

COLAB SAN LUIS OBISPO COUNTY

PRIOR ACTIONS AND COMING ATTRACTIONS REPORT WEEK OF APRIL 18-24, 2011

BOARD OF SUPERVISORS

Board Meeting of April 12, 2011 (Completed)

Suspension of Diablo Canyon Nuclear Plant Relicensing. The Board determined to send a letter to PG&E President Christopher Hill requesting that PG&E suspend its relicensing application until certain independent seismic studies are completed. They did this even though PG&E announced that it was suspending its application until the seismic studies were completed.

Here is a classic example of what happens when an entity (in this case PG&E) or an individual compromises with the political left or, as in this case, does exactly what they want. It's never good enough and they always want more. As Board of Supervisors Chairman Hill said, "I think it's a step in the right direction, but they could do more."

Back in 1964, during the beginning of the "Free Speech Movement," UC Berkeley Chancellor Strong compromised on some demands. Mario Savio, the movement's most visible spokesman, immediately demanded more, stating, "We will always be one demand ahead of you." No one should be fooled. Until PG&E is driven out of business and its services are provided by a government-owned utility, there will always be more demands.

In a rational world one might argue that the parallel process (relicensing and independent seismic analysis) is better because it reaches the answers sooner, and if it is determined that the plant cannot be relicensed and must be decommissioned, alternatives can be accelerated. Conversely, if nuclear power is so intrinsically dangerous (especially in seismically active regions like the Pacific Rim), would the anti-nuclear crowd say that it should be shut down immediately? The plant produces 2300 megawatts (MGW) per day on 750 acres and provides power for 2.2 million people. As we have reported, the proposed SunPower 250 MGW per day solar plant requires 4685 acres. Even with large government subsidies and the regulatory and social engineering hammers of AB 32 and SB 375 (the State's mandatory carbon reduction laws), it is not clear if solar will be economically feasible over the long run. As an alternative, it turns out that technology (shale fractionation) combined with new field discoveries in Texas, Pennsylvania, New York, and West Virginia are providing huge new supplies of natural gas, and prices are falling. It is estimated that these new supplies could provide all the gas we need in the United States for the next 200 years. Will solar be able to compete? Or will government power be used through laws such as AB 32 and SB 375 to prohibit the use of the new natural gas? How will the Board of Supervisors' emerging Climate Action Plan strategically approach the question of overall energy policy

in light of new opportunities generated by technological advances and the operation of free markets?

Oceano Dunes Monitoring Agreement. (Dunes Dust). The Board approved entering into an agreement with the State Parks Department and the Air Pollution Control District (APCD) to measure dust blowing off the dunes and other particles (like campfire smoke) which are reportedly bothering some residents down-wind in Nipomo. The study would also consider and test alternative techniques to reduce generation of dust.

Experts from the Desert Research Institute (DRI) will conduct the studies. The DRI is a nationally renowned major research division of the University of Nevada and constitutes heavy scientific artillery. For example, in January they completed a major multiyear study on Tracking Air Quality at Lake Tahoe. The purpose of the study was to determine if dust and other particles were major factors in decreasing the clarity of the lake. The study reports that 300 metric tons per year of fine particulates are contributed annually by cars driving on paved roads in the basin. Limiting traffic and the amount of material used for roadway snow and ice control appear to be the solutions.

The long-term consequence in this one is whether the use of all-terrain vehicles (ATVs) will be prohibited on the dunes. A prohibition could have significant negative economic impact in the surrounding communities because the recreational use of the ATVs is a huge visitor draw which generates jobs and taxes. The studies are expected to be completed by next fall.

Budget Stress. In what is likely to be a preview of similar problems, the Board authorized the General Services Department (which administers the County's Parks system) to spend contingency funds to cover the normal costs of ramping up its seasonal temporary staffing for expanded summer activities. The problem is that the Department lacks sufficient funds due to declining use and revenues. These are attributed to the downturn in the national economy, State Fish and Game prohibitions on stocking Rainbow Trout (which reduces boating and camping), fewer visitors to the county due to higher gas prices, prohibition of longer stays at the Coastal Dunes RV Park, and problems with the revenue forecasting methodology. (Note: Parks did raise some fees, which could cut either way.)

Accordingly, staff requested and the Board approved a transfer of \$125,000. Although this is not a big deal in and of itself, it provides a further example of the need to integrate economic strategy and land use policy with budgetary and service policy. In this case and if the transfer had not been authorized, the staff indicated that it would have to close some parks and reduce services, leaving bathrooms dirtier, campsites unready for use, and parks and campgrounds covered with more litter. This in turn would impact customer satisfaction and could result in a downward use and revenue spiral. (Wait until \$5 per gallon regular gas hits the trailer pulling F-250, twin engine Sea Ray boat, and the ATVs).

