

**Sierra Club
Audubon California
Clean Coalition**

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Thuy Hua
LA County Department of Regional Planning
320 W Temple St 13th Flr
Los Angeles CA 90012
thua@planning.lacounty.gov

Dear Ms. Hua,

Thank you for the opportunity to comment on the Draft ordinance amending Title 22 – Planning and Zoning – of the Los Angeles County Code related to the establishment of regulations for small-scale renewable energy systems, utility-scale renewable energy facilities, and temporary meteorological towers (the “Draft Ordinance”).

The Sierra Club is a national nonprofit organization of approximately 1.3 million members and supporters (over 380,000 who live in California) dedicated to exploring, enjoying, and protecting the wild places of the earth; to practicing and promoting the responsible use of the earth’s ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural and human environment; and to using all lawful means to carry out these objectives. The Sierra Club’s concerns encompass protecting our lands, wildlife, air and water while at the same time rapidly increasing our use of renewable energy to reduce global warming. Audubon California is the state office of National Audubon Society with 150,000 members and supporters in California. Audubon’s mission is to conserve and restore natural ecosystems, focusing on birds, other wildlife, and their habitats for the benefit of humanity and the earth's biological diversity. For more than a century, Audubon has built a legacy of conservation success by mobilizing the strength of its network of members, Chapters, Audubon Centers, state offices and dedicated professional staff to connect people with nature and the power to protect it. The Clean Coalition is a California-based nonprofit organization whose mission is to accelerate the transition to local energy systems through innovative policies and programs that deliver cost-effective renewable energy, strengthen local economies, foster environmental sustainability, and provide energy resilience.

Our groups support responsibly sited, constructed and operated and if needed, effectively mitigated renewable energy projects to meet the challenge of climate change by reducing greenhouse gas emissions. However, renewable energy development must be sited and operated in such a way that, to the maximum extent possible, protects natural resources while ensuring full compliance with all applicable laws. The Draft Ordinance offers an opportunity for Los Angeles (the “County”) to integrate land use and environmental values with energy planning. We support the County’s efforts to update their policies.

We also recognize that the County will likely participate in the Desert Renewable Energy Conservation Plan (DRECP), and that the DRECP is an opportunity to both develop more granular information on the conservation of the unique, rich biological resources of Los Angeles County and identify areas appropriate for renewable energy development. We understand the County is working closely with the California Energy Commission and REAT agencies of the DRECP to ensure consistency between the DRECP and final ordinance.

I. Definitions.

We recommend the following changes to defined terms:

A. Structure-Mounted Utility-Scale Renewable Energy Facilities

The Draft Ordinance defines a “*(S)tructure mounted utility-scale renewable energy facility*” as a facility which “...*primarily serves off-site use.*” Focusing renewable energy generation in the built environment avoids natural resource impacts, is more efficient due to reduced line losses from extensive transmission, provides redundancy in the electrical delivery system and can reduce the need for significant new infrastructure. To the extent structure-mounted facilities could play a role in meeting California’s energy policy goals this should be encouraged. We recommend all references to utility-scale structure-mounted generation be removed and all structure-mounted renewable energy facilities be included as small-scale renewable energy facilities.

B. Small-scale solar energy systems

Defining small-scale energy generation as any system which uses no more than 125% of energy generated for on-site use is under-inclusive and excludes smaller projects located in the built environment or otherwise with a low probability of natural resource conflicts. The current definition should be removed and replaced with the following:

“Small-scale solar energy system” means a system which is connected to the distribution grid and generally not exceeding 5 MW(ac) in capacity. “Small-scale solar energy system” shall include any such solar energy system installed within a built environment (such as on a building or parking lot)_or as a compatible secondary land use. Such system may be affixed to either the ground or a structure.”

C. Utility-Scale Renewable Energy Facilities

Defining utility-scale renewable generation as a facility designed to generate energy primarily for off-site use is over-inclusive and would capture many smaller projects located in the built environment or otherwise with a low probability of natural resource conflicts. The current definition should be removed and replaced with the following:

“Utility-scale renewable energy facility” means a renewable energy system affixed to the ground which is connected to the transmission grid. This definition includes all equipment and accessory structures related to the facility, including but not limited to solar collector arrays, wind turbines, mounting posts, substations, electrical infrastructure, transmission lines, operations and maintenance buildings, and other accessory structures.”

II. Environmentally Sensitive Areas

We support limiting development in important habitat for wildlife and wildlife movement corridors especially for special-status species. We recommend adding the following provision:

“Ground-mounted Renewable Energy Facilities will be located outside of designated areas of high biological resource value such as:

- *Critical Habitat and Core Recovery Areas as designated by the U.S. Fish and Wildlife Service,*
- *State or local parks and designated open space,*
- *Designated important habitat/wildlife linkages or areas of connectivity and foraging or nesting habitat for special status species,*
- *Los Angeles County Significant Ecological Areas (SEAs),*
- *Lands under conservation easement or transferred to wildlife agencies, non-governmental agencies or private parties for conservation purposes or project mitigation, and*
- *Lands identified for conservation and areas precluded from development in current or proposed Habitat Conservation Plans or Natural Community Conservation Plans, including the Desert Renewable Energy Conservation Plan, when finalized.”*

