



County of Monterey Planning Commission

Agenda Item No.5

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Item No.5

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

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PLN210174 - MYHRE ARVID J TR ET AL (AERA ENERGY LLC/CALIFORNIA RESOURCES CORPORATION)

Continued from November 13, 2024 - Public hearing to consider construction of an approximately 35.5-acre 11 megawatt alternating current solar photovoltaic facility and associated site improvements including development on slopes exceeding 25 percent.

Project Location: 66880 Sargents Road, San Ardo.

Proposed CEQA Action: Consider and adopt a Mitigated Negative Declaration pursuant to CEQA Guidelines section 15074.

RECOMMENDATION

It is recommended that the Planning Commission:

1. Adopt a Mitigated Negative Declaration pursuant to CEQA Guidelines section 15074;
2. Approve a General Development Plan and Combined Development Permit consisting of:
 - a. Use Permit to allow construction of an approximately 35.5 acre 11-megawatt alternating current solar photovoltaic facility and associated site improvements; and
 - b. a Use Permit to allow development on slopes exceeding 25 percent; and
3. Adopt a Mitigation Monitoring and Reporting Plan.

A draft resolution, including findings and evidence, is attached for consideration (**Exhibit B**). Staff recommends approval subject to 19 conditions.

PROJECT INFORMATION

Property Owner: Myhre Arvid J. TR Et. Al.

Agent: Ruben Magan, Total Energies Renewables USA; Rachel Clausnitzer, Aera Energy LLC; Andrew Cochrane, California Resources Corporation

Architect: Wallace Group

APN: 423-081-019-000

Zoning: Heavy Industrial [HI]

Parcel Size: 159.75 acres

Flagged and Staked: Yes

Project Planner: Fionna Jensen, Senior Planner

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SUMMARY

The project site is located 5.4 miles south of the unincorporated community of San Ardo, approximately 450 feet west of Sargent Creek and 4,500 feet east of the Salinas River. The project

site is confined within a single parcel of land within the portion of the San Ardo Oil Fields known as Ferrini Flats and is operated by Aera Energy LLC. The project involves construction of an 11-megawatt alternating current solar photovoltaic (PV) facility that will cover approximately 35.5 acres of land and fully offset the electrical demands of Aera Energy/California Resource Corporation's oil field. Associated site improvements include PV solar module blocks, as well as related and supporting facilities, including electrical collection lines, on-site service roads, two gates, and approximately 5,555 linear feet of security fencing, and temporary construction staging areas. The proposed solar array is expected to be operational in 2025 and to remain operational through 2045-2060. No battery storage is proposed. Should excess energy be generated on a consistent basis, the Applicant would either remove the unnecessary solar panels or utilize an existing interconnection agreement that would allow the excess electricity to be supplied back into the grid. A draft General Development Plan has been prepared and details the project's major components: PV facility, Construction, Applicant Proposed Environmental Measures and Design Features, Operation and Maintenance, and Decommissioning.

The proposed Project was considered by the Planning Commission on November 13, 2024. Following public testimony, the Planning Commission continued the item to January 8, 2025, to allow staff adequate time to address comments or concerns raised by the Office of Monterey County Counsel and the California Department of Conservation (Geologic Energy Management Division; "CalGEM"), and to provide additional evidence to justify the proposed Use Permit to allow development on slopes in excess of 25%. Staff is now returning with a revised Draft Resolution. All other project components remain unchanged and are discussed in detail in **Exhibit A**.

Hazards and Risk Management

On November 8, 2024, CalGEM submitted a public comment letter (**Exhibit E**) outlining its regulations and identifying the abandonment status of the project site and the surrounding area's 65 oil and gas wells. Twenty of the project site's 65 oil and gas wells were identified by CalGEM as being abandoned "Not to Standard" but have been confirmed to be abandoned to the standards in effect at that time (**Exhibit F**). The owner and operator of the wells, California Resources Corporation, who recently bought Aera Energy LLC, has submitted a letter (**Exhibit F**) explaining the different well abandonment deficiencies, justifying how water resources will remain protected, and addressing the overall risk level. These 20 wells were identified as either having inadequate hydrocarbon zone plugs, freshwater plugs, or hole fluids. These deficiencies can lead to groundwater contamination by allowing oil, gas, and other drilling fluids to migrate into nearby aquifers. However, in this case, the steel casing and cement or abandonment mud from the original drilling operations act as barriers, preventing the migration of remnant oil, gas, or hydrocarbons from entering surrounding formations or the groundwater. Therefore, the standards at which these wells were abandoned continue to protect groundwater resources and re-abandonment of these 20 wells is not required at this time. Finally, California Resource Corporation has indicated these 20 wells, in their current conditions, pose an overall low threat to health, safety, and the environment because the decades of production in the San Ardo oil field have significantly depleted reservoir pressures, eliminating the energy needed to drive hydrocarbons upward into shallower zones, and there has been no fluid injection within 1,000 feet of the project area, meaning that the reservoir pressures will remain depleted throughout the duration of project timeframe. CalGEM has also verbally commented on the status of these 20 wells and concurs that it is unlikely these wells will leak.

