

COLAB SAN LUIS OBISPO COUNTY
PRIOR ACTIONS AND COMING ATTRACTIONS REPORT
WEEK OF APRIL 25-30, 2011

BOARD OF SUPERVISORS

Board Meeting of April 19, 2011 (Completed)

Environmental Review Consultants - Contracting and Bidding Process. The Board approved, without comment, the 14 firm 5 year standby list for environmental consulting firms. The County contracts with consulting firms to prepare various environmental documents such as environmental impact reports (EIRs). In some cases these are done as part of the permitting requirements and are paid for by the applicants. In other cases they are done for a variety of County projects including plan amendments, construction projects, and so forth. To make the process less time consuming on an individual project basis, from time to time the County issues a request for proposals (RFP) to establish a panel (standby list) of consulting firms which all meet the County's requirements. Instead of going out to bid separately on each project, a firm is picked from the panel of firms to conduct a specific project. The staff report states that this saves 4 to 6 weeks of processing time.

The Board gave approval to a panel of 14 firms for the next cycle. Surprisingly, the roster is good for the next five years, which is a very long time to go without a formal bidding process. Over such a long period much could change. New firms could come into the market, new technologies could develop, and price and service competition could intensify. For example, in the financial world a best practice is that governments rebid their annual independent audit contract every three years. More recently, it has been determined that the same firm which performs independent audits for an entity should not also have separate consulting assignments with the entity it is auditing. This was one of the problems in the Enron scandal. Enron's "independent auditors" also had valuable long term consulting contracts.

Somewhat similarly, firms which are assisting the County in its regulatory role by evaluating the environmental impact of a County project or a private applicant's project must be objective. This role, by its nature, often impacts applicants' property rights, finances, and very ability to live in and exercise their rights as citizens the community. On this account it is essential that government regulators and their consultants adhere to the highest standards of apolitical and professional independence. Vigilance is required to insure that professional consultants and internal regulators exercise independent judgment and not co-opt each other. More frequent and independent selection of those who receive

these often lucrative contracts would help protect such core values within a democratically constituted government.

During the Board meeting COLAB pointed out that five years is long time to go without new requests for proposals and cost comparisons.

Appeal of the Planning Commission Approval of the SunPower 250 MGW Solar Plant.

After an extensive public hearing the Board of Supervisors unanimously rejected the appeals and certified the Environmental Impact Report (EIR). The hearing took most of the day and speakers overwhelmingly supported the project. The appellants were focused on details, primarily the risk to various plants and animals, as outlined below. The spokesman from the Sierra Club said that, although they support solar, they do not support industrial scale solar. They believe it should be done through millions of distributed roof top systems.

Revealingly, this individual went on to expound that the ultimate solution to carbon based global warming is not the use of renewable sources but massive conservation through changes in how we live. He said that our current standard of living could not be sustained and that dependence on new energy sources and technologies had to cease.

On February 24, 2011, the County Planning Commission approved the project and certified the EIR. As previously reported, this is a 250 megawatt (MGW) industrial scale photovoltaic power plant on 4,685 acre of which 1500 will be covered with photovoltaic arrays, roads, power lines, support buildings, water detention ponds, and related structures. The project would also reclaim two idle gypsum mines. The private sector project is heavily financially subsidized by a Federal loan guarantee and California State legislation which exempts the energy producing portions from the local property tax. This project is further subsidized from an economic standpoint because the new Renewable Energy Bill signed by the Governor requires California utilities to reach 33% generation from renewables (solar, wind, hydro) by year 2020. There may be other exemptions and incentives which have not yet been applied or reported. Given the subsidies, incentives, and government created market advantages, this is a quasi-public project with Federal tax payers possibly holding the bag if it fails financially.

Notwithstanding that environmentalists and a variety of social engineers have been clamoring for solar power as partial solution to a variety of alleged problems, four groups containing six separate organizations appealed and requested that the project be denied by the Board of Supervisors. The Planning staff recommended the appeals be denied. The appellants were: (1) Phil Ashley /Canyons and Streams Alliance; (2) Center For Biological Diversity/Defenders of Wildlife/North County Watch; (3) The Sierra Club; and (4) Michael Strobridge.

