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| Docket Number: | 15-AFC-02 |
| Project Title: | Mission Rock Energy Center |
| TN #: | 220422 |
| Document Title: | Applicant email re legal lot applicability to transmission line |
| Description: | Applicant's email response to Energy Commission staff request for information regarding lot legality for the transmission line. |
| Filer: | Lisa Worrall |
| Organization: | California Energy Commission |
| Submitter Role: | Commission Staff |
| Submission Date: | 7/27/2017 9:13:44 AM |
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From: [Davy, Doug/SAC](#)
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Cc: [Mitch Weinberg](#); [Barbara McBride](#); [Jill Van Dalen](#); [Jeff Harris \(jdh@eslawfirm.com\)](#); [Samantha Neumyer](#)
Subject: Mission Rock Energy Center - Legal Lot applicability, transmission line
Date: Wednesday, July 19, 2017 10:47:14 AM
Attachments: [MREC Legal Lot Applicability 07.19.2017.docx](#)

Mike,

As we discussed, attached is Applicant's response to Lisa Worrall's informal request for information regarding the applicability of legal lot provisions to the Mission Rock Energy Center transmission line. Please let me know if you have any questions about this matter.

Regards,
Doug

Doug Davy

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Mission Rock Energy Center Application for Certification (15-AFC-02)

Applicability of Legal Lot Provisions to the Transmission Line

California Energy Commission Staff (Staff) issued an informal data request to the Mission Rock Energy Center (15-AFC-02) Applicant related to the applicability of Ventura County Non-Coastal Zoning Ordinance (“NCZO”) Section 8111-1.2.1.1, “Permit Approval Standards,” Subsection f, to parcels where transmission line poles will be located.¹

The Applicant has reviewed the Ventura County laws, ordinances, regulations, and standards (“LORS”) applicable to Staff’s information request. Ventura County’s LORS confirm that the “Legal lot” provisions of Section 8111-1.2.1.1 do not apply to the easements, licenses, and similar rights-of-ways where the transmission line poles will be constructed.²

The applicable local LORS include: (1) the Ventura County General Plan Goals, Policies and Programs (“General Plan,” as amended October 2015); (2) the Ventura County Subdivision Ordinance (“Subdivision Ordinance,” as amended March 2008); and (3) the Ventura County Non-Coastal Zoning Ordinance (“NCZO,” as amended April 2017).

The General Plan’s Land Use Policies mandate a “minimum parcel size” and refers specifically to a “legal lot for purposes of the County Subdivision Ordinance.” (General Plan, Chapter 3, Land Use, Sections 3.1.2.6 and 3.1.2.7.) Thus, the General Plan looks to the Subdivision Ordinance on the issues related to legal lots for land use development permits.

Section 8201-6 of the Subdivision Ordinance defines a “lot” as excluding lands used via easements or similar rights to use the lands of others. Specifically, a “lot” is defined, in pertinent part, as follows:

*‘Lot’ means an area of land having fixed boundaries depicted on or described by a tentative map, final map, parcel map or instrument of conveyance for the purpose of defining land to be held, actually or potentially, in fee title as a discrete unit; provided that streets, alleys and similar right-of-ways, whether held in fee or otherwise, are not lots. Mere easements and licenses are not lots. * * * (Subdivision Ordinance, §8201-6; emphasis added.)*

Accordingly, easements, licenses, streets, alleys and similar rights-of-way are all, by definition, not “lots” and thus not subject to the “Legal lot” provisions of the local LORS.

Section 8201-6 of the Subdivision Ordinance confirms this conclusion through its definition of a “Legal lot”:

‘Legal lot’ means a lot that met all local subdivision ordinance and Subdivision Map Act requirements when it was created, still exists, and can be lawfully conveyed in fee as a discrete unit separate from any contiguous lot. ‘Legal lot’ also means a lot for which a certificate of compliance or a conditional certificate of compliance has been issued under this Chapter and the Subdivision Map Act and the boundaries of

¹ TN#: 217777.

² As noted in TN#: 217777, Section 8111-1.2.1.1 is applicable to the powerplant site.

which have not subsequently been altered by merger or further subdivision. (Subdivision Ordinance, §8201-6; emphasis added.)

The right to use lands through easement, license, or other similar rights-of way do not constitute lots, which must be a discrete unit separate of any contiguous lots. The Ordinance's focus is on the acreage that would be developed (the project site) as a lot, and not on linear facilities sited via easement of other right to use lands.

Finally, the NCZO, Section 8101-3.4, states that, "No permit or entitlement shall be issued for any use, structure, or construction on *a lot* that is not a legal lot." One of the six required findings for the issuance of a Planned Development Permit or a Conditional Use Permit in the County of Ventura is that a "proposed development will occur on a legal lot." (NCZO §8111-1.2.1.1(f).) Since "easements" are not considered "lots," the NCZO's requirements for a legal lot do not apply to the parcels where the transmission line poles will be located.