

MBCA



morongo basin conservation association

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Ms. Linda Mawby
County of San Bernardino
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Regarding: Revised Draft, Renewable Energy and Conservation Element

Dear Ms. Mawby,

Thank you for this opportunity to comment on the latest draft of the Renewable Energy and Conservation Element (RECE) of the County's General Plan. The Morongo Basin Conservation Association (MBCA) is a 501(c) 3 community-based all volunteer California Non-Profit Corporation. Since our incorporation in 1969, MBCA directors and members have been involved in the education of Morongo Basin residents, elected officials, and decision makers about issues affecting the environmental and economic health of our communities. We are the oldest collective voice dedicated to educating and supporting the preservation and stewardship of the unique and natural qualities of the Morongo Basin.

MBCA Position

Thoughtful approaches to the utilization of the County's energy resources can contribute to realization of core values articulated in the Countywide Vision Statement. As a policy document, the RECE contains many goals and directions that seem to reflect input received from the public regarding the complex issues embodied in this policy document, which considers the conservation, efficiency and generation of energy, and specifically renewable energy (RE), in the context of the natural and built environment.

While the content of the RECE presents a comprehensive consideration of the regulatory framework outlined in the RECE, we believe that, with some changes, a more robust and precise document will better serve as a basis for the creation of the Development Code that will guide land use decisions going forward following RECE adoption. Clear and unambiguous definitions as well as stronger language in

policy statements will assist future planners and decision makers in carrying this responsible Renewable Energy vision forward to the implementation of on-the-ground development practices and standards that support County goals. Crafting the Development Code will be more efficient when working from a clearly articulated and unambiguous RECE.

The current context of the need for utility-scale solar projects has changed, as discussed in the June 22, 2017 [Los Angeles Times article](#) which quotes former San Diego Gas and Electric engineer Jaleh Firooz as reporting: "...a combination of improved energy efficiency, local solar production, storage and other planning strategies would be more than sufficient to handle the area's [Los Angeles] power needs even as the population grew." The RECE recognizes this context is also the situation in the Inland Empire, positioning the County to lead in the development and implementation of community appropriate RE generation projects.

Our written comments below address changes in components of the current RECE draft that will, when incorporated: 1. clarify the intention of the RECE to the benefit of the public, developers and decision makers; 2. put in place content that will serve to streamline implementation of renewable energy projects going forward, including restricting "large utility-scale" RE projects to five DRECP Development Focus areas (DFA) and adjacent private lands, as supported by the Board of Supervisors, with the stipulation that RE projects in these areas are subject to environmental review and other County development criteria; and 3. position the County as a leader in protecting communities from the air quality impacts of fugitive particulate dust, by strengthening requirements for RE project dust control planning and monitoring as part of RECE goals and policies.

MBCA Comments on RECE

I. Revise RECE Document Language and Content Using Strong Language and Effective Imagery, Including Maps. This Will Clarify the Way in Which Countywide Vision Core Values and RECE's Guiding Principles will be Manifested on the Ground as Renewable Energy Projects are Considered and Developed in the County.

I.A. Revise RECE Goal and Policy planning language to be strong and unambiguous, allowing language to support the vision and intent of the Element.

Weak or vague language, when included in planning documents, is often unenforceable and is unsettling and confusing to citizens, developers and decision makers. Revising instances of weak planning language in the RECE Goal and Policy statements will strengthen the RECE and streamline implementation.

Several instances of weak language are found in the current document. In some instances, these words or expressions may be strengthened by more clearly defining a *scope, schedule, evaluation criteria and/or responsible party*. For example, "RE 2.3.1: Monitor renewable energy technologies and amend County development standards to accommodate suitable new technology types" is a well-intended policy, but begs questions

such as what is the breadth of the monitoring? Who is the responsible party? How often will this be done? What are the criteria for suitable new technology?

Funding and accountability measures should be provided for all monitoring commitments made by the jurisdiction as well as developers.