III. Wind Energy Avoidance Areas.

We recognize that wind energy development creates specific challenges in terms of avoiding impacts to birds and bats. We recommend the following provision:

“Wind energy projects shall be sited to avoid (with an appropriate buffer or set-back determined after consultation with the US Fish and Wildlife Service):

- *Key Raptor Areas designated by the Bureau of Land Management,*
- *Audubon Important Bird Areas,*
- *Avian and bat congregation areas, including: Areas known to support significant movement of Golden eagles, such as ridges and updraft areas, high prey abundance and other foraging areas, and habitats that are used for nesting,*
- *Areas within the historic range of the California condor that are known or projected to be used by this species as its population increases and expands.*
- *Migratory bird and bat stopovers, corridors and wintering areas,*
- *Bat maternity roosts and hibernacula, and*
- *Wetlands and riparian areas.”*

IV. Federal Wind Energy and Wildlife Resources.

We are pleased to see the Draft Ordinance reference the “California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development” (CEC and CDFG, 2007). We

recommend that, at a minimum, the Draft Ordinance also require wind energy projects to comply with the United States Fish and Wildlife's Service (USFWS) "Voluntary Land-based Wind Energy Guidelines" (USFWS, 2012). The USFWS Guidelines employ a tiered approach for assessing potential adverse effects to species of concern and their habitats and relative risk. The tiered approach provides the opportunity for evaluation and decision-making at each stage, enabling a developer to abandon or proceed with project development, or to collect additional information if required. Locations identified as high conflict between wind energy and wildlife through the tiered process of the Federal guidelines should be excluded from wind energy development.

As well, we expect that the final ordinance will incorporate any DRECP-specific wind-energy recommendations.

We also recommend that applicants meet with the US Fish and Wildlife Service at the survey stage to determine whether a golden eagle take permit is recommended, and if recommended, obtain a golden eagle take permit. We also recommend any all applicants meet with the US Fish and Wildlife Service to discuss conflicts with the historic range and current occurrences of California Condor, which can change rapidly.

A. Species-Specific Recommendations

The agricultural lands of the Antelope Valley provide a refuge for many special-status species birds and animals. The County should require all utility-scale renewable energy facility applicants to consult with California Department of Fish & Wildlife (CDFW) and US Fish & Wildlife Service (USFWS) for the current status of species of animals with special status or protections and for any guidelines for protocols or mitigation for those species. Current examples include the following documents.

a. Swainson's Hawk Minimization and Mitigation

The last breeding members of Swainson's Hawk in southern California are known to migrate, nest and forage in the Antelope Valley of Los Angeles County. The ordinance should incorporate by reference *Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California, State of California, California Energy Commission and Department of Fish and Game, May 13, 2010*

b. Burrowing Owl Minimization and Mitigation

Burrowing Owl have been extirpated from much of California, but remain in small numbers in the agricultural lands of the Antelope Valley. Protocols for Burrowing owl are provided in the document *Staff Report on Burrowing Owl Mitigation, State of California, Natural Resources Agency, Department of Fish & Game, March 7, 2012*. We recommend meeting with the California Department of Fish and Wildlife (CDFW) prior to conducting burrowing owl surveys. Given the reduction in habitat for burrowing owl, we recommend mitigation for impacts to burrowing owl through habitat compensation placed in conservation easement in perpetuity and managed for the conservation of the burrowing owl. Burrowing Owl mitigation lands should be additive to other compensatory mitigation lands.

c. Desert kit fox

These iconic desert species are protected under the State’s fur-bearing mammal Title 14 of the California Code of Regulations § 460. Safeguards for relocating these animals from project sites need to be incorporated. Currently the State of California is preparing a state-wide monitoring and mitigation strategy for the desert kit fox in which Los Angeles County may want to participate.

d. Desert Tortoise

Before deciding to approve or deny a permit for a utility-scale renewable energy project the County should require the applicant to meet with the USFWS and if recommended by USFWS conduct a USFWS - approved survey for the threatened desert tortoise and if found onsite, obtain a federal permit for incidental take of the threatened desert tortoise from USFWS in conjunction with a Habitat Conservation Plan; and an incidental take permit for the state threatened desert tortoise would be from CDFW under Section 2081 of the California Fish and Game Code.

e. Mohave Ground Squirrel

Before deciding to approve or deny a permit for a utility-scale renewable energy project the County should require the applicant to meet with the CDFW and if recommended by CDFW conduct a CDFW - approved trapping survey and habitat assessment for the Mohave ground squirrel, apply for an incidental take permit based on the results of the survey and assessment, obtain a permit from the CDFW if Mohave ground squirrel are present onsite, and incorporate any required mitigation measures.

Thank you very much for the opportunity to comment on the Draft Ordinance. We look forward to continued collaboration with the County on this valuable effort.

Sincerely,

Sarah K. Friedman
Senior Campaign Representative
Beyond Coal Campaign
Sierra Club

Kenneth Sahn White
Director, Economic & Policy Analysis
Clean Coalition

Garry George
Renewable Energy Director
Audubon California

Jess Morton
Palos Verdes/South Bay Audubon Society