

5/27/2010

From: Jensen, Bruce, CDA <bruce.jensen@acgov.org>

To: Lisa Worrall

CC: Amanda Stennick; Craig Hoffman; Kerry Willis

DOCKET	
09-AFC-3	
DATE	<u>MAY 27 2010</u>
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RE: Mariposa Energy Project- Proposed draft condition of certification and clarification on required mitigation

-----Original Message-----

From: Lisa Worrall [<mailto:LWorrall@energy.state.ca.us>]

Sent: Thursday, May 27, 2010 10:26 AM

To: Jensen, Bruce, CDA

Cc: Amanda Stennick; Craig Hoffman; Kerry Willis

Subject: Mariposa Energy Project- Proposed draft condition of certification and clarification on required mitigation

>>Good morning Bruce,

On May 20, 2010, Energy Commission staff received a letter from Chris Bazar, Director with the Alameda County Community Development Agency (docket # TN 56771) on the proposed MEP's consistency with the Alameda County General Plan and Williamson Act contract. The county's letter has been helpful to staff in determining the MEP's consistency with Alameda County's land use laws, ordinances, regulations, and standards.

The May 20, 2010 letter also provides the county's position on the compatibility of the proposed MEP with the Williamson Act contract. The county states that the proposed MEP would be compatible and consistent with the Williamson Act contract and would require neither cancellation nor non-renewal as a result of the proposed MEP.

In 1989, Alameda County amended the Land Conservation Agreement (LCA) (Williamson Act contract) (C-89-1195) on the project property to add the co-generation/waste water distillation facility (Byron Power Cogen Plant as described by conditional use permit C-5653), as a compatible use under Exhibit B of the LCA. The Board of Supervisors adopted and recorded the associated Resolution (R-89-847) on December 12, 1989.

Because of the county's past actions on the project property with respect to the Williamson Act contract, staff is proposing a condition of certification that would require the land owner to request that

Alameda County amend the existing LCA to include the MEP as an approved compatible use under the Williamson Act contract. As part of staff's proposed condition, the project owner would provide a copy of the amended LCA identifying the MEP in Exhibit B as an approved compatible land use. <<

Hi, Lisa - The apparent reason for the change on the cogen plant was because it also included a water distillery, which is not explicitly called out in the Act as an automatic compatible use the way an electrical facility is, requiring no further review by the Board (unless it chooses to revoke said compatible status). The County's position is that under the Williamson Act, no augmentation to the Exhibit B compatible use list is necessary.

>>I have a few questions regarding the MEP's consistency with the ECAP. The county's May 20, 2010 letter states, "The County considers a power generation facility a land use allowed under the LPA [Large Parcel Agriculture] description of the ECAP, provided that mitigation for agricultural land permanently removed from production as a result of the construction and presence of the facility is mitigated."<<

Correct.

>>Energy Commission staff will address the county's concerns to mitigate the loss of agricultural land by proposing conditions of certification that would require the applicant to re-seed the 9.2-acre construction laydown and parking areas on the Lee property and require the project owner to provide a permanent water supply for livestock.<<

We are aware of this change.

>> We will also require the Williamson Act contract be amended to include the MEP as a compatible land use consistent with the contract.<<

>>Given staff's proposed land use conditions of certification for the MEP, would the county propose any further mitigation to ensure the project's consistency with the Large Parcel Agriculture land use designation in the ECAP?<<

The 9.2-acre improvement and water source is fully adequate as mitigation in the County's view.

**Thank you,
Bruce Jensen,
Senior Planner**

>>I look forward to your response to my questions and further

clarification regarding the project's mitigation requirements.

Please contact me if you have any questions.

Thanks,

Lisa<<

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