The appeals were lengthy and detailed. The basic message is that the Carrizo Plain is the wrong place for a major industrial facility because of its unique and rare habitats. Additionally, the appellants assert that the project should be built further east on formerly irrigated land which has salt build-up in Kings and Fresno Counties. Damage from the facility construction and operation to mammals, reptiles, birds, plants and insects was cited in minute detail. Also cited were glare from the panels, air pollution, traffic, noise, dust,

ugly wires and towers, water pollution, fire safety, truck traffic, and threats to the wellbeing of school children.

The County proposed an extremely detailed and rigorous list of permit requirements (about 100 pages to address all aspects of the project). These include everything from the normal zoning and environmental considerations to detailed management plans for decommissioning the plant after its useful life. Even the construction workers will have to be brought in on vans and buses to minimize traffic.

Because SunPower's financial pro forma for this project is private competitive business information, we lack access and therefore cannot know how much revenue and ultimately profit the project might generate. However, it is hard to believe that a business could accept the conditions as proposed. This notwithstanding, SunPower did agree to all the conditions including 149 which must be completed before construction is even allowed to start.

Much of the appellants' oral and written testimony was peppered with legal references to both statutes and court case decisions. This suggests that appeals to the Superior Court may follow. (The Sierra Club alone is a powerful, well-financed combine which claims two million members and can afford protracted litigation. Similarly the Center for Biological Diversity is a non-profit law firm staffed with expert environmental attorneys.) The County has required SunPower to indemnify it for the costs of litigation which may result from its approval. If the project survives the legal challenges, will there be enough money left to build it? If it is built, will the electricity be affordable enough for Californians to pay for it? If this project and other solar projects cannot withstand these attacks, will the appellants and their allies accept less costly natural gas generated electricity? If not, will they accept nuclear? If not, will they accept any form of electric generation, or is the ultimate reductio ad absurdum to return to the Neolithic standard of living? Perhaps not. Neolithic people had fire. So did Neanderthals.

Board Meeting of April 26, 2011(Scheduled)

The County Resource Management System (RMS). This item first appeared on the Board agenda April 5, 2011, but was continued. Now it is back but contains revisions and corrections. By way of repeating the background and to set the scene, the RMS is an annual paper evaluation system which supposedly measures whether various communities have sufficient resources to permit development. Six factors are measured: 1) Water supply (safe yield/extractions); Water systems (percent of capacity); Sewer systems (percent of capacity); Roads (vehicle/ capacity); Schools (enrollment/ capacity); and Air Quality (State standards). Each year staff prepares a report entitled the Annual Summary Report (ASR), which is to "provide a comprehensive yearly summary of the state of the County's man-made resources." Data is fed in from County agencies, cities, State agencies, environmental impact reports, Planning and Building Department research, special districts, school districts, water companies, and "personal communications with agency staff". The report uses 3 alert levels of severity (LOS) to identify resource deficiency. Level I exists when sufficient lead time is available to expand the capacity of the resource, or decrease the rate at which the resource is being depleted. Level II "identifies the crucial point at which some

moderation of the use must occur to prevent exceeding the resource capacity." Level III occurs when the demand for the resource equals or exceeds its supply. Action is not invoked unless the Board of Supervisors "certifies" the level of severity. The Board must conduct a Resource Capacity Study (RCS) before it can certify a level of severity. The RCS requires a study and public hearings before the Planning Commission and the Board of Supervisors.

The report contains pages of random definitions, tables, descriptions about subjects encompassing gasoline use, the status of individual wells, water rates, population, building permits issued, dust, greenhouse gas emissions, etc. There is one table that shows which communities have one or more Level of Severity III conditions. For example San Simeon has Level of Severity III designations for Water Supply, Water System Capacity, and Schools. Some questions:

1. What does it cost per year to maintain, update, and produce this report?
2. How many FTE's does it take maintain, update and produce this report?
3. How is it used?
4. Does it inform the County's Long Term Capital plan and Five Year Capital Improvement Program and related debt policies?
5. Are the recommended staff actions (such as conducting RCS's for some LOS III's) funded?