In addition, CalGEM recommended that the County/Applicant/Owner remediate soils containing hydrocarbons and record a notice on title disclosing the existence of all wells located on the property and the potential significant issues associated with any improvements near oil or gas wells. Per their November 8, 2024, letter, CalGEM categorically advises against building over, or in any way impeding access to oil, gas, or geothermal wells. Should a local jurisdiction, such as the County of Monterey, permit development over abandoned wells, liability, and re-abandonment responsibility is shifted from CalGEM to the Property Owner and permitting authority/local jurisdiction. In addition to the shift in abandonment responsibility, the County of Monterey Office of County Counsel (County Counsel) raised concerns about the potential claims, damages, injuries, accidents, and losses arising from the implementation of the Proposed Project.

To address CalGEM recommendations and resolve concerns of County Counsel, staff recommends the Planning Commission revise Mitigation Measure HM-1 (*EMERGENCY ACTION PLAN AND WELL RE-ABANDONMENT*) (see **Exhibit G**). The original language of Mitigation Measure HM-1 requires that the Applicant/Owner enter into an agreement explaining that the Applicant/Owner is responsible for re-abandoning any impacted wells. Recommended revisions include bolstering the language to also require that the Applicant/Owner/Project Operator, and all applicable successors-in-interest, defend, indemnify, and hold harmless the County of Monterey and/or its agents, officers, and/or employees from all claims, damages, injuries, accidents, and losses arising from implementation of the Proposed Project. County Counsel and HCD-Planning staff have drafted a non-standard Indemnification Agreement to satisfy this portion of the mitigation measure. The Applicant/Owner/Project Operator are reviewing this agreement and has yet to provide comment.

The project site's soils were remediated in March 2015 and therefore contaminated soils are unlikely to be encountered during construction (see **Exhibit H**). However, should such soils, including hydrocarbon-contaminated soils, be discovered during ground-disturbing activities, staff's recommended revisions to Mitigation Measure HM-1 clarify that the Applicant/Owner/Project Operator is responsible for soil remediation. Finally, Condition No. 19 (*OIL & GAS WELL DISCLOSURE NOTICE*) requires the Applicant/Owner to record a notice disclosing the existence of all wells located on the property and the potentially significant issues associated with any improvements near oil or gas wells. Adherence to Mitigation Measure HM-1, as revised, and Condition No. 19 will address CalGEM recommendations and resolve concerns of the Office of County Counsel.

Slopes Exceeding 25 Percent

In order to grant a Use Permit to allow development on slopes in excess of 25 percent, General Plan Policy OS-3.5 requires specific findings to be made: no alternative would allow development to occur on less steep slopes and/or the development on slopes better achieve the resource protection goals, policies, and text of the General Plan.

The original project design included approximately 32,000 solar panels and approximately 10,000 square feet of development on slopes in excess of 25%. The project has since been reduced to approximately 23,438 solar panels and 5,000 square feet of development on steeper slopes. The selected project location contains the largest amount of relatively flat and vacant land on the subject parcel as the remaining areas of the parcel are hilly, contains slopes exceeding 25 percent, and

developed with oil wells and supporting facilities. Additionally, the selected site is directly adjacent to the existing substation, where the generated power will connect to. Relocating the 35.5-acre solar facility to another portion of the subject property would result in a greater amount of development on slopes than exceeding 25 percent than proposed, would threaten additional active or idle oil wells, and would require additional ground disturbance to connect to the substation. The design and location of the proposed development better achieves the goals and objectives of the General Plan and South County Area Plan by generating renewable electricity to fully offset an oil operation's PG&E demand and minimizing natural landform alteration by utilizing the flattest, previously disturbed portion of the site. Additionally, the project site minimizes potential public health concerns by siting development over abandoned oil wells, rather than active ones. Condition No. 4 requires the applicant to obtain a Stormwater Pollution Prevention Plan, which would reduce erosion and topsoil loss from stormwater runoff during construction.

