COLUMBIA SOLAR PROJECT
SCA COMMENT

June 26, 2018
ATTEN: Sonia Bumpus
EFSEC Staff

Sonia:

I am attaching the Farmland Protection Policy Act. Considering power that would be generated by TUUSSO's projects is part of the national power grid I question that the FPPA would not be applicable and would therefore have to be part of EFSEC's consideration.

In particular the following:

Sec 2 [7 USC 4201] (a) (1) (2) (3) (4) (5) (6) (7); (b); (c), (1) (A) (B) (C), (2) (3) (4), (A) (B).

I am certainly not an attorney but, to me, (c) (2) "the term state...." seems to imply that EFSEC would be required to prove that it considered the FPPA in its deliberations as TUUSSO's projects certainly remove farmland from production.

I have raised this before in an email to Jon Thompson as an MDNS issue and his response was that he would pass it on to staff. I think it missed being passed on.

I am on the mailing and notification list and would sincerely appreciate you responding that you received this and some form of confirmation the council considered it.

Respectfully,

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USDA
Environmental Compliance Library
Farmland Protection Policy Act

Subtitle I—Farmland Protection Policy Act

Section 1 Short Title

This subtitle may be cited as the "Farmland Protection Policy Act .

Section 2 [7 USC 4201] Findings, Purpose, and Definitions

(a) Congress fnds that—

(1) the Nation's farmland is a unique natural resource and provides food and fiber necessary for the continued welfare of the people of the United States;

(2) each year, a large amount of the Nation's farmland is irrevocably converted from actual or potential agricultural use to nonagricultural use;

(3) continued decrease in the Nation's farmland base may threaten the ability of the United States to produce food and fiber in sufficient quantities to meet domestic needs and the demands of our export markets;

(4) the extensive use of farmland for nonagricultural purposes undermines the economic base of many rural areas;

(5) Federal actions, in many cases, result in the conversion of farmland to nonagricultural uses where alternative actions would be preferred;

(6) the Department of Agriculture is the agency primarily responsible for the implementation of Federal policy with respect to tJnited States farmland, assuring the maintenance of the agricultural production capacity of the United States, and has the personnel and other resources needed to implement national farmland protection policy; and

(7) the Department of Agriculture and other Federal agencies should take steps to assure that the actions of the Federal Government do not cause United States farmland to be irreversibly converted to nonagricultural uses in cases in which other national interesb do not override the importance of the protection of farmland nor otherwise outweigh the benefits of maintaining farmland resources.

(b) The purpose of this subtitle is to minimize the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses, and to assure that Federal programs are administered in a manner that, to the extent practicable, will be compatible with State, unit of local government, and private programs and policies to protect farmland.

(c) As used in this subtitle—

(1) the term "farmland" includes all land defined as follows:

(A) prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, fiber, forage, oilseed, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor, and without intolerable soil erosion, as determined by the Secretary. Prime farmland includes land that possesses the above characteristics but is being used currently to produce live stock and timber. It does not include land already in or committed to urban development or water storage;

(B) unique farmland is land other than prime farmland that is used for production of specific high-value food and fiber crops, as determined by the Secretary. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality or high yields of specific crops when treated and managed according to acceptable farming methods. Examples of such crops include citrus, tree nuts, olives, cranberries, fruits, and vegetables; and

(C) farmland, other than prime or unique farmland, that is of statewide or local importance for the production of food feed, fiber, forage, or oilseed crops, as determined by the appropriate State or unit of local government agency or agencies, and that the Secretary determines should be considered as farmland for the purposes of this subtitle;

(2) the term "State means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or any territory or possession of the United States;

(3) the term "unit of local government" means the government a county, municipality, town, township, village, or other unit of general government below the State level, or a combination of units of local government acting through an areawide agency under State law or an agreement for the formulation of regional development policies and plans;

(4) the term "Federal program" means those activities or responsibilities of a department, agency, independent commission, or other unit of the Federal Government that involve

(A) undertaking, financing, or assisting construction or improvement projects; or

(B) acquiring, managing, or disposinfl of Federal lands and facilities. The term "Federal program" does not include construction or improvement projects that on the effective date of this subtitle are beyond the planning stage and are in either the active design or construction state; and

(5) the term "Secretary" means the Secretary of Agriculture.

SOURCE (Pub. L. 97-98 Subtitle I, Dec. 22, 1981, 95 Stat. 1341)

Section 3 [7 USC 4202] Farmland Protection Policy

(a) The Department of Agriculture, in cooperation with other departments, agencies, independent commissions, and other units of the Federal Government, shall develop criteria for identifying the effects of Federal programs on the conversion of farmland to nonagricultural uses.

