on Tues. Nov. 22 and Wed. Nov. 23
- Mon., Nov. 21st at 10:30 am for all ads publishing on Thurs. Nov. 24, Fri. Nov. 25, Sat. Nov. 26 & Sun. Nov 27
- Tues., Nov. 22nd at 10:30 am for all ads publishing on Mon. Nov. 28 & Tues. Nov. 29th

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From: Gil, Cecilia [mailto:CCGIL@rcbos.org]
Sent: Wednesday, November 16, 2011 8:42 AM
To: PE Legals
Subject: FOR PUBLICATION: Adoption of Ord. No. 348.4734 & 348.4705

Good Morning! Attached is for publicationon Friday, Nov. 18, 2011. Please confirm. THANK YOU!

Cecilia Gil

Board Assistant to the
Clerk of the Board of Supervisors
951-955-8464

THE COUNTY ADMINISTRATIVE CENTER IS CLOSED EVERY FRIDAY UNTIL FURTHER NOTICE.
PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING.

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P.O. BOX 1147, 4080 LEMON STREET
RIVERSIDE, CA 92502-1147
PHONE: (951) 955-1060
FAX: (951) 955-1071

KECIA HARPER-IHEM
Clerk of the Board of Supervisors

KIMBERLY A. RECTOR
Assistant Clerk of the Board

November 16, 2011

THE DESERT SUN
ATTN: LEGALS
P.O. BOX 2734
PALM SPRINGS, CA 92263

FAX: (760) 778-4731
E-MAIL: legals@thedesertsun.com

RE: ADOPTION OF ORDINANCE NO. 348.4734 and 348.4705

To Whom It May Concern:

Attached is a copy for publication in your newspaper for **ONE (1) TIME** on **Friday, November 18, 2011.**

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Thank you in advance for your assistance and expertise.

Sincerely,

Mcgil
Cecilia Gil, Board Assistant to
KECIA HARPER-IHEM, CLERK OF THE BOARD

Gil, Cecilia

From: Moeller, Charlene <CMOELLER@palmspri.gannett.com>
Sent: Wednesday, November 16, 2011 8:56 AM
To: Gil, Cecilia
Subject: RE: FOR PUBLICATION: Adoption of Ord. No. 348.4734 & 348.4705

Ad received and will publish on date(s) requested.

Charlene Moeller | Media Sales Legal Notice Coordinator

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From: Gil, Cecilia [mailto:CCGIL@rcbos.org]
Sent: Wednesday, November 16, 2011 8:42 AM
To: tds-legals
Subject: FOR PUBLICATION: Adoption of Ord. No. 348.4734 & 348.4705

Good Morning! Attached is for publicationon Friday, Nov. 18, 2011. Please confirm. THANK YOU!

Cecilia Gil
Board Assistant to the
Clerk of the Board of Supervisors
951-955-8464

THE COUNTY ADMINISTRATIVE CENTER IS CLOSED EVERY FRIDAY UNTIL FURTHER NOTICE.
PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING.

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

ORDINANCE NO. 348.4734

AN ORDINANCE OF THE COUNTY OF RIVERSIDE AMENDING ORDINANCE NO. 348 RELATING TO ZONING

The Board of Supervisors of the County of Riverside ordains as follows:

Section 1. Section 18.51of Ordinance No. 348 is added to read as follows:

"SECTION 18.51. SOLAR ENERGY SYSTEMS. Notwithstanding any other provision of this ordinance, solar energy systems are permitted as an accessory use in all zones subject to the provisions of this section.

a. The intent of this section is to provide for the implementation of section 65850.5 of the Government Code and section 17959.1 of the Health and Safety Code by complying with the mandatory provisions of those state statutes and to advance the state policy of encouraging the installation of solar energy systems by removing obstacles to, and minimizing costs of, permitting such systems. This section is intended to avoid any unreasonable restrictions on the ability of homeowners, agricultural concerns and business concerns to install solar energy systems. Solar energy systems utilize a renewable and nonpolluting energy resource, enhance the reliability and power quality of the electrical grid, reduce peak power demands, and make the electricity supply market more competitive by promoting consumer choice.

b. Applications to install solar energy systems shall be administratively reviewed and approved by the Director of the Department of Building and Safety as nondiscretionary permits; provided, however, that if the Director of the Department of Building and Safety determines in good faith that a solar energy system could have a specific adverse impact on the public health or safety, the applicant shall be required to apply for a plot plan pursuant to section 18.30 of this ordinance and all provisions of that section shall apply except as modified by this section.