Examples of “*weak*” *planning language* include terms that are rarely binding. Terms may be bolstered by more explicit explanations of how the policy will be implemented, by providing imagery or maps to illustrate, and by providing criteria that define the terms below. Such terms found in the RECE should be replaced by stronger planning language and/or supported with explicit assessment criteria. Weak terms include:

Pursue, consider, encourage, discourage, promote, support, investigate, may, review, monitor, where feasible, where appropriate, in a manner that.

Examples of “*strong*” *planning language* that support the aims of the RECE can be found in the RECE. Additional suggested examples of strong language include:

Will/will not, shall/shall not, provide, require, plan, design, create, integrate, ensure, included, increase, prioritize, develop tools/policies to improve, allow, change, expedite, identify, prohibit, establish, define measures to, incentivize, integrate, enact, direct, collect baseline and follow up data, restrict, revise.

I.B. Incorporate imagery and maps in the RECE to support, illustrate and clarify the aims of the Element and to assist planners in evaluating project proposals.

When included in planning documents, images and maps add an additional dimension of accessibility and explanation to plain text portions. The increasing use of this best practice in many modern planning documents allows staff, the public and decision makers to better understand the spatial impacts of land use decision, as the included maps, images and mapped overlay districts demonstrate how the intentions embodied in a policy document will be operationalized.

The November 3, 2016 Land Use Services Department Planning Commission Staff Report on the General Plan Renewable Energy and Conservation Element (“Staff Report”) contained a series of maps and analyses, beginning on page 99 of the Staff Report, that contributed greatly to the substance and effectiveness of the document. The datasets used to generate the maps in the Staff Report, many of which were obtained from the DRECP Data Basin (<http://drepc.databasin.org>) data layer repository, are highly relevant to illustrating the ways in which the RECE’s policies will be carried out, and can be well used to illustrate the RECE.

The RECE should include descriptive and explanatory graphic illustrations and maps that support the intent of the Element. Digital versions of maps should be made accessible to

the public in common formats, including as Geographic Information Systems (GIS) files. These mapping layers can be used to generate overlay zones that address specific criteria for project siting consideration. These overlay zones should be created and included as part of the RECE.

Inclusion of the following mapped overlay areas and their explanatory and supporting text will enhance the implementation of policies included in the RECE:

1. **Desert Region Overlay** that outlines the regional area of development criteria specific to the desert environment, including scenic viewsheds, water rights adjudications, geology and soils, and the locations of protected areas.
2. **Wildlife Protection Overlay** that identifies which wildlife corridors or protection areas as referenced in RECE document. Include the source of the mapped boundaries, and an explicit listing of the species they are designed to protect, as well as the agency tasked with protection of species. Are only threatened or endangered species taken into consideration as part of RECE? Be explicit. Where references to other County plan documents are made regarding wildlife protection, provide a link in the RECE as to which specific portion of the other elements (e.g. Conservation Element) are relevant. This overlay is supportive of RE Policy 4.7 and can be referenced therein.
3. **Dust Hazard Overlay** based on soils mapping that identifies areas of high potential of blowing dust. Such air quality hazard maps have been developed for specific proposed projects in the County (e.g. Ord Mountain Solar). However, a county-wide dust hazard/soils map overlay should be developed for use in assessing all RE projects across the County and included in the RECE. The analysis to enable this mapping and overlay is especially relevant to RE development, as soil units with high hazard of blowing soils are largely coincident with low lying flat areas that include the DRECP DFAs. As well, establishing a program of air monitoring as part of Development Code standards for RE development projects will enable better understanding of the phenomena at play and assist in the evaluation of future RE planning applications.
4. **Land Use Zones Exclusion Areas Overlay** that shows which land use zones are not included as potential development areas for different scales of RE as defined by the RECE.
5. **Utility -Scale Development Area Overlay** showing the five areas identified by the Board of Supervisors in their action of February 17, 2016, Resolution 2016-20: Amboy, El Mirage, Hinkley, Kramer Junction and Trona. As part of the production of this overlay, clarify the definitions and usage of the terms industrial-, utility- and large-scale renewable energy projects (see also discussion below regarding request for clarification of terminology). Reference and link this overlay to the text of the current Policy RE 5.4.2; or use this overlay to define a refined RE Goal 5 that limits large utility-scale development to these five areas, with projects subject to environmental review. Identify public and private lands on the overlay. Define this area as the area to which Industrial/Utility/Large Scale energy projects will be restricted.

