

DYNEGY – MOSS LANDING: Laws, Ordinances, Regulations and Standards (“LORS”) That Conflict with Alternative Cooling Options at Moss Landing Power Plant

POLICY #	POLICY TEXT	CONFLICT	Mechanical Draft (Seawater)	Mechanical Draft (Fresh Water)	Natural Draft System	Hybrid Cooling System	Dry Cooling System
California Coastal Act (PRC Section 30000 et seq.)							
30251	The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.	The addition of cooling towers to MLPP will cause significant visual impacts (with the exception of dry cooling) and therefore is not consistent with the County’s planning objectives.	X	X	X	X	
30255	Coastal-dependent developments shall have priority over other developments on or near the shoreline.	Installing either the freshwater mechanical draft or dry cooling towers to the MLPP will make it a non coastal dependent facility.		X			X
Monterey COUNTY COASTAL IMPLEMENTATION PLAN (PART 1 – TITLE 20, ZONING ORDINANCE)							
Chapter 20.28: Regulations for Heavy Industrial Zoning Districts (HI/CZ)							
20.28.07 0.A(1)	The Maximum structure height is 35 feet unless superseded by a structure height limit noted on the	While the modernization and replacement project, as approved by the CEC complies with the height			X		

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	zoning map. Additional height may be allowed subject to a Use Permit (ZA).	requirement, compliance of natural draft system could be challenged as the additional structures could be considered a new facility and therefore a non-conforming use due to the height limit.					
20.62.030(C)	Any structure in any Commercial or Industrial District may be erected to a greater height than the limit established for the district in which the structure is to be located, provided that the cubical contents of the structure shall not be greater than that possible for a structure erected within the height limit and provided the design, exterior lighting, siting and landscaping plan for the project is approved by the Planning Commission.	It is not feasible to construct a 35 foot high natural draft cooling tower.			X		
Monterey County Coastal Implementation Plan (Part 2 – Regulations For Development in the North County Land Use Plan Area) Referencing Moss Landing Community Plan							
20.144.140	Development of new or expanded industrial facilities shall only be permitted where able to meet the following criteria: <ol style="list-style-type: none"> <li>1. The industry shall be coastal dependent</li> <li>2. The industry shall not use quantities of water that will exceed or adversely impact the safe, long-term yield of the local aquifer</li> <li>3. Where not preempted by the exclusive authority of a state</li> </ol>	Freshwater mechanical draft cooling will make the project non-coastal depended. Additionally all of the alternatives except dry cooling will not meet the visual resource and other development standards of this ordinance.	X	X	X	X	X

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	<p>or federal agency, the County shall require that the industry contribute only low levels of air and water pollution and reduce project pollution to the lowest levels possible for the particular industry. As a condition of approval, all available and feasible mitigation measures shall be incorporated into project design to minimize the amount of air and/or water pollution.</p> <p>4. The industrial use shall incorporate appropriate buffer zones where located adjacent to agricultural areas, as per Section 20.144.080.D.6</p> <p>5. The development shall meet visual resource, environmental sensitive habitat and other development standards of this ordinance.</p>						
20.144.1 40.B.5.c	<p>Development of new or expanded industrial facilities shall only be permitted where able to meet the following criteria:</p> <ol style="list-style-type: none"> <li>1. The industry shall not be of a coastal or agricultural dependent type.</li> <li>2. The industry shall not use quantities of water that will exceed or adversely impact</li> </ol>	<p>Freshwater mechanical draft and dry cooling will make the project non-coastal depended. Additionally, all of the alternatives except dry cooling will not meet the visual resource and other development standards of this ordinance. Lastly, freshwater mechanical draft cooling will use an unreasonable amount of the</p>	X	X	X	X	X

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	<p>the sage, long term yield of the local aquifer, as determined through a hydrologic report prepared in accordance with Section 20.144.070.D</p> <p>3. The development shall meet the visual resource, environmentally sensitive habitat and other development standards of this ordinance.</p>	County’s water resources.						
Moss Landing Community Development Standards								
20.144.1 60..C.1.c	<p>Future expansion and improvement or other development including fuels conversion at PF&amp;E, National Refractories and any other heavy industry in the area shall be considered in accordance with the Master Plan and associated Environmental Impact Report which has been developed for these facilities. This Master Plan requirement shall not apply to emergency or administratively approved developments under Section 30624 of the Coastal Act.</p>	<p>The addition of alternative cooling technologies is not anticipated by and does not conform with current MLPP Master Plan.</p>	X	X	X	X	X	
20.144.1 60..C.1.c	<p>The Master Plan must have been developed by the applicants and submitted to Monterey County for review and approval prior to approval by the County of any development permits for these industries.</p>	<p>The addition of alternative cooling technologies is not anticipated by and does not conform with current MLPP Master Plan.</p>	X	X	X	X	X	
20.144.1	<p>The Master Plans shall address</p>	<p>The addition of alternative cooling</p>	X	X	X	X	X	