c. Review of an application to install a solar energy system shall be limited to a determination of whether the application meets all health and safety requirements of county, state and federal law. The requirements of county law shall be limited to those standards and regulations necessary to avoid a specific adverse impact upon the public health or safety. Review for aesthetic purposes, including any ordinance provision requiring the screening of the solar energy system, shall not be applicable.

d. If a plot plan is required pursuant to subsection b above, the plot plan shall not be denied unless the denial is based on written findings in the record that the proposed installation would have a specific adverse impact on the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. The findings shall include the basis for rejection of potential feasible alternatives of preventing the adverse impact.

e. Any conditions imposed on an application to install a solar energy system shall be designed to mitigate the specific, adverse impact upon the public health and safety at the lowest cost possible.

f. A solar energy system for heating water shall be certified by the Solar Rating Certification Corporation (SRCC) or other nationally recognized certification agency. SRCC is a nonprofit third party supported by the United States Department of Energy. The certification shall be for the entire solar energy system and installation.

g. A solar energy system for producing electricity shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

h. For purposes of this section, the following terms shall have the following meanings:

(1) A "specific adverse impact" means a significant, quantifiable, direct and unavoidable impact, based on objective, identified and written public health or safety standards, policies or conditions as they existed on the date the application was deemed complete.

(2) A "feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the county on another similarly situated application in a prior successful application for a permit. The county shall use its best efforts to ensure that the selected method, condition, or mitigation does not "significantly" increase the cost of the system or "significantly" decrease its efficiency or specified performance, or allows for an alternative system of comparable cost, efficiency, and energy conservation benefits. For solar domestic water heating systems or solar swimming pool heating systems that comply with state and federal law, "significantly" means an amount exceeding 20 percent of the cost of the system or decreasing the efficiency of the solar energy system by an amount exceeding 20 percent as originally specified and proposed. For photovoltaic systems that comply with state or federal law, "significantly" means an amount not to exceed $2000 over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding 20 percent as originally specified and proposed."

Section 2. A new section 21.62i of Article XXI of Ordinance No. 348 is added to read as follows:

"Section 21.62i. SOLAR ENERGY SYSTEM. A system which is 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 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.

(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."

Section 3. This ordinance shall take effect thirty (30) days after its adoption.

Bob Buster, Chairman of the Board

I HEREBY CERTIFY that at a regular meeting of the Board of Supervisors of said County, held on **November 8, 2011**, the foregoing Ordinance consisting of three (3) sections was adopted by said Board by the following vote:

AYES: Buster, Tavaglione, Stone, Benoit and Ashley
NAYS: None
ABSENT: None

Kecia Harper-Ihem, Clerk of the Board
By: Cecilia Gil, Board Assistant

ORDINANCE NO. 348.4705

AN ORDINANCE OF THE COUNTY OF RIVERSIDE
AMENDING ORDINANCE NO. 348
RELATING TO ZONING

The Board of Supervisors of the County of Riverside ordains as follows:

Section 1. A new subsection (19) is added to Section 9.1.d. of Article IX of Ordinance No. 348 to read as follows:

"(19) Solar power plant on a lot 10 acres or larger."

Section 2. A new subsection d. is added to Section 9.25 of Article IXa of Ordinance No. 348 to read as follows:

"d. The following uses are permitted provided a conditional use permit has been granted pursuant to the provisions of Section 18.28 of this ordinance:
(1) Solar power plant on a lot 10 acres or larger."

Section 3. A new subsection (25) is added to Section 9.50.b. of Article IXb of Ordinance No. 348 to read as follows:

"(25) Solar power plant on a lot 10 acres or larger."

Section 4. A new subsection (8) is added to Section 9.62.b. of Article IXc of Ordinance No. 348 to read as follows:

"(8) Solar power plant on a lot 10 acres or larger."

Section 5. A new subsection (4) is added to Section 10.1.b. of Article X of Ordinance No. 348 to read as follows:

"(4) Solar power plant on a lot 10 acres or larger."

Section 6. A new subsection (19) is added to Section 11.2.c. of Article XI of Ordinance No. 348 to read as follows:

"(19) Solar power plant on a lot 10 acres or larger."

Section 7. A new subsection (22) is added to Section 11.26.c. of Article XIa of Ordinance No. 348 to read as follows:

"(22) Solar power plant on a lot 10 acres or larger."

