

## DOCKETED

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# Redondo Beach Energy Project Preliminary Staff Assessment Workshop



## *Land Use*

Michael W. Webb

May 20, 2015



# Background

- ▶ City of Redondo Beach passed an Urgency Ordinance on December 3, 2013, prohibiting for a period of 45 days the approval of any permit for "the construction, expansion, replacement, modification or alteration of any facilities for the on-site generation of electricity on any property located within the coastal zone."
- ▶ City passed an Extension of the Urgency Ordinance on January 14, 2014. This extended the prohibition for 22 months and 15 days.
- ▶ The City is now proposing an ordinance to prohibit city-wide all power plants subject to Energy Commission jurisdiction.


MAY 20, 2015



# LORS Conflict

- ▶ City of Redondo Beach believes that each of the three resolutions creates a conflict with Laws, Ordinances, Regulations, and Standards (LORS), requiring additional findings for approval by the Energy Commission.
- ▶ On February 5, 2014, the Coastal Commission submitted a letter in this proceeding stating that the City's moratorium ordinance "is not effective unless approved by Coastal Commission."
- ▶ On March 3, 2014, the City submitted a response setting forth the legal basis for its position that the ordinance is effective without any review or approval by the Coastal Commission.


MAY 20, 2015



# The Law Is Clear that Prohibitions Do Not Require Coastal Commission Approval

Public Resources Code Section 30005:

The Coastal Act shall not be interpreted to limit "the power of a city...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."



# The Law Is Clear that Prohibitions Do Not Require Coastal Commission Approval

## *Conway v. City of Imperial Beach (1997)*

- ▶ Virtually identical facts, except the temporary moratorium was for height and density limits.
- ▶ Coastal Commission sent a letter stating that the moratorium "...must be submitted for certification prior to becoming effective."
- ▶ Court of Appeal flatly rejected this view:

*"We hold that an interim ordinance which does not authorize 'a use other than that designated in the LCP as a permitted use' need not be certified by the Coastal Commissions prior to implementation and enforcement."*



## However, The City Has Found A Way To Avoid A Legal Conflict With The Coastal Commission

- ▶ Coastal Commission Legal Staff have confirmed that a prohibition solely on energy facilities that are subject to Energy Commission jurisdiction does not require review and approval by the Coastal Commission.
- ▶ The City is proposing a new ordinance to prohibit city-wide all power plants subject to Energy Commission jurisdiction.
- ▶ The proposed resolution is expected to reach City Council in June.



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