



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning & Development
Department No.: 053
For Agenda Of: August 25, 2009
Placement: Set Hearing
Estimated Time: 45 minutes on Sept. 15, 2009
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Director(s) Dianne Black, Interim Director, (805) 568-2086
Contact Info: Douglas Anthony, Deputy Director, Energy Division (805) 568-2046
SUBJECT: **Bedford Appeal** (Case No. 09APL-00000-00021) of County Planning Commission approval of the Lompoc Wind Energy Project Land Use Permit for Temporary Meteorological Towers (Case Nos. 09LUP-00000-00146; 09APL-00000-00011). Third Supervisorial District.

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

Recommended Actions:

That the Board of Supervisors:

Set a hearing for September 15, 2009, to consider the Bedford Appeal (Case No. 09APL-00000-00021) of the County Planning Commission's July 15, 2009 approval of the Land Use Permit (Case No. 09LUP-00000-00146) pertaining to meteorological towers that are part of the Lompoc Wind Energy Project, located adjacent to 3525-5555 San Miguelito Rd, Assessor Parcel Numbers 083-080-004, 083-090-001, 083-090-002, 083-090-003, 083-100-004, 083-100-008, 083-250-011, 083-250-019, 083-090-004, 083-100-007, in the Lompoc Area, Third Supervisorial District.

At the September 15, 2009 hearing, the Board of Supervisor's action should include the following:

1. Deny the Bedford Appeal, Case No. 09APL-00000-00021, contained in Attachment A of this Board Letter;
2. Adopt the required findings contained in Attachment B of this Board Letter, including CEQA findings;
3. Accept the Addendum to the Environmental Impact Report (06EIR-00000-00004; SCH# 2006071008), contained in Attachment C of this Board Letter, pursuant to the State Guidelines for Implementation of the California Environmental Quality Act.

4. Grant *de novo* approval of the Land Use Permit (09LUP-00000-00146), dated September 15, 2009, included as Attachment D of this Board Letter.

Refer back to staff if the Board of Supervisors takes other than the recommended action for appropriate findings and conditions.

Summary Text:

The Bedford appeal challenges the July 15, 2009 approval of a Land Use Permit (LUP) involving temporary meteorological towers (“met towers”) that are part of the Lompoc Wind Energy Project. The LUP was originally approved on April 17, 2009, by the Director of Planning & Development on the basis of a Substantial Conformity Determination (SCD). The Bedford appeal was denied by the Planning Commission, which approved the LUP, with revisions, on a 5-0 vote on July 15, 2009. The revisions consisted of deletion of an already approved increase in height of two temporary towers and changes to timing of met tower installation and removal, as discussed on page 7 of the Planning Commission Staff Report (Attachment F). The Planning Commission also approved an Addendum to the Environmental Impact Report, recognizing minor changes to the previously approved project description.

The LUP under appeal authorizes the following:

1. Extend the removal deadline for two temporary met towers approximately 11 months (from 2/10/10, to 12/31/10).
2. Extend the removal deadline for two temporary met towers approximately 1 year and 8 months (from 90 days after CUP approval to 12/31/10).
3. Extend the removal deadline for all other existing temporary met towers from 90 days following CUP approval until 45 days following issuance or denial of this LUP (delay caused by Bedford appeals).
4. Modify the project description to allow only one permanent 30-meter, unguyed met tower without lighting, instead of up to ten 80-meter towers per the approved project description, which will be constructed earlier than previously approved, to overlap operation of the temporary towers.

The appeal claims that the proposed actions are not minor, do not conform to the approved Conditional Use Permit (CUP), and depart significantly from the certified EIR, so as to require further CEQA analysis.

Staff analysis included in the Planning Commission staff report concludes that the changes are minor and are properly permitted by means of the SCD and LUP. Furthermore, proposed changes will substantially reduce potential visual and biological impacts over the estimated 30-year project life. (See Sec. 6.0 and Attachment E of the Planning Commission staff report, contained in Attachment F of this Board Letter.) Apart from this appeal, there has been no controversy over the proposed LUP and no letters in opposition have been received.

Background:

The Bedfords, who own and reside on property located adjacent to the project site, also appealed the Planning Commission’s September 30, 2008, approval of the Conditional Use Permit and Environmental Impact Report for the Lompoc Wind Energy Project to the Board of Supervisors. The Board denied the

appeal and approved the project on February 10, 2009. The Bedfords subsequently filed a lawsuit against the County on March 9, 2009, alleging that the project EIR is inadequate under CEQA and that the project conflicts with Santa Barbara County General Plan and Land Use and Development Code. The Superior Court hearing on this matter is tentatively scheduled for December 2009.

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

Narrative: There are no facilities or staffing impacts to the County. The costs of this appeal are partially funded by the \$443 appeal fee paid by the Appellant per the Planning and Development Department Fee Schedule in effect on the date the appeal was filed (Resolution 08-022 adopted by the Board of Supervisors on January 22, 2008, and effective 60 days thereafter). The fee was collected from the Appellant. Remaining costs of the appeal are funded by the Applicant, Pacific Renewable Energy Generation, pursuant to the Planning and Development Department's Land Development Fee Schedule, Section IX that applies to energy and industrial projects processed by the Energy Division. Fees paid by alternative energy project applicants are budgeted in the Permitting and Compliance Program of the Energy Division on page D-320 of the budget for Fiscal Year 2009-2010.

Special Instructions:

P&D Hearing Support Staff shall publish legal notice in the Lompoc Record and Santa Barbara Daily Sound at least ten (10) days prior to the September 15, 2009 hearing.

The Clerk of the Board shall forward a copy of the Minute Order to Planning and Development, Attention David Villalobos, Hearing Support Staff, and John Day, Planner.

Attachments:

- A. Bedford Appeal to Board of Supervisors dated July 20, 2009.
- B. Recommended Findings for Approval.
- C. Addendum to EIR (SCH# 2006071008)
- D. Revised Land Use Permit.
- E. Planning Commission Action Letter dated July 21, 2009.
- F. Planning Commission Staff Report dated June 26, 2009, with attachments.

Authored by:

John Day, Planner (805) 568-2045.

cc: Case Files: 09LUP-00000-00146
Records Management
Appellants: George and Cheryl Bedford, 1300 N. "H" St., Lompoc, CA 93436
Applicant: K. Harley McDonald, Pacific Renewable Energy Generation, 420 Stevens Ave., Ste. 240,
Solana Beach, CA 92075
William Dillon, County Counsel
Glenn Russell, P&D Director
Dianne Black, P&D Development Services Director

Doug Anthony, P&D Energy Division Deputy Director
Kevin Drude, P&D Energy Specialist
John Day, P&D Planner