Section 8. A new subsection (18) is added to Section 12.2.c. of Article XII of Ordinance No. 348 to read as follows:

"(18) Solar power plant on a lot 10 acres or larger."

Section 9. A new subsection (2) is added to Section 12.50.e. of Article XIIa of Ordinance No. 348 to read as follows:

"(2) Solar power plant on a lot 10 acres or larger."

Section 10. A new subsection (2) is added to Section 12.60.e. of Article XIIb of Ordinance No. 348 to read as follows:

"(2) Solar power plant on a lot 10 acres or larger."

Section 11. A new subsection (12) is added to Section 13.1.c. of Article XIII of Ordinance No. 348 to read as follows:

"(12) Solar power plant on a lot 10 acres or larger."

Section 12. A new subsection (4) is added to Section 13.51.h. of Article XIIIa of Ordinance No. 348 to read as follows:

"(4) Solar power plant on a lot 10 acres or larger."

Section 13. A new subsection (16) is added to Section 14.1.c. of Article XIV of Ordinance No. 348 to read as follows:

"(16) Solar power plant on a lot 10 acres or larger."

Section 14. A new subsection (2) is added to Section 14.52.c. of Article XIVa of Ordinance No. 348 to read as follows:

"(2) Solar power plant on a lot 10 acres or larger."

Section 15. A new subsection (32) is added to Section 15.1.d. of Article XV of Ordinance No. 348 to read as follows:

"(32) Solar power plant on a lot 10 acres or larger."

Section 16. A new subsection (3) is added to Section 15.101.c. of Article XVa of Ordinance No. 348 to read as follows:

"(3) Solar power plant on a lot 10 acres or larger."

Section 17. A new subsection (15) is added to Section 15.200.c. of Article XVb of Ordinance No. 348 to read as follows:

"(15) Solar power plant on a lot 10 acres or larger."

Section 18. A new subsection (10) is added to Section 16.2.b. of Article XVI of Ordinance No. 348 to read as follows:

"(10) Solar power plant on a lot 10 acres or larger."

Section 19. A new subsection (2) is added to Section 17.2.g. of Article XVII of Ordinance No. 348 to read as follows:

"(2) Solar power plant on a lot 10 acres or larger."

Section 20. A new subsection (5) is added to Section 17.3.b. of Ordinance No. 348 to read as follows:

"(5) No solar power plants shall be closer than 10 feet from any lot line."

Section 21. A new Section 21.63 of Article XXI of Ordinance No. 348 is added to read as follows: "Section 21.63. SOLAR POWER PLANT. A facility used to generate electricity 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. Solar power plants include power plants using both solar thermal systems and photovoltaic systems to convert solar energy to electricity. Solar thermal systems concentrate heat to drive a turbine which is then used to create electricity from generators and include systems using solar troughs, solar dishes, and solar power towers. Photovoltaic systems use a technology such as solar cells which generates electricity directly from sunlight."

Section 22. Existing Section 21.63 of Article XXI of Ordinance No. 348 is renumbered 21.64.

Section 23. Ordinance No. 348.4705 is adopted as part of a comprehensive, integrated legislative program which also includes the adoption of General Plan Amendment No 1080 (Land Use Policy LU 15.15) and Board of Supervisors Policy No. B-29. The Board of Supervisors declares that it would not have adopted Ordinance No. 348.4705 unless General Plan Amendment No. 1080 (Land Use Policy LU 15.15) and Board of Supervisors Policy No. B-29 were also adopted and effective. In the event that any provision of Ordinance No. 348.4705, General Plan Amendment No. 1080 (Land Use Policy LU 15.15) or Board of Supervisors Policy No. B-29 is determined to be invalid or unenforceable, in whole or in part, by a court of competent jurisdiction, then Ordinance No. 348.4705, General Plan Amendment No. 1080 (Land Use Policy LU 15.15) and Board of Supervisors Policy No. B-29 shall be deemed invalid in their entirety and shall have no further force or effect.

Section 24. This ordinance shall take effect thirty (30) days after its adoption.

Bob Buster, Chairman of the Board

I HEREBY CERTIFY that at a regular meeting of the Board of Supervisors of said County, held on **November 8, 2011**, the foregoing Ordinance consisting of twenty-four (24) sections was adopted by said Board by the following vote:

AYES: Buster, Tavaglione, Stone, Benoit and Ashley
NAYS: None
ABSENT: None

Kecia Harper-Ihem, Clerk of the Board
By: Cecilia Gil, Board Assistant