Wind, solar farms OK on some Williamson Act lands

Jenna Chandler, Porterville Recorder, 9-2-10

On Tulare County's fertile agricultural swaths, solar panels are sprouting in place of citrus-bearing trees and dry grass grown to feed for livestock. Energy developers are harnessing the sun's rays, adding a new public benefit in the form of alternative energy, and they want to receive property tax breaks traditionally given to farmers and ranchers while doing it.

On Tuesday, after months of debate and consideration given to the opinions of agricultural advisory groups, the Tulare County Board of Supervisors voted 4-1 to allow them to do so if they meet certain criteria: they are located near an electrical grid, would not result in the loss of future agricultural production, include developer agreements that include financial incentives for the county upon the loss of crop production and the use complies with the principles of Williamson Act compatibility laid out in state law.

Each application for a special use permit to build the solar and wind "farms" on lands under Williamson Act contracts — entered into voluntarily by ranchers and farmers who restrict their land for agricultural production to preserve viable open space in exchange for reduced property tax assessments — will be reviewed on a case-by-case basis.

In doing so county supervisors have gone, at least temporarily, against the opinions of the California Farm Bureau and the Tulare County Agricultural Advisory Committee, which urged the Board to enact a policy that would require the cancellation of Williamson Act contracts when solar and wind farms are developed on the land.

"There's an ideological battle here," Executive Director of the Tulare County Farm Bureau Tricia Stever said. "The Farm Bureau's contention is that it's not an appropriate and compatible use ... we're not trying to keep these farmers from going forward from pursuing these uses, we're just asking that the intent of the Williamson Act not be eroded."

Board Chairman Steve Worthley said that in the future, the supervisors may consider blanket compatibility.

"All we're being asked to vote on today is to render a decision about establishing a procedure for determining whether, on a case-by-case basis, the uses are compatible with Williamson Act contracts," he said.

Third District Supervisor Phil Cox cast the dissenting vote. He said the criteria were too loose when applied to prime agricultural lands, essentially those parcels that are irrigated.

The Legislature has left it up to the local agencies to establish rules governing the administration of the agricultural preserves, including compatible uses permitted with special permits, like those doled out for public utility operations. Still, California law requires the following principles of compatibility:

- The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.

- The use will not significantly displace or impair current or reasonably foreseeable agricultural operations. Uses that significantly displace agricultural operations may be deemed compatible if they relate directly to the

production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing or shipping.

The Board's decision will likely please farmers who are having trouble turning profits on their lands, even while receiving tax breaks under the Williamson Act. A single mom who owns land that's been in her family since the early 1970s told supervisors that she farms in the evenings after working two jobs, and is considering entering into a contract with an energy developer to help make ends meet.

"Half of the field is dead trees that are so old they're not producing as much income as they used to ... the farming doesn't support itself," she said. "With the lease agreement, it would give me a source of income and I could actually quit one of my jobs. In 30 years if the agreement isn't renewed, I could turn the ground back to plain dirt and could give my sons the opportunity to farm it."

According to County Counsel Kathleen Bales-Lange, three other counties have drawn conclusions that the solar and wind developments are not compatible with the Williamson Act.

"I have to tell you that it's my impression that none of the counties that have considered this question has gone to the extent that this county has gone to," she said, referencing the numerous meetings held with stakeholders.