

February 24, 2011

STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

County of Alameda Official Statement

Alameda County has been working with the developers of the Mariposa Energy Project since July 2008 to ensure that the project is compatible with applicable Laws Ordinances Regulations and Standards (LORS), has no unmitigated impacts, and provides benefits to our County.

We have also reviewed all applicable County adopted plans and find that Mariposa is consistent with all LORS that have bearing on the Project site, including the East County Area Plan (ECAP), the specific provisions of ECAP regarding Byron Airport, and the Williamson Act. County staff finds that the Project is consistent with the County's General Plan and, in particular, ECAP as amended by Measure D.

Although the passage of Measure D in 2000 did place more restrictions on land use and development intensity, it does explicitly allow public infrastructure such as the current project so long as the .01 floor-to-area ratio (FAR) is not exceeded, which in this case it is not. The County considers the Project a public facility because it would serve a key need of the public at large in order to provide adequate electrical services. It is also considered infrastructure under the definition provided in Policy 13 of ECAP, and will not have an "excessive growth-inducing effect on the East County area, as it is not designed to support any quantity of new development in excess of what is permissible in the plan. As a peaker plant, this project does not seek to promote new development, but is designed to serve existing power users within the regional network. Two other projects in the past 10 years have come before this Commission with nearly identical conditions, and in both cases the County has landed in the same place, and your Commission has agreed. As such, the County's application of its LORS to the Project is consistent with the County's prior practice.

County staff also finds that the Project is consistent with those provisions of the ECAP that have a bearing on Byron Airport. These include issues such as height limitations, glare, potential bird strikes and electronic interference. Our letter to the Commission on September 17, 2010 provides further detail and analysis on these issues. We also recognize that the FAA, which has sole jurisdiction over airborne aircraft and pilot safety issues, has already issued Determinations of No Hazard to Air Navigation for the Project's stacks and power lines, which also included an analysis of the Project's plumes. Furthermore, we understand that in performing its aeronautical study on the Project, the FAA was required to consider the planned runway extensions, which are specified in the Byron Airport Master Plan, as though they already exist at their planned, future lengths. We find that these FAA Determinations are sufficient for a finding of compatibility for the Project with the Byron Airport with respect to air safety.

The parcel on which the Project will be located is under a Williamson Act contract. The property subject to the Williamson Act contract is considered non-prime, non-irrigated grazing land. By letter dated July 6, 2009, the State Department of Conservation agreed that the Project would be a "compatible use" under the Williamson Act, and would be designed so that the parcel remains in agricultural use. Given that Mariposa has committed to reseeded the laydown areas and to the placement of permanent agricultural water sources on the parcel, the parcel will be able to support as many cattle on the remaining 146 acres after the Project is built as are currently supported and is thus consistent with the Williamson Act.

Finally, we note that the Applicant has been in contact with the Alameda County Fire Chief and Fire Marshall. We believe the County's fire and first responder services are adequate to serve the project. The Fire Chief and Fire Marshall both reviewed the Project's hazardous materials layout and fire protection, and believe that both plans are adequate. It is unlikely that the power plant will require significant fire protection or other first responder services from the County. We further note that the Project will have a dedicated fire water tank that will be available for Alameda County to use in case of a grass fire or other emergency in the area.

For all the reasons just discussed, we believe that the Mariposa Energy Project is compatible with all the applicable LORS, and should be approved by the Commission. I would also note that a representative from our County Counsel's office is present today should you have any questions that are legal in nature or relate to County protocols ; County Counsel has reviewed all actions taken and documents prepared by County staff in relation to this project, and has provided legal analysis where needed.

Thank you for your time.



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
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1-800-822-6228 – WWW.ENERGY.CA.GOV

**APPLICATION FOR CERTIFICATION
FOR THE *MARIPOSA ENERGY PROJECT*
(MEP)**

Docket No. 09-AFC-3

PROOF OF SERVICE
(Revised 2/25/2011)

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DECLARATION OF SERVICE

I, Maggie Read, declare that on February 28, 2011, I served and filed copies of the attached Mariposa County Alameda County Statement re: Compatibility with Laws Ordinances Regulations and Standards (LORS) dated February 24, 2011. The original document, filed with the Docket Unit, are accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [\[http://www.energy.ca.gov/sitingcases/mariposa/index.html\]](http://www.energy.ca.gov/sitingcases/mariposa/index.html). The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

(Check all that Apply)

FOR SERVICE TO ALL OTHER PARTIES:

- sent electronically to all email addresses on the Proof of Service list;
- by personal delivery;
- by delivering on this date, for mailing with the United States Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "email preferred."

AND

FOR FILING WITH THE ENERGY COMMISSION:

- sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (*preferred method*);

OR

- depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 09-AFC-3
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

Original signed by: _____
Maggie Read
Hearing Adviser's Office