

FINDINGS AND ORDER OF THE REGIONAL PLANNING COMMISSION COUNTY OF LOS ANGELES

**PROJECT NO. R2010-00808-(5)
CONDITIONAL USE PERMIT NO. 201000071
Avenue B and 160th Street West**

HEARING DATES: 8/31/2011, 9/21/2011, 10/12/2011, 10/19/2011

SYNOPSIS:

The applicant, Renewable Resources Group, proposes an alternating current (AC) photovoltaic (PV) generating facility located on approximately 4,782 acres in Kern and Los Angeles Counties anticipated to generate approximately 650 megawatts (MW) of power. The project includes approximately 2,152 acres of solar panel arrays and other related development and infrastructure, including nine miles of 230-kV generation tie-line lines and transmission support towers, two operations and maintenance (O&M) buildings, and electrical equipment including combiners; electrical inverters and transformers; and electrical substations with switchyards.

The project site is located in both Los Angeles and Kern Counties, with the majority of the development, including a majority of the necessary infrastructure for the project located in Kern County. The Kern County portion includes approximately 3,544 acres, including two operations and maintenance (O&M) buildings. The Los Angeles County ("County") portion of the project would consist of approximately 1,238 acres in the A-2-5 (Heavy Agricultural - Five Acre Minimum Required Lot Area) Zone.

Kern County is the Lead Agency for the project pursuant to the California Environmental Quality Act ("CEQA"). Los Angeles County is a Responsible Agency under CEQA, with permitting authority over that portion of the project that is located within the County. As Lead Agency, Kern County analyzed the environmental impacts of the project in the Environmental Impact Report ("EIR") (State Clearinghouse (SCH) No. 2010031022), which was certified by Kern County on August 2, 2011. Also on August 2, 2011, the Kern County Board of Supervisors approved the portion of the project located within Kern County.

Proceedings before the Planning Commission

A duly noticed hearing was held before the Los Angeles County Regional Planning Commission ("Planning Commission") on August 31, 2011, and was continued without discussion to September 21, 2011 to allow the completion of County reviews.

On September 21, 2011, the Planning Commission continued the hearing to October 12, 2011 without discussion, to complete the necessary reviews.

On October 12, 2011. The Commission heard testimony from the applicant, five testifiers in favor of the project, and one testifier with concerns. The Planning

Commission continued the matter to October 19, 2011 to allow time for finalized versions of the findings and conditions to be circulated for review, and to accommodate Commissioner Modugno for the public hearing.

FINDINGS:

1. The approximately 4,782 acre project site is located in both Kern and Los Angeles Counties, and is bounded by 115th Street West on the east, 190th Street West on the west, Avenue B on the south, and Rosamond Boulevard on the north in the unincorporated community of Fairmont within the Antelope Valley West Zoned District. The approximately 1,238 acre County portion of the project ("subject property") is bounded by 130th Street West on the east, 160th Street West on the west, Avenue B on the south, and Avenue A on the north.
2. The applicant is requesting a conditional use permit (CUP) to authorize the construction, operation, and maintenance of an alternating current (AC) photovoltaic generating facility located on approximately 1,238 acres in the A-2-5 (Heavy Agricultural - Five Acre Minimum Required Lot Area) Zone, which, along with the portion of the project located in Kern County is expected to generate approximately 650 megawatts (MW) of power. The CUP also authorizes a seven-foot tall wildlife friendly fence, which is one foot taller than the standard maximum fence height, along the perimeter of the project boundary.
4. The subject property is zoned A-2-5.
5. The surrounding properties are zoned as follows:
North: A-2-5
South: A-2-5
East: A-2-5
West: A-2-5
6. Surrounding land uses within 1000 feet include:
North: vacant
South: vacant
East: vacant
West: vacant
7. The Los Angeles County ("County") portion of the project site consists of 10 existing parcels. All parcels in the County portion of the project are farmed, fallow, or vacant.
8. The proposed 4,782 acre solar photovoltaic electric power generation facility will include the use of single-axis photovoltaic tracker; associated electrical and

distribution equipment; and undergrounding of all high-voltage transmission/generation-tie lines located in the unincorporated County. The project includes approximately 2,152 acres of solar panel arrays and other related development and infrastructure, including 9 miles of 230-kV generation tie-line lines and transmission support towers, two operations and maintenance (O&M) buildings, and electrical equipment including combiners; electrical inverters and transformers; and electrical substations with switchyards.

The project site is located in both Los Angeles and Kern Counties, with the majority of the development, including a majority of the necessary infrastructure for the project located in Kern County. The Kern County portion includes approximately 3,544 acres, including two operations and maintenance (O&M) buildings. The Los Angeles County ("County") portion of the project would consist of approximately 1,238 acres in the A-2-5 (Heavy Agricultural - Five Acre Minimum) Zone.

