

Senate Bill 618 – Advice for Applicants, Cities, and Counties

When a project application is received by a participating county for a rescission of a Williamson Act contract for placement into a solar-use easement (under Government Code Section 51255.1), the city or county must determine that the project meets the following two requirements:

1. Agricultural Productivity – Section 51191(a)(1)(A & B)

The land consists predominately of soils with ***significantly reduced agricultural productivity for agricultural activities*** due to chemical or physical limitations, topography, drainage, flooding, adverse soil conditions, or other physical reasons.

OR

The land has ***severely adverse soil conditions that are detrimental to continued agricultural activities and production***. Severely adverse soil conditions may include, but are not limited to, contamination by salts or selenium, or other naturally occurring contaminants.

2. Important Farmland – Section 51191(a)(2)

The parcel or parcels are ***not*** located on lands designated as prime farmland, unique farmland, or farmland of statewide importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Natural Resources Agency, **unless** the Department of Conservation, in consultation with the Department of Food and Agriculture, determines that a parcel or parcels are eligible to be placed in a solar-use easement based on the information provided in subdivision (b) that demonstrates that circumstances exist that limit the use of the parcel for agricultural activities. For purposes of this section, the important farmland designations shall not be changed solely due to irrigation status.

In order to assist in the above determinations, the applicant shall submit the required items outlined in Section 51191(b)(1-5) to the county in which the proposed project site is located. Upon request from the county, the Department of Conservation will then be forwarded the materials for review and serve as a consulting party to the county.

Additionally, the applicant shall provide the Department with a proposed management plan (Section 51191(c)) and, for term or self-renewing easements, a performance bond or other security instrument (Section 51191.3(c)).

The following are the Department's recommendations on what each of the required items described in Sections 51191(b)(1-5), 51191(c), and 51191.3(c) should include:

Materials to Submit to the City or County - Sections 51191(b & c) and 51191.3(c)

Section 51191(b & c)

1. A written narrative demonstrating that even under the best currently available management practices, continued agricultural practices would be substantially limited due to the soil's reduced agricultural productivity from chemical or physical limitations.

It is recommended that the written narrative should include the following:

- a.) List of the proposed project's parcel numbers.
- b.) Number of acres affected by the proposed project.
- c.) Existing agricultural conditions in the county and region.
- d.) Existing agricultural uses on the project site.
- e.) Discussion of the best currently available agricultural management practices and whether one or a combination thereof would allow continued agricultural activity on the project site.¹
- f.) Maps²
 - 1) Location map of project site (including individual fields, if applicable)
 - 2) Current farmland designation map (i.e. Prime, Unique, etc).

2. A recent soil test demonstrating that the characteristics of the soil significantly reduce its agricultural productivity.

It is recommended that the soil test should include the following:

- a.) Name, employer, date of licensure, and contact information (phone, email, mailing address) of Certified Professional Soil Scientist (CPSS) or Certified Professional Soil Classifier (CPSC) selected.³
- b.) Map showing soil sample sites on the project site.⁴
→ Please note, that the Department of Conservation will use NRCS' digital soil survey data (SSURGO) as a reference for site soil classifications.

3. An analysis of water availability demonstrating the insufficiency of water supplies for continued agricultural production.

It is recommended that the water availability analysis should include the following:

¹ More information on agricultural management practices and soil health can be found at:

<http://soils.usda.gov/sqi/management/management.html> and
http://soils.usda.gov/sqi/management/files/21st_century_soil_health_tech_doc.pdf.

² All maps may be submitted in either paper or electronic (GIS) format.

³ Please note that the Department of Conservation recommends that soil tests should be conducted by a Certified Professional Soil Scientist (CPSS) or Certified Professional Soil Classifier (CPSC). A list of certified professional soil scientists can be found at: <https://portal.sciencesocieties.org/BuyersGuide/ProfessionalSearch.aspx?Token=>.

⁴ For more information about recommended soil sampling tests and techniques, please refer to the USDA Soil Quality Test Kit Guidelines: http://www.soils.usda.gov/sqi/assessment/test_kit.html.

- a.) Surface water source(s) – Number of acre feet delivered and applied for each of the last six years
- b.) Groundwater characterization - Well depth, amount applied, and groundwater level fluctuation over last six years (saline aquifer depths, if applicable)
- c.) Description of dry farming activity, if applicable

4. An analysis of water quality demonstrating that continued agricultural production would, under the best currently available management practices, be significantly reduced.

It is recommended that the water quality analysis should include the following:

- a.) Qualitative description of surface water source(s), focused on chemical content with potential to impact agricultural productivity.⁵
- b.) Qualitative description of groundwater, focused on chemical content with potential to impact agricultural productivity.
- c.) Description of water source blending, pre-treatment, and/or other techniques used to mitigate water quality issues, if applicable.