(b) Departments, agencies, independent commissions, and other units of the Federal Government shall use the criteria established subsection (a) of this section, to identify the quantity of farmland actually converted by Federal programs, to identify and take into account the adverse effects of Federal programs on the preservation of farmland; consider alternative actions, as appropriate, that could lessen such adverse effects; and assure that such Federal programs, to the extent practicable, are compatible with State, unit of local government, and private programs and policies to protect farmland.

(c) The Department of Agriculture may make available to States, units of local government, individuals, organizations, and other units of the Federal Government information useful in restoring, maintaining, and improving the quantity and quality of farmland.

SOURCE (Pub. L. 97-98 Subtitle I, Dec. 22, 1981, 95 Stat. 1341. Pub. L. 101-624, Sec 1454, Nov. 28, 1990, 104 Stat. 3614)

Section 4 [7 USC 4203] Existing Policies and Procedures

(a) Each department, agency, independent commission,or other unit of the Federal Government, with the assistance of the Department of Agriculture, shall review current provisions of law, administrative rules and regulations, and policies and procedures applicable to it to determine whether any provision thereof will prevent such unit of the Federal Government from taking appropriate action to comply fully with the provisions of this subtitle.

(b) Each department, agency, independent commission, or other unit of the Federal Government, with the assistance of the Department of Agriculture, shall, as appropriate, develop proposals for action to bring its programs, authorities, and administrative activities into conformity with the purpose and policy of this subtitle.

SOURCE (Pub. L. 97-98 Subtitle I, Dec. 22, 1981, 95 Stat. 1341)

Section 5 [7 USC 4204] Technical Assistance

The Secretary is encouraged to provide technical assistance to any State or unit of local government, or any nonprofit organization, as determined by the Secretary, that desires to develop programs or policies to limit the conversion of productive farmland to nonagricultural uses.

SOURCE (Pub. L. 97-98 Subtitle I, Dec. 22, 1981, 95 Stat. 1341)

Section 6 [7 USC 4205] Farmland Resource Information

(a) The Secretary, through existing agencies or interagency groups, and in cooperation with the cooperative extension services of the States, shall design and implement educational programs and materials emphasizing the importance of productive farmland to the Nation's well-being and distribute educational materials through communications media, schools, groups, and other Federal agencies.

(b) The Secretary shall designate one or more farmland information centers to serve as central depositories and distribution points for information on farmland issues, policies, programs, technical principles, and innovative actions or proposals by local and State governments.

SOURCE (Pub. L. 97-98 Subtitle I, Dec. 22, 1981, 95 Stat. 1341)

Section 7 [7 USC 4206] Grants, Contracts

The Secretary may carry out the purposes of this subtitle, with existing facilities and funds otherwise available through the use of grants, contracts, or such other means as the Secretary deems appropriate.

SOURCE (Pub. L. 97-98 Subtitle I, Dec. 22, 1981, 95 Stat. 1341)

Section 8 [7 USC 4207] Report

On January 1, 1987, and at the beginning of each subsequent year, the Secretary of Agriculture shall report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the progress made in implementing the provisions of this subtitle. such report shall include information on -

(1) the effects, if any, of Federal programs, authorities, and administrative activities with respect to the protection of United States farmland; and

(2) the results of the reviews of existing policies and procedures required under Section 4(a) of this subtitle.

SOURCE (Pub. L. 97-98 Subtitle I, Dec. 22, 1981, 95 Stat. 1341, Pub. L. 99-198, Sec. 1255, Dec.23, 1985, 99 Stat. 1518)

Section 9 [7 USC 4208] Statement of Limitation

(a) This subtitle does not authorize the Federal Government in any way to regulate the use of provate or non-Federal land, or in any way affect the property rights of owners of such land.

(b) None of the provisions or other requirements of this subtitle shall apply to the acquisition or use of farmland for national defense purposes during a national emergency.

SOURCE (Pub. L. 97-98 Subtitle I, Dec. 22, 1981, 95 Stat. 1341, Pub. L. 101-624, Sec. 2502, Nov. 28, 1990, 104 Stat. 4066)

Section 10 [7 USC 4209] Prohibition

This subtiitle shall not be deemed to provide a basis for any action, either legal or equitable, by any person or class of persons challenging a Federal project, program, or other activity that may affect farmland : *Provided,* That the Governor of an affected State where a State policy or program exists to protect farmland may bring an action in the Federal district court of the district where a Federal program is proposed to enforce the requirements of Section 3 of this subtitle and regulations issued pursuant thereto.

SOURCE (Pub. L. 97-98 Subtitle I, Dec. 22, 1981, 95 Stat. 1341, Pub. L. 99-198, Sec. 1255, Dec.23, 1985, 99 Stat. 1518)