

DOCKETED

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Project Title:	Redondo Beach Energy Project
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Description:	Presents argument that Redondo Emergency Ordinance does not require CCC approval.
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Building a Better Redondo
Intervenor
6 Feb 14

Subject: Comment to California Coastal Commission Memo pertaining to 12-AFC-003
To: CEC Staff

BBR maintains the letter from the Coastal Commission is in error when it cites that Redondo's Emergency Ordinance requires their approval before being effective. We agree that any zoning change that would increase the environmental impacts of zoning approved by Coastal Commission as part of an LCP and related implementing ordinances. However, in this case the zoning change merely eliminates a use. It does not add a new use.

Section 30005 of the Coastal Act expressly allows a City to impose restrictions that do not conflict with the act: ***"No provision of this division is a limitation on any of the following: (a) Except as otherwise limited by state law, on the power of a city or county or city and county to adopt and enforce additional regulations, not in conflict with this act, imposing further conditions, restrictions, or limitations with respect to any land or water use or other activity which might adversely affect the resources of the coastal zone."***

Certainly, a new power plant adversely affects the resources of the Coastal Zone. It pollutes the air, blocks views, negatively impacts surrounding uses, and creates noise pollution. The proposed power plant is not a "coastal dependent use" protected in other areas of the Coastal Act. The proposed ordinance does not represent an increase in impact to coastal resources. In fact, quite the opposite is true... Redondo's emergency ordinance eliminates a use that would increase impact to coastal resources.

In addition to the text of the Coastal Act itself, case law holds that a City can change a zoning ordinance in the Coastal Zone so long as the new zoning limits the uses to something less impactful than previously approved by the Coastal Commission.

YOST V. THOMAS (1984) 36 Cal.3d 561 *"The Legislature left wide discretion to local governments to formulate land use plans for the coastal zone and it also left wide discretion to local governments to determine how to implement certified LCPs."* *"...once an LCP has been approved by the Commission, a local government has discretion to choose what action [36 Cal.3d 573] to take to implement its LCP: it can decide to be more restrictive with respect to any parcel of land, provided such restrictions do not conflict with the act."*

In this present case, the City's emergency ordinance is more restrictive as it eliminates one of the uses permitted in the approved LCP and zoning - it does not substitute a new more impactful use. Since the impact of preventing a new power generation plant would be less environmentally impactful than allowing a new one, the Coastal

Commission need not certify the change for it to be effective.

While one could argue that preventing a new plant would potentially allow the more impactful existing plant to continue to operate, that is not a reasonable outcome of this zoning change. The state has set a deadline for the current plant to drastically reduce the use of ocean water for cooling. Modification of the current plant to a new cooling method would not be economically viable and would face regulatory obstacles that would likely prohibit the conversion.

Converting the existing plant would not address the inefficient plant start up cycle. And the current plant is nearing the end of its useful life. Operation and maintenance costs of this plant would not be cost competitive with newer plants already added to the LA Basin LRA.

BBR maintains that the Coastal Commission incorrectly assessed Redondo's emergency ordinance and that indeed the City of Redondo does have the latitude to further restrict uses approved in the LCP in order to protect coastal resources without specific Coastal Commission approval. We find it disturbing that the Commission formed to protect coastal resources would challenge a City's action to prevent the negative coastal resource impact of a non-coastal dependent use. The Commission's position is contrary to the intent and content of the Coastal Act.