The water consumption for facility operations, including construction and periodic PV module washing and domestic (potable) use, would be supplied entirely from water wells located on the Kern County portion of the project.

9. The subject property is located within the N1 (Non Urban 1) land use designation in the Antelope Valley Areawide General Plan ("Area Plan"), a component of the Los Angeles Countywide General Plan ("General Plan").
10. Pursuant to the Area Plan, non-residential uses in the N1 land use category may include public and semi-public uses typically located in non-urban environs, such as solid and liquid waste disposal sites, utility and communication installations, and schools and other public facilities necessary to serve non-urban populations.
11. Pursuant to Section 22.24.150 of the Los Angeles County Code ("County Code") electric distribution substations, electric transmission substations, and generating plants are permissible uses in the A-2 Zone with a CUP.
12. The proposed project is consistent with the County General Plan and the Antelope Valley Areawide General Plan N1 (Non-Urban 1) land use designation for the subject property. The project meets the definition of a "utility installation" referenced in the listing of non-urban non-residential land uses allowed in remote areas designated Non-Urban 1 (Antelope Valley Areawide General Plan, Pg. VI-5). As described below, the project also meets many of the stated goals and policies of the County General Plan and the Antelope Valley Areawide General Plan.

General Plan Policies

Policy Nos. 2 and 3 of the Conservation and Open Space Element promote solar energy. Policy No. 2 states: "Support the conservation of energy and encourage the development and utilization of new energy and encourage the development and utilization of new energy sources including geothermal, thermal waste, solar, wind and ocean-related sources." (General Plan, pg. II-26) Policy No. 3 states: "Promote the use of solar energy to the maximum extent possible." (General Plan, pg. II-26) Relatedly, Policy No. 217 also encourages the use and development of alternative energy sources. Policy No. 217 states: "Promote use of alternative energy sources (including solar and wind) for heating and cooling." (Antelope Valley Areawide General Plan, pg. V-26)

The project proposes photovoltaic solar energy generation, consistent with these policies. The project within the County proposes to develop approximately 1,238 acres of previously disturbed property with photovoltaic solar panels and related infrastructure that is expected to generate approximately 188 MW of electricity for use in California. The project would assist in California meeting its renewable energy goals and mandates. The energy produced as a result of this project would be available to provide for the general needs of residents for electricity, and would be used indirectly for heating and cooling.

Policies No. 65 and 66 promote the development of energy generation facilities in a manner that will minimize impacts on the surrounding areas by undergrounding transmissions lines. Policy No. 65 states: "Encourage the locating of new power distribution networks, communication lines, and other service network facilities underground in urban areas. Transmission lines should be located underground where feasible." (Antelope Valley Areawide General Plan, pg. V-9.) Policy No. 66 states: "Maintain a long-range program for the underground relocation of overhead power distribution facilities, telephone lines and other utility services in urban areas." (Antelope Valley Areawide General Plan, pg. V-9)

The project proposes an above ground 34 kV collection line 60 feet in length. To remain consistent with previously approved renewable energy projects and with Policies No. 65 and 66, undergrounding of this collection line will be a condition of approval.

Policy No. 69 is intended to encourage projects to be development in a manner that would protect natural vegetation. Policy No. 141 is more specifically intended to protect Joshua trees, Juniper trees, and their habitat. Policy No. 69 states: "Protect significant vegetation such as the Joshua Tree." (Antelope Valley Areawide General Plan, pg. V-9) Policy No. 141 states: "Prohibit the harvesting of Joshua or Juniper trees for fuel purposes or for transplantation out

of their normal habitat area." (Antelope Valley Areawide General Plan, pg. V-18)

The project site was chosen due to its historic use as farmland, and does not currently have Joshua Trees, Juniper trees, or other significant or sensitive natural vegetation. No Joshua trees will be disturbed as a result of this project, consistent with Policy No. 69.

Policy No. 71 is intended to encourage the location of new industry and employment opportunities within the Antelope Valley. Policy No. 71 states: "Encourage and support local efforts to attract new industry to the Antelope Valley. While the aero-space and other government related industries should continue to remain as major employment generators, emphasis should also be given to attracting other types of employers." (Antelope Valley Areawide General Plan, pg. V-10).

This project represents a growing trend of locating renewable energy projects in the northern County, which provide both construction related jobs as well as a number of direct and indirect employment opportunities, consistent with Policy No. 71.

