



# LAND USE SERVICES DEPARTMENT PLANNING COMMISSION STAFF REPORT

**HEARING DATE:** May 24, 2018

**AGENDA ITEM #2**

**Project Description:** Amendment to the General Plan Renewable Energy and Conservation Element – primarily affecting Policy 4.10

<b>Applicant:</b>	Land Use Services Department
<b>Community:</b>	Countywide
<b>Staff:</b>	Linda Mawby, Senior Planner Terri Rahhal, Planning Director
<b>Proposal:</b>	General Plan Amendment to modify the Renewable Energy and Conservation Element relative to siting of utility-oriented renewable energy generation projects and potential impacts on communities.

Newspaper Publication Date: May 14, 2018

## INTRODUCTION AND OVERVIEW

The Renewable Energy and Conservation Element (RECE) of the County General Plan was adopted by the Board of Supervisors (Board) on August 8, 2017 (Agenda Item 51). The RECE was adopted with two exceptions: (1) Policy 4.10, a policy proposed to limit potential impacts of utility-oriented renewable energy (RE) project development on unincorporated communities was omitted, and (2) it was noted that any references to 10 megawatts (MW) as a threshold capacity of utility-oriented RE projects should be deleted. Staff was directed to make the editorial correction (which has been completed) and to present Policy 4.10 to the Planning Commission for review and a recommendation.

This report presents four policy items for the Planning Commission to consider for potential recommendation to the Board as an amendment to the RECE:

- Exhibit A:** The original version of RECE Policy 4.10 recommended to the Board on August 8, 2017.
- Exhibit B:** Proposed addition to Policy 5.2, which identifies site types potentially suitable for utility-oriented RE generation (adding existing energy generation sites).
- Exhibit C:** A modified version of RECE Policy 4.10 now recommended by staff, with a related revision to Policy 4.3.2.

**Exhibit D:** A new draft policy intended to emphasize and implement the previously stated priority of the Board for utility-oriented RE generation to be developed as much as possible on public lands away from unincorporated communities.

## **BACKGROUND INFORMATION**

The RECE was presented to the Planning Commission on November 3, 2016. The staff report for that Planning Commission hearing contains a detailed report of the planning process and public outreach conducted with grant funds from the California Energy Commission to prepare the RECE, as well as a detailed outline of the RECE contents. This previous report to the Planning Commission is available on the County web site at: <http://www.sbcounty.gov/uploads/lus/pc/RECELEMENTSTAFFREPORT1.pdf> The RECE adopted by the Board on August 8, 2017 is also posted at: <http://www.sbcounty.gov/uploads/LUS/Renewable/RECElementFINALADOPTEDVersion8817WEB.pdf>

### **REC Element Summary:**

The RECE is comprised of six chapters containing goals and policies on the chapter topic:

- Chapter 1. **Energy Conservation and Efficiency**
- Chapter 2. **Renewable Energy Systems**
- Chapter 3. **Community-Oriented Renewable Energy (CORE)**
- Chapter 4. **Environmental Compatibility**
- Chapter 5. **Siting**
- Chapter 6. **County Government Systems**

There are two key terms to understand about energy generation policies in the RECE:

***Community-Oriented Renewable Energy (CORE)*** is energy generated for consumption by local end-users. This includes roof-top or on-site, or even shared energy generation that is mainly used locally. If more than 50% of output is sold into the energy grid, it is not CORE.

***Utility-Oriented Renewable Energy*** is defined as energy generated primarily (more than 50% of output) for use outside the local area, by connection to the energy grid.

### **Issues of Concern and Controversy:**

The RECE encourages energy conservation and technology innovation and the use of CORE. All of these topics and the related RECE policies have been well-received by the public. The issues of controversy about renewable energy in San Bernardino County are centered on the impacts and conflicts that arise from development of large utility-oriented solar energy projects near communities in the desert. These include environmental impacts and land use compatibility conflicts related to site selection and project design. These issues

of concern and controversy are addressed in Chapters 4 and 5 of the RECE, especially in the policies presented in this staff report.