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60..C.1.c	<p>the long range development of the facilities, including:</p> <ol style="list-style-type: none"> <li>1. Physical expansion and new construction</li> <li>2. Major operational changes in fuels or fuel delivery systems</li> <li>3. Circulation or transportation improvements;</li> <li>4. Electrical power transmission</li> <li>5. Alternative development opportunities;</li> <li>6. Environmental considerations</li> <li>7. Potential mitigation of adverse environmental impacts; and</li> <li>8. Conformance to all other policies of the North County Land Use Plan and other State and federal regulations.</li> </ol> <p>Subsequent to approval of these master plans, permit requests not in conformity with the Master Plans shall be considered only upon completion and approval of necessary amendments to the Master Plan. This requirement shall not be construed to require disclosure in the Master Plans of trade secrets, proprietary or confidential information, but only location of buildings and other land use matters necessary for planning purposes.</p>	<p>technologies is not anticipated by and does not conform to the current MLPP Master Plan. Additionally, the Master Plan could not be revised in such a way to conform to the policies of the North County Land Use Plan and other State and Federal regulations.</p>					
20.144.1 60.C.1.f.	<p>Potentially hazardous industrial development (that development which is shown to be through the</p>	<p>The addition of cooling towers to the MLPP will cause significant visual impacts that will disrupt the</p>	X	X	X	X	X

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	various required and available documents, to be harmful to the environment of the area or is shown that the establishment, maintenance or operation of the use applied for will be detrimental to the health, safety, peace, morals, comfort and general welfare of the persons residing or working in the neighborhood of such a proposed use or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the County) shall not be located adjacent to developed areas.	environment and it is detrimental to the health, peace, comfort and general welfare in the neighborhood of the Project.					
20.144.1 60.C.1.k	All new heavy industry must be coastal dependent.	Freshwater mechanical draft and dry cooling will make the project non-coastal dependent.		X			X
20.144.1 60.D.1.s	Visibility will be considered in terms of normal unaided vision in any direction of any amount of time at any season. The standard for review is the objective determination of whether any portion of the proposed development is visible from or impedes the visual access to the Moss Landing community, harbor and dunes from Highway 1 or any other public viewing area.	The addition of cooling towers to MLPP will cause significant visual impacts and therefore is not consistent with the County’s planning objectives. The near constant plume of several of the alternatives will be visible from or impede the visual access to the Moss Landing community, harbor and dunes from Highway 1 or any other public viewing area.	X	X	X	X	
Monterey County General Plan							
Chapter 1.0 Land Use Element							
LU 5.1(c)	The extent of use of land for [heavy industrial use] shall be	The addition of cooling towers to MLPP will add additional bulk to	X	X	X	X	X

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	limited to building coverage of 50% of the subject property.	the existing facility and may exceed 50% of the MLPP property.					
LU 5.2	Industrial areas shall be developed in a compact manner and may include administrative and/or research facilities associated with the industrial use.	The addition of cooling towers to MLPP will add additional bulk to the existing facility and cause significant visual impacts and therefore is not consistent with the County’s planning objectives.	X	X	X	X	X
LU 5.3	Only those industries that do not violate the County’s environmental quality standards shall be allowed.	Freshwater mechanical draft and dry cooling will make the project non coastal dependent. Additionally, all of the alternatives (except dry cooling) will not meet the visual resource and other development standards of this ordinance. Lastly, freshwater mechanical draft cooling will use an unreasonable amount of the County’s water resources.	X	X	X	X	X
North County Land Use Plan							
Chapter 2, Resource Management							
2.2.2.1	Views to and along the ocean shoreline from Highway One, Molera Road, Struve Road and public beaches, and to and along the shoreline of Elkhorn Slough from public vantage points shall be protected.	The addition of cooling towers to MLPP will cause significant visual impacts and therefore is not consistent with the County’s planning objectives.	X	X	X	X	
Chapter 4 Land Use and Development							
4.3.4	All future development within the North County coastal segment must be clearly consistent with the protection of the area's significant human and cultural resources, agriculture, natural resources, and water quality.	Freshwater mechanical draft and dry cooling will make the project non coastal dependent. Additionally, all of the alternatives (except dry cooling) will not meet the visual resource and other development standards of this	X	X	X	X	X