Is the County measuring the right subjects? Are unemployment, foreclosures, and bankruptcies at LOS III? What about our taxes? What about the negative impact of the regulatory environment?

The New Version. Although our questions (above) were not answered, the staff now recommends the process be "streamlined" and that the time needed to prepare the report every year be "reduced." They cite the time needed to do the work on implementing the Level of Severity Three certification of the Paso Robles Groundwater Basin as the reason. In a bit of hyperbole, the write-up states, "streamlining the ASR would enable staff to focus more on Board Priorities." If this is not a priority, why do it at all? This again confirms our opinion that the County spends too much on planning and is choking on the workload.

Some of the new features include preparing the report every two years instead of every year; discontinuing use of school enrollment as one of the resource metrics; and "report on water only, as the most critical resource..." This is confusing because it does not say what is happening to the other previously included measures (roads and air quality). The Report itself, which is attached to the Board letter, still contains the old measures on page eleven. Adding to the confusion the Board letter then says, "As noted earlier, this year's ASR also includes three new resource measures: highway interchanges, park acreage and greenhouse gas GHG) emissions. It is hard to tell what this means. First it says they are going to "report on water only..." It never says whether or not the road and air quality measures are still part of the metrics.

It is strange that the County would measure park acreage as a critical resource measure in a place where there are so many County parks that they cannot afford to run them. On top of this there are State Parks, city parks, thousands of acres of National Forest, and miles of ocean beaches. Does this mean that there will be a new round of exaction fees imposed on development for new parks?

This should just be stopped.

OTHER GOVERNMENT ENTITIES

Planning Commission Meeting of April 18, 2011(Completed)

This was a continuation of the Topaz Solar Farm, LLC, and application for a land use permit to construct a 550 megawatt (MGW) solar plant on 6,730 acres (9.9 square miles) on both sides of State Highway 58 near Bitterwater Road. The project consists of solar arrays, buildings, roads, and power lines. The same issues which apply to SunPower above will come into play again.

Planning Commission Meeting of April 28, 2011(Scheduled)

There will be another hearing on the Topaz Solar Farm noted above. The supplementary material shows that some of the same opponents who opposed the SunPower project are working to oppose Topaz. Material has been submitted challenging the EIR on the basis of the accuracy of the project description. There is also extensive material challenging the adequacy of the alternative projects (sites) analysis and supporting the energy zone in Fresno and Kings Counties. Interestingly, there is some material indicating that there are so many renewable energy projects underway and/or being planned that the recently legislated 33% renewable requirements could be exceeded.

Central Coast Regional Water Quality Control Board Meeting of May 4, 2011 and May 5 2011 (Scheduled)

Agricultural Order. The continued hearing on the Agricultural Water Order is still scheduled for 10 A.M. on Wednesday May 4, 2011, at the Board's regional headquarters at 895 Aerovista Place, suite 101 in San Luis Obispo, which is right next to the San Luis Obispo Airport. It should be noted that May 4th is the first day of a two day agenda which continues into May 5, 2011. The May 5, 2011 agenda contains other unrelated items, but attentiveness should be exercised in case it carries over. The Board continues to insist that only those speakers who filed a speaker slip at the Watsonville hearing on May 17, 2011 may speak at the May 4, 2011 hearing.

Los Osos Sewer System Discharge Permits. There is a complex staff report which explores many issues related to the ultimate disposal of the effluent from the proposed Los Osos Sewer Treatment Plant. There are several disposal methods and multiple sites proposed. These include agriculture reuse irrigation at 25 different locations; Bayridge Estates leach

field which contains two locations; the Bordenson leach field; and urban reuse irrigation at ten different locations. The County will have to obtain the permits before it can put the plant into operation. Presumably the County will obtain the permits before it starts construction. As the Board report cautions, "The County will not be authorized to provide recycled water until the Water Board adopts separate reclamation requirements." Is it possible that a \$200 million plant could be built and the Water Board would not permit the discharge? This is a complex project and the County is responsible. The Water Board has the whip.