## **ANALYSIS**

### **Original Approach to Policy 4.10:**

The Draft RECE presented to the Planning Commission in 2016 did not contain Policy 4.10. Much of the public testimony at the 2016 hearing stressed a clear preference for roof-top and parking lot applications for solar energy, and also stated public concerns about environmental impacts and land use conflicts related to utility-oriented RE projects near desert communities. The Planning Commission encouraged staff to add clarifying language to address public concerns discussed in the hearing. In an effort to minimize impacts on communities, staff recommended Policy 4.10 (Exhibit A) to prohibit utility-oriented RE projects in community plan areas and in the Rural Living (RL) land use district.

### **Reasons for Re-Evaluating Policy 4.10:**

At the Board hearing on August 8, 2017, the RE industry came out in opposition to Policy 4.10 because it was too restrictive, while comments from the public were intensely opposed to utility-oriented RE development projects. The public comments focused on Policy 5.2 being too permissive. Many stated that utility-oriented RE should be permitted only in the five Development Focus Areas (DFAs) supported by the Board in its Resolution No. 2016-20. After the public hearing, the Board adopted the RECE, omitting Policy 4.10 because it had not been reviewed by the Planning Commission. The Board gave direction to staff to present Policy 4.10 to the Planning Commission. After considering the public testimony from both sides, staff began to re-evaluate Policy 4.10 for the following reasons:

- Many existing RE generation sites would become non-conforming uses under Policy 4.10, which would limit the potential for substantial improvements, technology upgrades or expansion. This is contrary to the principles of the RECE which encourage technological advances and utilization of disturbed and developed sites for energy generation.
- Introduction of prohibition/exclusion areas would conflict with the standards-based approach to the other goals and policies of the RECE.
- RE generation is treated as an interim land use. Power purchase agreements have specified terms, and County use permits for RE facilities require decommissioning plans and securities to guarantee decommissioning and restoration of the site to a condition suitable for the end use indicated by the County land use designation; including Rural Living.
- Prohibitions related to specified zones and planning areas are based on mapping, rather than being related to site characteristics or site-specific circumstances. There will always be opportunities to propose zoning changes or modification of planning area boundaries, using site-specific information.

Going back to the premise of Policy 4.10 being about protecting the quality of life in existing communities, staff reached out to RE developers to bring community concerns to their attention and to discuss ways to reduce land use compatibility conflicts.

**New Siting Recommendations:**

As a partial solution to the non-conforming use issue that could arise for existing RE generation facilities, staff is recommending an amendment to Policy 5.2 to make it clear that an existing energy generation facility is an appropriate site for new RE development or upgrades. (Exhibit B).

**New Recommendations for Policy 4.3.2 and 4.10:**

The proposed revision to Policy 4.10 (Exhibit C) creates a framework for site-specific analysis of potential impacts and potential benefits of utility-oriented RE generation development on local residents. Compliance with the policy will require due diligence in site selection and project design. The proposed policy will go beyond standard development application requirements and environmental regulations. It will require interaction with local residents, especially neighboring property owners, in order to prepare an analysis and report of project-related benefits to the community and steps taken to enhance compatibility of the project with adjacent properties and the surrounding community. This report will, by necessity, be augmented as site design and environmental analyses proceed. The intent is to ensure that the relationship of the project to the community will be a significant consideration at every stage of project planning, beginning with application submittal.

**Other Requirements on Utility-Oriented RE:**

The RECE is a General Plan element that provides policy direction regarding renewable energy use and development and energy conservation. The RECE is not the only source of requirements to be considered in the development of RE generation facilities.

- **Code Compliance:** The County Development Code, Chapter 84.29 *Renewable Energy Generation Facilities*, contains development standards and application procedures for RE generation project development. Upon final action by the Board concerning the policies discussed in this report, the Development Code will be updated as necessary to implement RECE policies. One of the existing requirements for RE projects is that in addition to the approval of the permits for project development, a Special Use Permit is required to fund and schedule code compliance reviews.
- **Project Review Procedures:** Land Use Services reviews and places requirements on utility-oriented RE projects following the model of our procedures for approval of mining and land reclamation. There are many parallels, since both land uses (mining and RE generation) are long-term, but have defined end-dates and reclamation or decommissioning requirements. In both instances, financial assurances are required to guarantee completion of the plan to restore the site to

a stable condition suitable for another approved use. Both uses often require disturbance of desert soils, requiring significant efforts to control dust and to stabilize the soil upon removal of the interim use. The project review team involved in mining and reclamation also reviews RE project dust management plans and decommissioning plans.

