

DOCKETED

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STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:

BLYTHE SOLAR POWER PROJECT
AMENDMENT

Docket No. 09-AFC-06C

**Staff Response to County of Riverside's November 12, 2013
Comment Letter Regarding Staff Assessment TN # 201158**

December 3, 2013

NOTE: Responses to comments on traffic and transportation can be found in Staff Exhibit 2002.

BIOLOGICAL RESOURCES

Riverside County Comment: "With the exception of avian impacts, CEC Staff has concluded that with implementation of recommended conditions of certification all impacts to biological resources would be mitigated to less than significant levels. However, CEC Staff also states impacts to avian species may be significant after implementation of mitigation. The County concurs with this conclusion."

Biology Staff Response: Thank you for your comment.

Riverside County Comment: "CEC Staff recommends avoidance, minimization, and compensatory mitigation measures to offset direct, indirect, and cumulative impacts to desert tortoise and other special-status species, and to assure compliance with state and federal laws such as the federal and state endangered species acts and regulations protecting waters of the state. While the County agrees such biological impacts must be

properly mitigated, the County is concerned that the Project has yet to identify where or how such mitigation will occur. The location of mitigation lands should be discussed now publicly during the Project review stage to validate whether mitigation lands are obtainable and to analyze the location and impacts, if any.”

Biology Staff Response: Given the acreage size it is generally not feasible to have the applicant acquire an interest in mitigation lands prior to project approval. Since this is an amendment the majority of the land acquisition related conditions were already approved and some mitigation lands have already been obtained. Since the mitigations lands will be located in DWMA's within the Colorado Desert Recovery Unit, where limited developments are allowed, the mitigation requirement would not affect Riverside County's land use elements.

The Staff Assessment identifies a number of conditions of certification that require the preparation of more precise mitigation plans after approval of the license amendment, which is acceptable under CEQA under certain circumstances. Such an instance occurs when practical considerations make it difficult to develop a plan at this stage of the planning process, and when the agency commits itself to eventually devising measures that will satisfy specific performance criteria articulated at the time of approval. CEQA Guidelines (Cal. Code Regs, tit. 14, § 15123.4 [a] [1] [B]) provides that mitigation measures may specify performance standards that would mitigate the significant effect of the project and that may be accomplished in more than one specific way.

Refinements to the various mitigation plans, (Desert Tortoise Translocation Plan, Avian Plan, and Weed Management Plan etc) are often worked out through a consultation and approval process with the CPM that takes place after the project is approved. In this type of situation, it often makes sense to finalize the formulation of mitigation measures within the parameters of the Conditions of Certification to ensure they will meet the regulatory agency's requirements. Compliance with regulatory agency standards for mitigation can be relied upon to ensure adequate mitigation under CEQA. In regards to land acquisition, the general location, Colorado Desert Recovery Unit, and characteristics of land have already been identified for public review.

In addition the Commission posts various compliance documents such as reports, plans and studies as well as all the Monthly Compliance Reports on the project's webpage which allows those interested to follow the compliance process.

WORKER SAFETY AND HAZARDOUS MATERIALS

Riverside County Comment: The County requests that Condition of Certification **HAZ-2** be revised to make clear that the project owner is to not only provide the Hazardous Materials Business Plan and Spill Prevention, Control, and Countermeasure Plan to Riverside County Department of Environmental Health and to the Riverside County Fire Department but that the project owner shall also pay the usual and customary fee for review of those plans and the usual and customary fee for any necessary and required inspections regarding same.

STAFF RESPONSE: Staff is unaware and has seen no evidence that local jurisdictions are not being paid their usual and customary fees for HMBP and SPCC plan review. Staff did learn of complaints about local jurisdictions not being paid for the review of fire protection plans and inspections, hence the obligatory language in the fire protection section. Staff would expect the county to bill the applicant as consistent with county review fees and thus no change to HAZ-2 is required.

Riverside County Comment: Worker Safety-5: The County supports the presence of an on-site Automatic External Defibrillator (AED) program and the concurrent training of sufficient staff but also recommends the CEC require placement of and training in “Trauma/First-Aid” kits sufficient to handle anticipated industrial accidents.

STAFF RESPONSE: While similar language has been proposed in other solar projects, such as the Palen project (PSEGS), Staff did not propose such language in BSPP because the industrial environments and resultant safety hazards posed to workers are so very different between the two solar technologies. PSEGS with its two 750-ft solar power towers would be a much more complex and dangerous work environment than a solar PV site with its very few staff. There is no evidence in the record indicating the requested language is necessary, therefore, Staff recommends not adding this requirement. .

Riverside County Comment: New Worker Safety-11: The County has offered the following proposed language.

The Project Owner shall coordinate access to the site and training sessions with the RCFD staff for the purpose of site familiarity and operational safety of emergency responders. This access shall be made available on multiple days during a week and no less than twice a year.

STAFF RESPONSE: Given the use of PV technology, staff removed the requirement for joint training with the RCFD. While the County agrees with this removal it has suggested instead that Staff require the project owner to coordinate access to the site and training sessions with the RCFD staff for the purpose of site familiarity and operational safety of emergency responders on multiple days during a week and no less than twice a year.

Staff has found no basis for this requirement while assessing the project impacts and developing the Worker Safety analysis. The RCFD is very familiar with PV facilities

within its jurisdiction and they have not made a case that this facility would somehow be different or that the project owner would deny them access so as to necessitate a Condition of Certification. Staff has not heard of any Energy Commission-licensed power plant denying access to a local fire department for any reason, let alone for site familiarity and operational safety of emergency responders. If this should ever occur, the local fire department need only inform the Energy Commission Compliance Project Manager and Commission staff would expedite access and cooperation. Therefore, Staff recommends not including this condition.

LAND USE

Riverside County Comment: Riverside County requests that a framework for a closure plan should be discussed publicly now, during the CEC's Project review stage, to validate if the closure plan is possible, if it will be sufficient, and if it entails impacts requiring mitigation. Moreover, when the final plan is submitted, a noticed public hearing should be conducted prior to adoption of the plan.

STAFF RESPONSE: The Compliance conditions, especially COMP-15, detail the information that is required in any closure plan. The Compliance conditions contain recent updates to clarify information that is needed and provides the public with sufficient details to understand the contents of a closure plan. Given closure is not expected for 20 or 30 years it is not practical for a fully developed plan to be drafted at this time. Finally, as the closure plans are public documents, the County always has the opportunity to review plans and discuss concerns with Commission staff.

Riverside County Comment: Riverside County asks that the project owner post an adequate financial assurance prior to the start of construction, based on estimated costs, should the project owner fail to comply with the plan at closure.

STAFF RESPONSE: According to the Project Description section of Part A of the Staff Assessment, because the modified project site is on federally-managed public land, the BLM would require a closure bond to return the site to its pre-project condition (Staff Exhibit 2000 p. 3-10).

Riverside County Comment: Regarding Riverside County's "land use" comments resulting from the Biology mitigation.

STAFF RESPONSE: Because the biological mitigation lands would be within Desert Wildlife Management Areas (DWMAs) preferable within the Colorado Desert Recovery Unit, where limited development is allowed, the mitigation requirement would not affect Riverside County's land use element policies. DWMAs are only designated on federal land. The biology compensatory mitigation conditions require that private lands within DWMAs are selected for mitigation land because of the issue that BLM cannot guarantee that current BLM will be permanently protected from development; however, they can accept private lands into public ownership with development restrictions. It is

expected that development potential of private lands within BLM designated DWMA's have a low potential for development. Protecting them would meet other goals of Riverside County regarding open space lands.