By way of context and on the cost increase and declining revenue side, Planning and Building fees have declined considerably; Housing In Lieu fees are nil; development fee exactions for roads, libraries, fire equipment, etc., are declining; the Williamson Act subvention is gone; the Sheriff and Probation will have to manage increased numbers of sentenced felons as the State downshifts responsibilities; the employees face increased workloads; the County will lose revenue; the Planning and Building Department has more

projects and "implementing actions" than it can handle with existing staff; big debt for unfunded pension liability, water systems, and sewer systems is piling up; and the 5-year financial "Pain Plan" has been extended to 7 years.

In the meantime, the propensity to solve the problem with more taxes continues. The Board seeks enabling legislation which would allow it to ask the residents of the unincorporated area to raise taxes on themselves to pay for "vital services." Additionally, at least some of the Board supports the Governor and majority of the State Legislature in extending the "temporary" tax increases, which are supposed to sunset. The SLOCOG Board has a polling firm figuring out how to convince County voters to raise taxes on themselves to try to resolve the transportation infrastructure deficit.

Board Meeting of April 19, 2011 (Scheduled)

Environmental Review Consultants Contracting and Bidding Process. The county contracts with consulting firms to prepare various environmental documents such as environmental impact reports (EIR's). 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.

On this agenda, the Board is being asked to give 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 its April 12, 2011 meeting, the Board authorized staff to issue a two year contract to MRS Environmental, Inc., to monitor the remediation of the Guadalupe Oil Field. There was no bid. Reportedly, the firm was selected from the existing "standby list" which had been established for preparation of environmental documents. However, monitoring management of an oil field cleanup is not preparation of an environmental document. Moreover, issuance of a \$1,951,000 contract is a significant event in and of itself and would call for competition. According to the Board letter, MRS Environmental has had the contract for the past twelve years. The staff report says the company has "a proven track record over time." It goes on to say, "MRS team members have skills in many of the special status species at Guadalupe including Red Legged Frogs, Snowy Plovers, and La Graciosa Thistle to name a few."

It might be suggested that all this is unimportant because Chevron is paying the bill. On the other hand, it is being done for the County and other governmental entities, and the County is issuing and administering the contract. Interestingly, "MRS Environmental, Inc." does not appear on the new "standby list".

The following questions come to mind. How much has been paid to MRS Environmental from the point when it was first engaged through this fiscal year? How much will have to be paid for monitoring this project between now and the point at which it is completed? Has the project monitoring contract ever had a separate RFP/ Bid? If so, when? What would the price be if other qualified firms had an opportunity to bid? How will we ever know? Should the County exempt contractors from periodic competitive process simply because, as the Board letter concludes, "MRS has developed an excellent working relationship with all the agencies involved in the cleanup and these agencies endorse this subsequent contract with MRS"? After all, we are all paying for this at the gas pump. Too cozy??

Appeal of the Planning Commission Approval of the SunPower 250 MGW Solar Plant. 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 have appealed and requested that the project be denied by the Board of Supervisors. The Planning staff recommends the appeals be denied. The appellants are: (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 are 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 Kern County. Damage from the facility construction and operation to mammals, reptiles, birds, plants and insects is cited in minute detail. Also cited are 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 has 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. It is well worth visiting the County's web site (see the April 19, 2011 agenda) and reading Exhibit 6-Board of Supervisors-Conditions of Approval, to appreciate the depth and breadth of the regulatory morass into which we have been led in general. It can be found on the agenda at slocounty.granicus.com. (Granicus is the County's on-line agenda software service.) It is item C-1 on the April 19, 2011 agenda.

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 is a test. Will the project be approved by the Board of Supervisors in a form that the applicant can actually perform? Will the project survive legal challenges by the appellants? (The Sierra Club alone is a powerful, well-financed combine which claims two million members.) 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 barriers, will the appellants and their friends 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.

OTHER GOVERNMENT ENTITIES

Planning Commission Meeting of April 14, 2011(completed)

The Commission considered amendments to the County ordinance which regulates vacation rentals. It ultimately continued the hearing until July because it ran out of time. It also requested staff to again meet with community groups to gather more input on some of the preferences which follow. Apparently, friction exists between those who own vacation

rental property and neighbors who find that renters are noisy, generate traffic and parking problems, and increase overcrowding. The County staff has worked to customize the rules for vacation rentals. For example, in Cambria, Cayucos and Los Osos, the law would prohibit the issuance of a new vacation rental permit within a 100 ft. radius and within 200 feet of an existing vacation rental or other visitor serving use. In Avila Beach it would be a straight 50 feet.

One disturbing provision is the establishment of a mandatory seven day vacancy break between occupancy of any unit. If a tenant vacated a unit on Sunday the 1st, the unit would have to remain vacant until Sunday the 8th before it could be occupied by another vacation renter. This means that rental property must remain vacant every other week, or half the year. This amounts to erosion of private property rights and should be rejected.

Planning Commission Meeting of April 18, 2011(Scheduled)

This is a continuation of the Topaz Solar Farm, LLC, 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.