



# City of Hesperia

Gateway to the High Desert

June 23, 2020

Lake Arrowhead Community Services District  
27307 CA-189  
Blue Jay, CA 92317

**Agenda Item 7. Public Hearing to Consider Adopting Resolution No. 2020-04 Determining that there is No Feasible Alternative to the Hesperia Farms Solar Photovoltaic Proposal, Rendering City of Hesperia Zoning Ordinances Inapplicable Pursuant to Government Code section 53096.**

Board of Directors:

The City of Hesperia would like to submit the following comments in objection to the adoption of Resolution No. 2020-04:

As stated in the Appellate Court findings:

A local agency must comply with the zoning ordinance of the city in which the project's facilities are to be constructed or located. (GC 53091(a)) The City denied the project so it does not comply with the General Plan or zoning.

For the development of electrical energy by local agencies, the Legislature intended to maintain local control of land use decisions with carefully specified exceptions where necessary to further countervailing interests. The countervailing interests are those of the City with local land use control, and those of the District, which is noted in the Introduction as being 13 miles away from Hesperia.

In note 23, the court acknowledged the tie to the California Environmental Quality Act (CEQA) and the feasible alternatives discussion. Govt. Code Section 53096(a) states that the "governing board of a local agency may make these determinations at the time it approves an environmental impact report on its proposal..." However, the Lake Arrowhead report and resolution findings ignore the tie to CEQA by stating:

No legal challenges were filed under CEQA against the Original Site or the Alternative Site where the Proposal would be located. Thus, the Final MND and Addendum are presumed valid under Public Resources Code sections 21080.1 and 21167.2 and State CEQA Guidelines section 15231.

If the court presents a tie to CEQA, and the environmental document failed to address feasible

*Larry Bird, Mayor  
Cameron Gregg, Mayor Pro Tem  
Bill Holland, Council Member  
Rebekah Swanson, Council Member  
Brigit Bennington, Council Member*

*9700 Seventh Avenue  
Hesperia, CA 92345*

*760-947-1000  
TD 760-947-1119*

*Nils Bentsen, City Manager*

*www.cityofhesperia.us*



City of

---

alternatives, it would seem that the environmental document would need to be modified.

Under 6.1 Availability of a New Site, the report states:

The RES-BCT program requires that the Generating Account and all of the Benefiting Accounts need to be within the geographical boundaries of the local government.

In the Sage report it is stated this way about Generating Accounts: “they must be within the agency’s jurisdiction on property that the agency controls.”

The whole project is based around the tariff program RES-BCT which allows the generation of electricity at one site to offset the billing at another site. According to the LAFCO website, in 2010, the Hesperia Farms property was put in the Lake Arrowhead Community Services District sphere of influence. Typically, sphere does not mean “jurisdiction”, so how would it qualify for the program?

Additionally, the “Technical Memorandum for Feasibility Evaluation of Potential Photovoltaic System Sites” prepared by Tidewater Incorporated appears thorough, because it analyzes six sites, using 20 factors, however, upon closer review of the memorandum it makes several assumptions and conclusions without reasoned discussion of why a particular site received a particular score.

For example, in creating the scoring system for the ‘Distance from Power Transmission or Distribution Lines’ factor, Tidewater was unable to ‘ascertain the locations of distribution lines relative to the identified parcels, via SCE’s ARCGIS mapping website.’ Tidewater thus made assumptions based on known information without further inquiry. The memorandum states ‘it was assumed that a distribution line and an existing service account is available to all parcels with known electricity available at the site. Those sites with existing electrical utilities available were assigned a value of 10. Those sites without existing electrical utilities available at the site were assigned a value of 0, and those sites with unknown, existing electrical utilities available were assigned a value of 5.’

After the memorandum goes through explaining the scoring criteria, it does not have a section where it explains why each of the sites received the score it received. Only a table on page 16 with tiny print showing the various scores given for each of the sites. Without a showing of this analysis for how each of the sites received scores and the facts that support those scores, how is the District able to determine whether the score is justified or supported by the facts?”

Overall, the alternatives discussion is weak, only relating the alternative to the Hesperia Farms site and not the other sites; discussion points are not in-depth and it becomes clear that it is merely intended to meet the feasible alternatives minimum and that PV at the Hesperia Farms site was the only consideration.

Sincerely,

---

Chris Borchert  
Principal Planner