6. ***Productive or Viable Prime Agricultural Lands Overlay*** will support the current RE Policy 5.8, which can be strengthened to prohibit conversion of lands identified and mapped therein.
7. ***Cultural Resources Overlay*** should be developed in support of the Guiding Principle on p. 6 that reads “Prohibit renewable energy production in areas known to contain significant cultural resources....” Significant cultural resources should be defined and identified, in consultation with Native American tribes and/or other relevant parties.

I.C. Strengthen the language and impact contained in the RECE Guiding Principles.

Individual principle bullet points (pp. 5-6 of the RECE document) will carry more weight by including an indication of *how* they may be achieved. Identified principles in this section should be reviewed to assure that the principles identified are carried forward into the RECE Goals and Policies.

A thoughtful reader reviewing the guiding principles wants an indication as to: How will this be done? Who is the responsible party? To whom do they report? How does the public stay informed? How will changes be assessed and documented? Examples of components of the Guiding Principles that will benefit from elaboration and description of explicit actions are listed below.

- “Improve air quality”
- “Inform affected communities and stakeholders about proposed renewable energy development in a manner that allows meaningful, timely engagement in the review process.”
- “Monitor RE generation facilities during construction, throughout their useful lives, and through decommissioning, to ensure conformance to conditions of use.”

II. Strengthen Element Content to Position County to Streamline Implementation Going Forward in a Timely Manner Following Adoption of RECE.

II.A. RECE term definitions need to be clear and unambiguous for implementation following adoption to proceed unhindered. Where there are similar terms in use, chose one term and define it for use in the Element, using it consistently throughout.

1. ***Disturbed land*** and ***degraded land*** are both defined in the RECE Glossary, and used throughout the document in a manner that seems somewhat interchangeable. The Glossary definition of “degraded” is imprecise, and nowhere is the relationship of the two terms discussed. Referencing the Glossary, degraded lands have been “substantially *disrupted*” as a result of human activity, while disturbed lands have been “altered...to a point of significant change.” Consistent usage of well-defined terms will forestall potential confusion in implementation. This is a key concept that will be used going forward for RE siting decisions, so it should be well-defined and used in a consistent manner

2. **CORE and Community Solar.** CORE (Community-Oriented Renewable Energy) is listed in the Acronyms but not in the Glossary. The term CORE is used throughout the document, is described in Footnote 3, and referenced extensively in RE Policies 3.2 and 3.7, among other places. Define the term in the body of the RECE in its first use, and in the glossary, and establish the relationship of CORE to the term community solar.
3. **Large-, utility-, or industrial-scale solar or RE project.** While not explicitly defined in the RECE Glossary, these terms of scale and others are in common use when discussing RE project types. "Utility-oriented renewable energy" is included in the Glossary, where the term is defined as indicating that 50% or more of the energy produced therein goes out of the area. Are these equivalent terms?

RE Policy 5.2 references RE generation projects of 10 megawatts or more as "large utility-scale". If this is the definition of that term, include it in the Glossary. If this is the preferred term, be explicit regarding its use.

As these types of larger scale facilities are of great concern to local residents, and the adoption of the RECE will play a large role in helping to mitigate the impacts of such projects on local communities and biological, cultural and visual resources, it is important to choose a term and define it for use as precisely as possible, using terminology that would allow a lay person to determine whether a proposed project meets the criteria for such a scale of RE project.

This definition is especially important as the Board of Supervisors has indicated a desire to restrict these types of projects to within identified boundaries in Amboy, El Mirage, Hinkley, Kramer Junction and Trona.

Make sure that all of the terms of scale in Table 1, the Glossary and the Element text are consistent and well defined.

II. B. RE Goal 5 (pp.36-37) and its associated Objectives and Policies can be greatly streamlined by revising the Goal to require that large utility-scale projects be sited in the five areas defined by the Board of Supervisors in Resolution no. 2016-20. Several community groups have gathered petition signatures in support of this approach as part of the RECE, including the stipulation that RE projects be subject to environmental review and County development criteria.