5. Crop and yield information for the past six years.

It is recommended that the crop and yield information should include the following:

- a.) At a minimum, annual cropping history and yields over the last six years, accompanied by a map of affected fields.
- b.) Supporting information in the form of crop insurance or disaster assistance approvals, if applicable.

6. The landowner shall provide the Department of Conservation with a proposed management plan describing how the soil will be managed during the life of the easement, how impacts to adjacent agricultural operations will be minimized, how the land will be restored to its previous general condition, as it existed at the time of project approval, upon the termination of the easement. If the Department of Conservation determines, in consultation with the Department of Food and Agriculture, pursuant to subdivision (a), that lands are subject to this section, the city or county shall require implementation of the management plan, which shall include any recommendations provided by the Department of Conservation, as part of any project approval.

It is recommended that the management plan should include the following:

- a.) Owner, Operator, and Agent
 - 1) Contact information (name, address, phone, email) for project applicant, property owner(s), operator, and agent of process.
- b.) Location
 - 1) Brief description (including legal) of the extent of the lands involved in the project, including project location, acreage involved, access route, and location map.
- c.) Area Description

⁵ Reference information regarding the impact of various constituents on crop productivity can be found at: http://www.waterboards.ca.gov/water_issues/programs/water_quality_goals/search.shtml.

- 1) Current condition of project site and surrounding areas, including existing area land use, soils, and farmland designation information.
- d.) Project Description
- 1) Describe project, time frame (start date, life of operation, etc), and projected energy production.
- e.) Soil Management
- 1) Describe how construction activities (i.e. grading depth, removal technique(s), etc.) may affect the current condition of the site's soils.
 - 2) Describe how soil will be managed during the life of the project (i.e. removed soil storage and protection, concurrent grazing activities, irrigation, maintenance activities, etc).
 - 3) Describe how removal activities (once the project has reached its end-life) may affect the current condition of the site's soils.
- f.) Impact Minimization
- 1) Describe any impacts to adjacent agricultural operations (i.e. growth inducing, land use, noise, etc)
 - 2) Describe how above impacts, if any, will be minimized (i.e. property buffers, limiting hours of operation, etc).
- g.) Restoration
- 1) Describe the procedures used to restore the project site to its previous general condition (i.e. regrading, revegetation, storage and ultimate removal of any structures and equipment, etc).
 - 2) If revegetation is proposed, describe the procedures that will be employed, including:
 - i. A baseline study documenting the vegetative density, cover, and species richness of the site.
 - ii. Test plots to be employed
 - iii. Proposed revegetation mix
 - iv. Planting schedule
 - v. Irrigation
 - vi. Protective measure(s) for the revegetation area(s)
 - vii. Monitoring
 - Maintenance and weeding
 - Planting and seeding inspection
 - Data collection and reporting
 - Replanting contingency
 - viii. Success of vegetation
 - For non-prime Farmland (e.g. grazing land), success of revegetation may be achieved when the revegetation restores the site to its previous condition (i.e. consistent with the measurements taken in the subsection g.)(1) baseline study above).
 - For Important Farmland, success of restoration may be achieved when the productive capability of the restored area is equivalent to or exceeds, for two equivalent crop years, that of the previous agricultural

condition or any similar crop production in the region, as determined by an agricultural consultant.⁶

- A point intercept method may be used to monitor progress toward the applicable revegetation standards.

- Annual monitoring of the restored areas should be conducted to track revegetation success. Success may be measured by quantitative standards for cover, density, and species richness.

- 3) Describe the procedures used to restore the project site to its previous general condition in regards to building, structure, and equipment removal.

Section 51191.3(c)

For term easements or self-renewing easements, the restrictions, conditions, or covenants shall include a requirement for the landowner to post a performance bond or other securities to fund the restoration of the land that is subject to the easement to the conditions that existed before the approval or acceptance of the easement by the time the easement terminates. The Department of Conservation may adopt regulations pursuant to the Administrative Procedure Act (Chapter 3.5 - Section 11340 of Division 3 of Title 2) to implement this subdivision.

It is recommended that any performance bond or other security instrument should:

- a.) Be made payable to the city or county in which the project is located.
- b.) Be submitted to the city or county, in consultation with the Department of Conservation, for review and approval prior to the commencement of operations on the project site.
- c.) Be reviewed annually by the city or county and include an amount that may be adjusted annually to account for any changes in the estimated cost of restoration activities and inflation.
- d.) Include a detailed, itemized estimate of restoration costs, including costs associated with, but not limited to:
 - i. Grading
 - ii. Revegetation, including monitoring
 - iii. Labor, including supervision
 - iv. Equipment
 - v. Mobilization/transportation
 - vi. Removal of buildings, structures, and equipment
 - vii. Soil tests
 - viii. Fencing
 - ix. Liability insurance

⁶ Important Farmland includes Prime Farmland, Unique Farmland, or Farmland of Statewide Importance.