Policies No. 114 and 135 encourage the development of project site in a manner that will preserve natural drainage patterns. Policy No. 114 states: "As an interim policy, pending construction of regional drainage facilities, require installation of appropriate systems and facilities to retain the increase in storm runoff due to development on the project site or equivalent mitigating measures." (Antelope Valley Areawide General Plan, pg. V-14) Policy No. 135 states: "Encourage development to utilize and enhance natural topographic features, thus establishing harmony between the natural and man-made environment." (Antelope Valley Areawide General Plan, pg. V-17)

The project design is intended to convey runoff to mirror existing flow patterns. The project does not intend to result in increased storm runoff, and the natural drainages on the project site will remain undeveloped. Therefore, the project is consistent with both Policies No. 135 and 136.

Policy No. 140 encourages the promotion of healthy air quality to ensure the health, well being, and enjoyment of life for Antelope Valley Residents. Policy No. 140 states: "Promote air quality that is compatible with health, well-being, and enjoyment of life. The public nuisance, property and vegetative damage, and deterioration of aesthetic qualities that result from air pollution contaminants should be prevented to the greatest degree possible." (Antelope Valley Areawide General Plan, pg. V-17)

The project itself represents a gradual shift from the use of fossil fuels to the use

of renewable energy, which will lower emissions associated with fossil fuel usage and assist in reaching the State's renewable energy portfolio goals. Additionally, the project proposes a landscape plan that will result in the control of invasive species and the revegetation with and maintenance of native plants on the project site. Therefore, the project is consistent with Policy No. 140.

13. The site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping, and other development features prescribed in Title 22 of the County Code or as is otherwise required in order to integrate the project with the surrounding uses. The project is a photovoltaic solar electric power generation plant, with distribution substation and transmission lines, and complies with the following regulations of Title 22 of the County Code:
 - a. Section 22.24.170.A of the County Code - Front, Side, and Rear Yard Standards. The standards for the A-2 zone require a minimum set back of 20 feet for front yards, five feet for side and corner side yards, 10 feet for reverse corner side yards, and 15 feet for rear yards. The project proposes 35-foot setbacks of structures along all external property boundaries, and therefore meets or exceeds all yard requirements notwithstanding the proposed yard modification for fence height.;
 - b. Section 22.48.160 of the County Code - Fences and Walls. Under the County Code, the maximum permitted fence height ranges from 3.5 feet to 6 feet within required setback areas, depending on where the fence is located on the subject property. The permittee requests a modification of this standard to allow wildlife-friendly fencing seven feet in height around the entire perimeter of the site for security and safety purposes. This modification request is appropriate considering the use and location of the site;
 - c. Chapter 22.52, Part 7 of the County Code - Outside Storage. The County Code requires that all visible outside storage from the exterior boundary of a site shall be enclosed by a solid wall or fence. This requirement, however, does not apply to temporary material staging areas and temporary outdoor worker shelters used during construction. The project may have temporary outside storage during its 36-month construction period but does not propose permanent outside storage for its on-going operations. Accordingly, the project complies with the County Code's outside storage requirements;
 - d. Section 22.52.1220 of the County Code - Parking Requirement For Uses Not Specified. Where parking requirements for a use are not

specified in the County Code, parking shall be provided in an amount determined to be adequate to prevent traffic congestion and excessive on-street parking. Whenever practical, such determination shall be based on the parking requirement for the most comparable use specified in the County Code. Because the parking requirement for the project is not specified in the County Code, it has been determined that the most appropriate parking standard for the project is that applicable to an industrial use. Accordingly, under Section 22.52.1140 of the County Code, the applicable parking standard is either one parking space per two employees, or one parking space per 500 square feet, where in either case, one handicapped parking space per 40 standard parking spaces is required. The project includes two operations and maintenance buildings, both of which will be located in Kern County. Therefore no parking spaces are required for the County portion of the project;

- e. Chapter 22.52, Part 21 of the County Code - Drought - Tolerant Landscaping. The County's drought-tolerant landscaping standards require use of County-authorized drought-tolerant plant lists, minimum required percentages of drought-tolerant plantings, limitations on the amount of turf, and efficient watering management. The project complies with these requirements; and
 - f. Chapter 22.52, Part 22 of the County Code - Low Impact Development ("LID"). The County's LID standards are designed to limit hydro-modification impacts to natural drainage systems and to manage excess volume from each lot where development occurs so as to infiltrate excess volume at the lot level, or in the alternative, in sub-regional facilities. The project complies with the County's LID requirements.
14. The project is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate. The existing local roadway system is adequate to serve the project without improvements. During construction, truck traffic will increase in the area, though not to a significant level. During operations, traffic generated by the project's relatively passive operations is minimal. Traffic volume added to the surrounding roadway circulation system, during construction and operation, will have no significant effect at any of the intersections or road segments proximate to the project area. The site will include a system of on-site roads to allow access to all areas of the site, and to minimize the need for using public roadways. The on-site roads will be designed and constructed to accommodate the traffic needs of the project and necessary access for emergency services.

