



CITY OF MORRO BAY
COMMUNITY DEVELOPMENT DEPARTMENT
955 Shasta Avenue
Morro Bay, CA 93442

January 2, 2025

Claudia Morrow
SVP Development
Vistra Corp
Sent via email to: Claudia.morrow@luminant.com

Dear Ms. Morrow,

Thank you for your October 28, 2024 letter requesting the City pause consideration of entitlements for Vistra's proposed 600-megawatt battery storage project and notifying us of Vistra's intent to pursue Opt-in Certification for State approval of the project. We appreciate your recognition of the City's significant work over the past several years to process Vistra's project and we are disappointed to learn of Vistra's intent to exit the City's permitting process before the project has been fully analyzed and heard by the Planning Commission.

Your letter cites the City's updated timeline adding 18 months to the permit process as Vistra's reason for pursuing Opt-in Certification. The purpose of the City's updated timeline was to provide Vistra, the public, and decision-makers with realistic expectations regarding the project's milestones and schedule, considering the California Coastal Commission's August 2, 2024 letter, which raised significant procedural and Local Coastal Program (LCP) consistency concerns with the project.

Since receiving your October 28th letter, we have received questions from the public regarding the status of Vistra's project with the City and would like to better understand your intent in pausing municipal consideration of your application. Procedurally, the City's zoning code does not recognize a "pause" as an action or status for a land use permit application. The City Municipal Code provides procedures to "withdraw" an application. An applicant may withdraw an application at any time. Likewise, the City can withdraw an application due to incompleteness for a specified period of time. Either option will have implications on the application and possibly the Opt-in Certification process. We welcome an opportunity to meet with your team to discuss Vistra's intent. My contact information is enclosed.

Additionally, City staff would like to take this opportunity to provide a status update on the project's trust account and address comments in Vistra's October 28, 2024 letter to the City.

Trust Account Status

The reimbursement agreement between the City and Vistra requires Vistra to replenish the trust account when the balance reaches less than \$50,000. Vistra submitted an insufficient trust account payment (\$100,000 instead of the invoiced amount of \$175,000) on September 16, 2024 and has not yet responded to the City's September 27, 2024 invoice for another \$175,000. This has left the trust account with a negative balance of \$57,347.34. Please submit payment in accordance with the reimbursement agreement. For your convenience, we have enclosed a copy of the invoice. We have submitted the same to your billing division.

Draft Environmental Impact Report

Your letter states the Draft EIR found the project's environmental impacts to be less than significant with mitigation. However, the Draft EIR concluded that the project would have a significant and unavoidable impact related to cultural and tribal cultural resources. Additionally, the City was unable to complete a Final EIR since Vistra stopped funding the project's reimbursement agreement. The City cannot conclude the project's environmental impacts until it is able to complete the Final EIR with written responses to the more than 1,000 pages of public comments submitted in response to the Draft EIR. To assert the project's environmental impacts without considering public comments undermines the basic purpose of the California Environmental Quality Act (CEQA) of public participation. Furthermore, the California Coastal Commission, a Responsible Agency under CEQA, in their comment letter dated August 2, 2024 stated that the project is likely inconsistent with the City's LCP and Coastal Act policies related to environmentally sensitive habitat areas and coastal hazards. Consequently, in September 2024, the City Council had a discussion regarding a projected application process timeline.

Offsite Consequence Analysis

Your letter states that the Offsite Consequences Analysis (OCA) commissioned by Vistra was a "safety report" and that this document was peer-reviewed by a City consultant this summer, concluding that "a credible worst-case scenario would not present any significant health or safety risk to the public." The OCA is not a comprehensive safety report as stated in your response. The OCA reviewed the risks of four specific airborne pollutants that pose a risk to the public in the event of a fire at the facility. This report is not a comprehensive evaluation of all possible hazards associated with a BESS. It does not address other causes of failures such as natural disasters, mechanical failures, etc. It does not evaluate other forms of pollution such as water contamination from firefighting, leaks from damaged battery packs, etc. It also does not evaluate environmental concerns such as the marine environment, estuary, animal life or plants. The OCA is a valuable tool for determining the potential impacts to the public from airborne pollutants in the event of a worst-case fire scenario, but it is not a comprehensive safety report as stated in your letter.

Economic and Fiscal Impact Analysis

Your letter also states that the City was provided an analysis that projected a "fiscal windfall" for the City of Morro Bay of \$24.2 million in the first 10 years. This statement is false. Footnote 4 of the May 2024 Brattle study states "Note that Brattle has not considered any costs that would be incurred by the City in connection with the construction, demolition, or redevelopment activities, such as increased use of public services." In other words, the \$24.2 million figure represents Brattle's projection of gross tax revenues to the City from the Vistra project. A fiscal impact analysis must consider increased municipal costs in addition to projected tax revenues. The project's estimated net fiscal impact remains unknown until a true fiscal impact study is completed and peer reviewed by an independent land use economics consultant. Additionally, the Brattle study does not account for the economic impact of developing the City's most precious waterfront land with a potentially hazardous industrial use instead of visitor-serving commercial land uses, as envisioned by the City's General Plan / Local Coastal Plan (LCP).

In conclusion, we look forward to hearing from you regarding the enclosed invoice, and meeting with Vistra to better understand your intent and next steps. Please let us know your team's availability for a virtual or in-person meeting. I can be reached at (805) 772-6291 or asingewald@morrobayca.gov.

Sincerely,



Airlin Singewald
Community Development Director
City of Morro Bay