ENVIRONMENTAL REVIEW

Pursuant to Public Resources Code Section 21083 and California Environmental Quality Act (CEQA) Guidelines Sections 15063(a) and 15063(b)(2), County of Monterey as Lead Agency completed environmental review to determine if the project may have a significant effect on the environment. The County prepared a draft initial study and negative declaration (IS/ND) for this project and filed it with the County Clerk June 23, 2022. The draft IS/ND was circulated the public review from June 23, 2022, through July 25, 2022 (State Clearinghouse Number 2022060506). The County received comments on the draft IS/ND from the California Department of Fish and Wildlife, the Salinan Tribe, the California Department of Conservation (Geologic Energy Management Division; "CalGEM"), and Adams Broadwell Joseph & Cardozo. These comment letters are discussed in detail in **Exhibit A**. To address concerns raised in these public comment letters, staff revised the draft Initial Study and circulated a draft Mitigated Negative Declaration (MND) (**Exhibit D**). The draft IS/MND was filed with the County Clerk on September 25, 2024 and recirculated for public review from September 25, 2024 to October 25, 2024 (State Clearinghouse Number 2022060506). The draft IS/MND identified potentially significant impacts on air quality, biological resources, hazards and hazardous materials, and tribal cultural resources. The Applicant has agreed to implement six mitigation measures required to reduce these potentially significant impacts to a level less than significant. These mitigation measures are incorporated as Condition Nos. 11 - 16. Comments received on the re-circulated draft IS/MND are discussed in **Exhibit B**, Draft Resolution.

As discussed above, staff is recommending revisions to Mitigation Measure HM-1. In this case, the recommended revisions to draft Mitigation Measure HM-1 does not trigger recirculation of the environmental document because the modified language makes the mitigation more effective by clarifying the required actions and better aligning with State requirements. Additionally, the modified language does not create a new adverse environmental effect and will reduce the potentially significant environmental impact to the same degree as the original mitigation measure.

OTHER AGENCY INVOLVEMENT

The following agencies have reviewed the project, have comments, and/or have recommended conditions:

Environmental Health Bureau
HCD-Engineering Services

HCD-Environmental Services
South County Fire Protection District
The Office of Monterey County Counsel

LAND USE ADVISORY COMMITTEE

As discussed in the November 13, 2024, Planning Commission report, staff referred the proposed project to the South County Land Use Advisory Committee (LUAC) for review. On February 16, 2022, the LUAC reviewed the project, and voted 4 - 0 (4 ayes and 0 noes) to support the project as proposed. The LUAC members inquired about the potential visual impacts from Highway 101 and nearby neighbors. No members of the public attended this meeting. As detailed in **Exhibit B**, Draft Resolution, less than significant visual impacts would occur and private views are not regulated by Monterey County Code.

Prepared by: Fionna Jensen, Senior Planner
Reviewed by: Anna Ginette Quenga, AICP, Principal Planner
Approved by: Melanie Beretti, AICP, Chief of Planning

The following attachments are on file with HCD:

Exhibit A - Discussion

Exhibit B - Draft Resolution, including:

- Conditions of Approval
- Project Plans
- General Development Plan

Exhibit C - Vicinity Map

Exhibit D - Final Initial Study/Negative Declaration

Exhibit E - CalGEM Comment Letter

Exhibit F - Well Abandonment Letters

Exhibit G - Recommended Mitigation Measure Revisions

Exhibit H - Site Closure Report

cc: Front Counter Copy; Melanie Beretti, HCD Chief of Planning; Anna Quenga, AICP, Principal Planner; Fionna Jensen, Senior Planner; HCD-Engineering Services; Environmental Health Bureau; HCD-Environmental Services; South Fire Protection District; Ruben Magan, Total Energies Renewables USA, Agent; Rachel Clausnitzer, Aera Energy LLC, Agent; Andrew Cochrane, California Resources Corporation, Applicant; The Open Monterey Project (Molly Erickson); LandWatch; Lozeau Drury LLP; Christina McGinnis, Keep Big Sur Wild; Interested Parties; Project File PLN210174.