15. The project will require minimal public or private service facilities and is adequately served by these facilities. Sanitary needs during construction will be served by portable toilets, and no on-site sanitary waste septic system is required.
16. The project will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area; will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site; and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare. The project is compatible with surrounding land uses as follows:
 - a. The project will not present significant emissions, noise, pollutants, or visual intrusions;
 - b. Human activity and associated traffic to and from the project site will be minimal;
 - c. The project will not create a significant increase to the local population and thus will not increase the level of demand on schools, fire protection, law enforcement, or emergency services;
 - d. The low-profile of the project's solar panels, combined with the generally flat terrain of the project site and surrounding area, will make the project visually compatible with the surrounding environment;
 - e. Aerial photography of the site provides imagery indicating grading/plowing over the majority of the site years ago. Recycled use of previously disturbed land is preferred for development over using undisturbed native lands for development;
 - f. The majority of other adjacent properties within a 500-foot radius are vacant and not currently developed.
17. Kern County is the Lead Agency for the project pursuant to the California Environmental Quality Act ("CEQA"). Los Angeles County is a Responsible Agency under CEQA, with permitting authority over that portion of the project that is located within the County. As Lead Agency, Kern County analyzed the environmental impacts of the project in the Environmental Impact Report ("EIR") (SCH No. 2010031022), which was certified by Kern County on August 2, 2011. Also on August 2, 2011, the Kern County Board of Supervisors approved the portion of the project located within Kern County.
18. A Final EIR for the project has been prepared by Kern County in accordance

with the California Environmental Quality Act (“CEQA”), the State CEQA Guidelines, and the Environmental Document Reporting Procedures and Guidelines of the County of Los Angeles. The Final EIR consists of the Technical Reports to the dated May and June 2011, the Draft EIR dated April 2011, and the Final EIR including Responses to Comments dated August 2, 2011. The Final EIR contains the response to comments, and identifies mitigation measures to be implemented as part of the project.

19. The Commission has reviewed and considered the Final EIR and finds that it reflects the independent judgment of the County. As stated in the Final EIR and the Findings of Fact and Statement of Overriding Considerations regarding the Final EIR, implementation of the project will result in specifically identified significant effects upon the environment. Except for adverse effects upon visual quality, cumulative aesthetics, cumulative air quality, cumulative agricultural resources, and cumulative biological resources, identified significant adverse effects can be reduced to acceptable levels with the mitigation measures identified in the Final EIR and incorporated as conditions in this grant and the related CUP.
20. With respect to the adverse effects upon visual quality, cumulative aesthetics, cumulative air quality, cumulative agricultural resources, and cumulative biological resources, the Commission determines that the substantial benefits resulting from implementation of the project outweigh the potential unavoidable adverse effects and are acceptable based upon the overriding considerations set forth in the Findings of Fact and Statement of Overriding Considerations, which findings and statement of overriding considerations are incorporated herein by reference.
21. A Mitigation Monitoring Program (“MMP”) consistent with the conclusions and recommendations of the Final EIR has been prepared, and its requirements have been incorporated into the conditions of approval for this project.
22. The MMP prepared in conjunction with the Final EIR identifies in detail the manner in which compliance with the measures adopted to mitigate or avoid potential adverse impacts of the project to the environment is ensured.
23. The location of the documents and other materials constituting the record of proceedings upon which the Planning Commission's decision is based in this matter is the Los Angeles County Department of Regional Planning, Hall of Records, 13th Floor, 320 West Temple Street, Los Angeles, California 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits North Section, Regional Planning.

BASED ON THE FOREGOING, THE PLANNING COMMISSION CONCLUDES:

1. That the proposed use is consistent with the adopted general plan for the area; and
2. That the requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area, will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety or general welfare; and
3. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Title 22, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
4. That the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and by other public or private service facilities as are required;
5. AND, THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings and burden of proof for a Conditional Use Permit as set forth in Section 22.56.040 of the County Code.

PLANNING COMMISSION ACTION:

1. Acting on behalf of the County as a Responsible Agency pursuant to CEQA, the Planning Commission has reviewed and considered the Final EIR (State Clearing House No. 2010031022) prepared for the project and certified by the lead agency, Kern County, on August 2, 2011; and adopts the Addendum to the Final EIR, the CEQA Findings of Fact, the Statement of Overriding Considerations, and the MMP.
2. In view of the findings of fact and conclusions presented above, Conditional Use Permit No. 201000071, Project No. R2010-00808-(5) is APPROVED, subject to the attached conditions.