Restricting utility-scale RE projects to these five areas will also accomplish the aim, expressed in the County of San Bernardino Position Paper on the Draft DRECP dated February 3, 2015 of keeping these projects out of the communities of Lucerne Valley, Newberry Springs, Stoddard Valley, Johnson Valley and Apple Valley, which were deemed in this Position Paper as not appropriate for DFAs.

It is the position of MBCA that utility-scale RE projects are not appropriate within the boundaries of any of the 14 Community Plan areas in the County. RE Policy 4.10 addresses this issue and can be further clarified. Community Plan areas are more appropriate to “community oriented” solar projects, and such projects should be sized proportional to the needs of the communities. RE Policy 4.10.1 only references Rural Living land use districts as areas from which to exclude utility-oriented RE projects. Resource Conservation should be explicitly listed as not being appropriate for RE development. And, as suggested in the Basin Energy Assessment Team’s *Renewable Energy Analysis* of October 2013¹, RE projects should also be prohibited from Single Family Residential, Multi-Family Residential, Floodway or Open Space Districts, in addition to Rural Living.

However, without such a restriction to the five degraded areas and explicit exclusion of utility oriented solar from community plan areas, the revision of many of the policy statements included in Goal 5 will be necessary to remove ambiguity and better define terms, closing back doors and loopholes in language, and allowing for more streamlined implementation following adoption.

Specific examples of statements or terms from Goal 5 of the RECE document that will benefit from clarification, community consultation and mapping are listed below. Needed clarification is not limited to these examples:

- Page 35: “Private lands *adjacent* to the supported DFAs will also be considered suitable....” Map or clearly articulate a determination of “adjacent to.”
- Page 35: “Land close to substations can be more appropriate for large renewable energy installations....” Map or clearly articulate a determination of “close to” in terms of distance or measurable impacts.
- Page 36: From RE Policy 5.2 as written, map and define Waste Disposal Sites, Mining Sites (operating and reclaimed), Agricultural lands, airports, brownfields, RCRA sites, CA Department of Toxic Substances Control Cleanup Program Sites, a buffer around electric and utility distribution corridors, industrial zones.
- Page 35: RE Policy 5.2.xi. Define criteria that will “prove” via suitability analysis that lands are of a “significantly disturbed nature.”

II. C. As part of the RECE, include a time frame for implementation following adoption of the Element for the release of Development Code Standards that will support the RECE. Set an explicit goal (e.g. 30 days following approval) for Standards rollout.

Given the current planning setting, there is no moratorium and hold in place that could prevent project applications that do not conform with the RECE from being filed, accepted

¹ The Basin Energy Assessment Team (BEAT) was comprised of local stakeholders, community leaders, non-profit staff and members of local government. On assignment from Third District Supervisor James Ramos, the group evaluated the importance of protecting critical lands and the potential for renewable energy development in the Morongo Basin, and made recommendations to the County in the referenced report.

and processed. This pressing time frame presents an additional case for creating the most robust, straightforward, accessible and unambiguous RECE document from which to proceed. Timely release of thoughtful Development Code Standards will be crucial to effective implementation of the RECE.

II.D. Strengthen the policies under RE Goal 2 by using language and terms that commit the county to responsible RE development.

Goal 2 addresses the diversity, both geographic and technologic, of potential RE development across the County. This goal looks forward to the myriad of possible ways in which RE development may benefit communities.

Language that enables the use of development incentives such as density bonuses, streamlined permitting, parking space reductions and other incentives can be strengthened in Goal 2 policies, as can establishing priorities for applications that prioritize desired outcomes, such as rooftop or covered parking for on-site energy generation; commit to supporting development incentives for community scale solar/RE and individual RE projects.

II.D. Define the scope for any off-site habitat mitigation, as described in Policy 4.7. What is the geographic scope for off-site mitigation? What experts will collaborate to determine suitable mitigation?

This effort is by its nature a collaborative endeavor. By providing information on expectations for partnerships and responsibilities, all parties with potential involvement can prepare for the consideration and implementation of off-site mitigation collaborations.

II.E. Direct required transmission upgrades needed for utility-oriented RE generation facilities to existing designated utility corridors in accordance with the California Desert Conservation Area Plan as updated.