- **Environmental Analysis:** Every development project is subject to environmental review requirements of the California Environmental Quality Act (CEQA). These requirements are in state law, and do not have to be duplicated in County policies of the RECE.

### **Other Work in Progress:**

Staff is working on improvements to public information access relative to RE project proposals. Land Use Services maintains a list of RE projects, including statistics about each project's location, technology and site acreage on the County web site at: <http://cms.sbcounty.gov/Portals/5/Planning/Renewable%20Energy/SolarProjectList.pdf> . Staff is now adding links to vicinity maps to clarify the location and scale of each project site. There is a subscription option to receive e-mail notification of updates as well. Staff will continue to enhance this listing and facilitate links to other project information, such as notices and environmental documents.

State and federal agencies conduct parallel RE planning on public lands, through the Desert Renewable Energy and Conservation Plan (DRECP). The Board has weighed in on the DRECP on multiple occasions, including submittal of Board Resolution No. 2016-20, to encourage RE development and habitat mitigation on public lands. Moving utility-oriented RE projects to public lands would take development pressure off private lands in and near communities. Recent discussions with the California Energy Commission have highlighted the need to coordinate RE generation planning with the energy transmission planning of the electric utilities. To that end, staff recommends an additional RECE Policy 5.9 (Exhibit D) to make this coordination a priority by policy.

### **California Environmental Quality Act Compliance for RECE:**

The RECE was adopted concurrent with an Addendum to the Program Environmental Impact Report for the San Bernardino County General Plan Update (2007), including the Supplemental Environmental Impact Report for the Greenhouse Gas Reduction Plan (2011). The Addendum (Exhibit E) documents compliance with CEQA with evidence supporting the conclusion that no additional environmental analysis was required to adopt the RECE as a new element of the County General Plan, because none of the conditions specified in Section 15162 of the State CEQA Guidelines applied to adoption of the REC Element. The same conclusion applies for the current proposal to amend the REC Element. Therefore, staff recommends reliance on the previously adopted Addendum to comply with CEQA, as noted in the recommended Findings (Exhibit F).

## **PUBLIC COMMENTS**

Written public comments received on the subject of the RECE subsequent to the 2017 adoption of the RECE have been compiled in Exhibit G.

## **RECOMMENDATION**

Staff recommends that the Planning Commission make the following recommendation to the Board of Supervisors:

- (1) **Adopt** the Addendum to the Program Environmental Impact Report for the San Bernardino County General Plan Update (2007), including the Supplemental Environmental Impact Report for the Greenhouse Gas Reduction Plan (2011).
- (2) **ADOPT** the recommended amendments to the General Plan Renewable Energy and Conservation Element, including Exhibit B (addition to Policy 5.2), Exhibit C (revised Policy 4.10) and Exhibit D (new Policy 5.9) based on the recommended findings in Exhibit F.

## **ALTERNATIVE RECOMMENDATION**

As an alternative, the Planning Commission may substitute Exhibit A (the original version of Policy 4.10) for Exhibit C, and recommend adoption of Exhibits A, B and D.

## **ATTACHMENTS:**

- Exhibit A:** Original version of RECE Policy 4.10 recommended on August 8, 2017. (Please see separate link)
- Exhibit B:** Proposed addition to RECE Policy 5.2, specifying existing energy generation sites as suitable for utility-oriented RE project development. (Please see separate link)
- Exhibit C:** Proposed revised version of RECE Policy 4.10 with a related revision to RECE Policy 4.3.2. (Please see separate link)
- Exhibit D:** Proposed new RECE Policy 5.9, emphasizing Board priority for utility-oriented RE to be located on public lands away from unincorporated communities. (Please see separate link)
- Exhibit E:** Addendum to the Program EIR for the County General Plan Update (2007) and Supplemental EIR for the Greenhouse Gas Reduction Plan (2011). (Please see separate link)
- Exhibit F:** Recommended Findings (Please see separate link)
- Exhibit G:** Written Public Comments (Please see separate link)