

RESIGHINI RANCHERIA
A Federally Recognized Indian Tribe
ENVIRONMENTAL PROTECTION AUTHORITY

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MEMORANDUM

DATE: August 26, 2011
TO: Ocean Protection Council
FROM: Rob Cozens, Director, Resighini Rancheria EPA
SUBJECT: Draft Strategic Action Plan

Thank you for the opportunity to review and comment on your Draft Strategic Plan.

In general, my impression is the Plan is well thought out and well written: I found nothing I would question or with which I take issue. Nor could I identify issues of major importance that were not addressed.

I do, however, have one question that I hope will generate discussion among pertinent regulatory agencies and eventually result in adoption of policy guidelines by your Council:

In specific terms, how will the provisions of Section 15093(a) of the California Code of Regulations be addressed during CEQA review of offshore renewable energy projects?

Section 15093(a) reads:

CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable." [emphasis mine]

This seems to indicate that offshore renewable energy projects may be allowed greater take or environmental stress than, for example, offshore aquaculture projects. However, the operative word, "may", indicates such preference is discretionary. This leads to several questions:

- Is the decision to consider adverse environmental effects acceptable up to the individual reviewing officers?
- Is the decision to consider adverse environmental effects acceptable up to each agency reviewing a project?
- How will region-wide or statewide environmental effects be identified?

- How will region-wide or statewide environmental effects be weighted against potential take or environmental stresses?

It is my hope that these questions will be the subject of discussion, first among individual regulatory agencies and later by your Council. I believe OPC's adoption of guidelines for implementing Section 15093(a) would result in a common understanding and expectation between regulatory agencies and proponents of offshore renewable energy projects. This, in turn, should help to streamline CEQA review of such projects.

Sincerely,


Rob Cozens