Policy 5.4.3 on p. 37 directs transmission upgrades to "seek sites within existing transmission corridors." "Transmission corridors" are not defined in the RECE Glossary or document and may be open to interpretation. Utility corridors are delineated in the California Desert Conservation Area Plan (and subsequent updates and amendments). Required transmission upgrades needed for utility-oriented RE generation facilities should be directed to existing designated utility corridors in accordance with the California Desert Conservation Area Plan as updated.

III. Position the County as a Leader in Protecting Communities from the Air Quality Impacts of Fugitive Particulate Dust, by Strengthening Requirements for RE Project Dust Control Planning and Monitoring as Part of RECE Goals and Policies.

III.A. Background

The favored slope category for large footprint energy installations are low slopes, less than 5% or 1%. "For the lowest-slope category, deposits underlying about 98% of the area are either mixed eolian-alluvial origin or are fine-grained alluvial deposits, and thus are susceptible to eolian dust and sand transport, especially after disturbance...."² Vegetation removal of the perennial grasses (Big Galleta) and saltbrush scrub communities can result in hazards involving wind erosion of blowing soils and dusts as well as water erosion.

Currently, the Mojave Desert Planning Area (MDPA) of the Mojave Desert Air Quality Management District (MDAQMD) is in nonattainment of PM10, fugitive dust which may be made airborne during wind erosion events. Monitoring stations to collect baseline as well as incident fugitive dust data do not exist east of the station in Victorville. Thus information regarding prior conditions as well as monitoring following the development of RE projects is not currently being collected. Communities are impacted by dust storm events that result in exacerbation of health conditions of sensitive receptors and poor driving conditions.

The MDAQMD Federal PM 10 Attainment Plan and Rule 403.2 Fugitive Dust Control are outdated, and have not kept pace with current planning proposals and conditions. While these rules are not in the jurisdiction of the County, recommended actions can be taken to position the County as a leader in thoughtful RE development. The RECE should be amended to include these actions. An understanding of soils and their properties on a proposed development site will allow a reasonable estimate for projected water use during construction and operation. The County can assist developers by maintaining a database of project water use that can inform future proposed development activities.

III.B. Recommendations

1. Establish a cooperative task force that includes the County, the MDAQMD and water agencies to synergize efforts that can be taken as new projects are approved to contain and control fugitive dust erosion resulting from RE projects. The task force can work proactively to support the data infrastructure that will be needed to evaluate RE project proposals for their impacts on sensitive receptors, human health and water use. The work of the task force should be reflected in the Development Code, providing developers a clear explanation of requirements regarding soil surveys that include information on soil units and their properties, as part of the development application and review
2. Require RE developers to complete a soil survey and unit (type) analysis for County Conditional Use Permit and for MDAQMD approved Dust Control Plan. Consult National Resource Conservation Service (NRCS, Victorville) to determine adequacy of soil analysis.
3. Require operating baseline standards and monitoring and enforcement protocols standards for dust control from RE projects.
4. Locate meteorological and PM10 monitoring stations in communities across the desert where large-footprint energy installations currently exist and are proposed, including the DFAs, to monitor for fugitive dust.

² David R. Bedford and David M. Miller. USGS Poster 2012

5. Require as a condition of application the installation of meteorological and air monitoring stations on private lands and federal DFAs when Solar Energy project applications are accepted. Monitoring equipment must remain in place for the life of the project and beyond to assess conditions during construction, operation, decommissioning, and beyond.

Conclusion

The RECE is a timely and much needed policy document that will guide the development of Renewable energy projects in San Bernardino County in a manner that respects communities and the environment, and supports the economic vitality of the County. Incorporating language and content that clarifies the intention of the RECE and that will serve to streamline implementation of renewable energy projects going forward will benefit citizens, communities, planners, developers and decision makers in the near future as RE development proceeds in San Bernardino County.

We appreciate the opportunity to comment on the RECE and appreciate your attention to the remarks we offer here for the improvement of the document and ultimately of the process of RE development in the County.

Sincerely,



Sarah Kennington, President, Morongo Basin Conservation Association

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