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		ordinance. Lastly, freshwater mechanical draft cooling will use an unreasonable amount of the County’s water resources.					
4.3.5.6	The only industrial facilities appropriate for the area are coastal or agriculture dependent industries which do not demand large quantities of fresh water and contribute low levels of air and water pollution. Industries not compatible with the high air quality needed for the protection of agriculture shall be restricted.	Freshwater mechanical draft and dry cooling will make the project non coastal dependent. Additionally, all of the alternatives (except dry cooling) will not meet the visual resource and other development standards of this ordinance. Lastly, freshwater mechanical draft cooling will use an unreasonable amount of the County’s water resources.	X	X	X	X	X
4.3.6.F.1	Lands designated for Heavy and Light industrial use in the North County Coastal Zone, shall be reserved for coastal dependent industry as defined in Sections 4.3.1. L and M., and in the glossary of this plan. New heavy or light Industrial manufacturing or energy related facilities shall be located only in areas designated for these uses in this plan.	Adding freshwater mechanical draft or dry cooling towers to the MLPP will make it a non-coastal dependent facility.		X			X
4.3.6.F.4	A basic standard for all new or expanded industrial uses is the protection of North County's natural resources. Only those industries determined to be compatible with the limited availability of fresh water and the high air quality required by agriculture shall be allowed. New or expanded industrial facilities	Freshwater mechanical draft and dry cooling will make the project non coastal dependent. Additionally, all of the alternatives (except dry cooling) will not meet the visual resource and other development standards of this ordinance. Lastly, freshwater mechanical draft cooling will use an unreasonable amount of the	X	X	X	X	X



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	shall be sited to avoid impacts to agriculture or environmentally sensitive habitats.	County’s water resources.					
Chapter 5 Moss Landing Community Plan							
5.5.1	Existing coastal dependent industries in Moss Landing have local, regional, statewide and, in some cases, national significance. Accordingly, the county shall encourage maximum use and efficiency of these facilities, and to allow for their reasonable long-term growth consistent with maintaining the environmental quality and character of the Moss Landing Community and its natural resources.	Freshwater mechanical draft and dry cooling will make the project non coastal dependent. Additionally, all of the alternatives (except dry cooling) will not meet the visual resource and other development standards of this ordinance. Lastly, freshwater mechanical draft cooling will use an unreasonable amount of the County’s water resources.	X	X	X	X	X
5.5.2.2	Future expansion, improvement or other development including fuels conversions at PG&E or Kaiser Refractories, and any other heavy industry in the area shall be considered in accordance with master plans for these facilities. This master plan requirement shall not apply to emergency or administratively approved developments under section 30624 of the Coastal Act. The master plans shall be developed by the respective industries and submitted to Monterey County for review and approval prior to approval by the County of any required permits for these industries. The master plans shall	This policy applies only if the development is “coastal dependent”. Freshwater mechanical draft and dry cooling will not be coastal dependent and thereby would fail to satisfy this policy.		X			X

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	address the long range development and operation of the facilities including physical expansion and new construction, major operational changes, changes in fuels or fuel delivery systems, circulation or transportation improvements, electrical power transmission, alternative development opportunities, environmental considerations, potential mitigation of adverse environmental impacts and conformance to all other policies of the North County LCP and other State and Federal regulations. Subsequent to approval of these master plans, permit requests not in conformity with the master plans shall be considered only upon completion and approval of necessary amendments to the master plan.						
5.5.2.3	The least environmentally damaging alternative should be selected for on-site modernization and upgrading of existing facilities. When selection of the least environmentally damaging alternative is not possible for technical reasons, adverse environmental effects of the preferred alternative shall be mitigated to the maximum extent.	On balance, the visual impacts from all of the alternative cooling options are significant (with the exception of dry cooling). Additionally, freshwater mechanical draft and dry cooling create land use conflicts by creating a non-coastal dependent use. None of the alternatives meet the CWA wholly disproportionate test. The current once-through cooling technology meets all of these criteria while mitigating	X	X	X	X	X

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		xmarine impacts through the habitat enhancement program.					
5.5.2.4	Modernization and expansion of industrial facilities shall be compatible with existing community land use patterns and circulation system capacities, planning objectives, and local air quality regulations in effect at the time of the granting of such approval for said expansion by the appropriate agencies.	The objective of the County Planning documents is to encourage only coastal dependent industrial uses in the <i>coastal zone</i> . This objective is not met by the freshwater mechanical draft and dry cooling options.		X			X
5.5.2.10	All new heavy industry shall be coastal dependent.	Freshwater mechanical draft and dry cooling create land use conflicts by creating a non-coastal dependent use.		X			X
5.6.3.6	Views of the Moss Landing community, harbor and dunes from Highway 1 should be protected through regulation of landscaping and siting of new development adjacent to the highway to minimize the loss of visual access.	The addition of cooling towers to MLPP will cause significant visual impacts (with the exception of dry cooling) and therefore is not consistent with the County’s planning objectives	X	X	X	X	