

DOCKETED

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Document Title:	Memo to CEC staff re Coastal Commission review of Pecho Energy proposal
Description:	Description of applicable Warren-Alquist and Coastal Act regulatory requirements
Filer:	Tom Luster
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CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904- 5200
FAX (415) 904-5400
TDD (415) 597-5885
WWW.COASTAL.CA.GOV



January 12, 2022

To: Lisa Worrall, Energy Commission – Project Manager

From: Tom Luster, Coastal Commission – Senior Environmental Scientist

Re: Coastal Act and Warren-Alquist Act requirements for review of the proposed Pecho Energy Storage Center project (21-AFC-01)

This memo provides a summary of the regulatory requirements and review process that Coastal Commission staff has identified as being applicable to the above-referenced Pecho Energy proposal. As we've discussed, the project is proposed to be located at a site within the coastal zone that the Coastal Commission has designated as being unsuitable for thermal power plants. As described below, and pursuant to applicable provisions of the Warren-Alquist Act and Coastal Act, the proposed use of the site is subject to review and approval by the Coastal Commission.

Regulatory background: The proposed project is a 400 MW compressed air/energy storage and generating facility that Energy Commission staff determined would be a "thermal powerplant" for purposes of the Warren-Alquist Act. It would be located in the coastal zone in the Chorro Valley, east of Morro Bay in San Luis Obispo County.

The Warren-Alquist Act and Coastal Act include several provisions applicable to thermal powerplants proposed to be located within the coastal zone. As applicable to this proposed project, Coastal Act Section 30413(b) directs the Coastal Commission to identify locations within the coastal zone that are suitable or unsuitable for such powerplants and to provide its findings to the Energy Commission. In the 1970s and 80s, the Coastal Commission identified those locations in a series of reports provided to the Energy Commission.¹ Those reports identify the Chorro Valley—where the proposed project would be located—as "unsuitable" due to it being within a highly scenic corridor.²

¹ These include the Coastal Commission's 1978 "Designation of Coastal Zone Areas Where Construction of an Electric Power Plant Would Prevent Achievement of the Objectives of the California Coastal Act of 1976," as well as the 1984 and 1985 revisions of that report.

² The report states: "To the east of Morro Bay exists two significantly unique viewshed corridors. Highway 1 transversing lengthwise through Chorro Valley and the prime cultivated agriculture is of statewide, regional and local importance. Los Osos Valley Road's viewshed, of regional and local importance, the primary access to Montana de Oro, also transverses the prime cultivated agricultural soils. These two corridors are especially unique due to the seven volcanic plugs towering over the chaparral and oak covered mountains. The Irish Hills, south of Los Osos provide a scenic backdrop along both Turri Ranch and Los Osos Valley Roads."

Warren-Alquist Act (Public Resources Code) Section 25526 prohibits the Energy Commission from approving any such powerplants at these “unsuitable” locations unless the Coastal Commission “first finds that such use is not inconsistent with the primary uses of such land and that there will be no substantial adverse environmental effects and unless the approval of any public agency having ownership or control of such land is obtained.” The Energy Commission’s implementing regulations (at Cal. Code Regs. tit. 20, Section 1729) require that the applicant, prior to the Energy Commission making a determination about the acceptability of the proposed site and facility, demonstrate to the Coastal Commission that the proposed project will cause no substantial environmental impacts, and that the Coastal Commission provide its findings on that demonstration to the Energy Commission.³ As noted in the Energy Commission staff’s December 23, 2021 Data Adequacy letter to the applicant, the Energy Commission will need a determination from the Coastal Commission “on the suitability of the site for development of a thermal power plant, as well as the project’s consistency with the California Coastal Act and Local Coastal Program.”

Coastal Commission review process: As noted above, if the applicant wishes to proceed with this project, the applicant will need to submit to Commission staff information about the proposed project and site that is adequate for the Commission to determine if the project is consistent with the primary uses of such land and that there will be no substantial adverse environmental effects. In determining consistency of the project with the primary uses of the land, the applicant could review the County’s certified Local Coastal Program, including relevant land use designations and zoning. Upon the applicant’s submittal of adequate information about the proposed site and facility, we anticipate scheduling a hearing during one of the Coastal Commission’s regularly scheduled monthly meetings, likely within two to three months of receiving complete, relevant information. Coastal Commission staff would then provide its Commission’s findings to the Energy Commission as part of the current AFC process.

³ Cal. Code Regs. tit. 20, Section 1729 states:

“a) The commission shall not find acceptable any site and related facility to which the provisions of Sections 25526 or 25527 of the Public Resources Code apply unless the finding required by the applicable section has been made.

(b) The applicant shall be required to comply with the following requirements of Sections 25526 and 25527 at the application stage:

(1) For a site in an area designated by the Coastal Commission, the applicant shall demonstrate to the Coastal Commission that the proposed facilities will cause no substantial adverse environmental effects on any designated area. The Coastal Commission shall submit its findings to the Energy Commission prior to the conclusion of the hearings held under Section 1745 of these regulations.”