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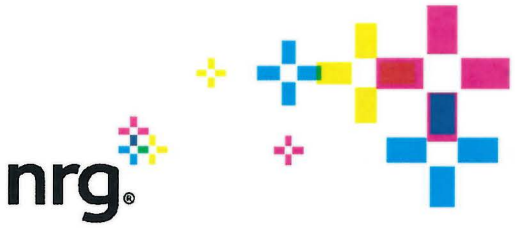
Agenda Item F10a; September 9, 2016



NRG Energy, Inc.
100 California Street
Suite 400
San Francisco, CA 94111

September 8, 2016

California Coastal Commission
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

Re: Agenda Item F10a; September 9, 2016
Proposal to Upgrade Mandalay Generating Station

Honorable Commissioners:

We request that you make certain limited modifications to the proposed report prepared by Coastal Commission staff ("Proposed Report') regarding the Puente Power Project ("Project" or "P3"), which is currently under review by the California Energy Commission ("CEC"). The basis for these requests, and supporting technical analysis, are set forth in detailed comments provided to the staff by Latham & Watkins LLP on behalf of NRG Energy Center Oxnard LLC ("NRG") on September 2, 2016 and September 6, 2016. In response to these comments, staff issued an addendum with revisions to the Proposed Report ("Addendum"), which includes NRG's comments as attachments. We greatly appreciate the staff's consideration of our comments and support the revisions contained in the Addendum, but request that the Commission also make the following changes to the Proposed Report and the recommended specific provisions ("Recommendations") contained therein:

- **Reject the finding that 2.03 acres of the proposed Project site is a "wetland."**
- **Reject the Recommendation that the Project be relocated to an alternative site.**

Reject the finding that 2.03 acres of the proposed Project site is a "wetland."

The Proposed Report concludes that 2.03 acres of the proposed Project site meets the definition of "wetland" based solely on the presence of three hydrophytic plant species. This finding supports the following Recommendations:

- Compensatory mitigation for direct impacts to "wetlands" in the form of wetland restoration at a ratio of 4:1, as opposed to a ratio of 2:1 proposed by the CEC staff and agreed to by NRG. (Proposed Report, p. 14)
- Relocation of the Project to an alternative site that would not result in direct impacts to or fill of coastal wetlands. (Proposed Report, p. 13)

The staff's own factual findings and analysis fail to support the conclusion that a portion of the Project site is a "wetland." Specifically, the Addendum states:

- The site ". . . has previously been used for temporary storage of dredge spoils from the Edison Canal and contaminated soils . . ." (Addendum, p. 4)
- " . . . the presence of salt-tolerant hydrophytic plants at the project site may be related to past deposition of saline dredge spoils at this location." (Addendum, p. 5)
- "The hydrophytic plant species found on the project site are relatively common in coastal wetlands, and the area is not known to support listed, rare or sensitive wildlife species." (Addendum, p. 5)
- "A formal wetland delineation commissioned by NRG also concluded that there were no wetlands on the site (AECOM 2015)." (Addendum, p. 4).

The CEC staff reached similar conclusions in its June 2016 Preliminary Staff Assessment ("PSA") on the Project (CEC Docket TN# 211885-1 and 211885-2), which includes the following findings:

- The Project site "does not support wetlands or other waters under the jurisdiction of the Corps [U.S. Army Corps of Engineers] or CDFW [California Department of Fish & Wildlife]." (PSA, p. 4.2-11)
- "Woolly seablite in the Project area is interspersed with the invasive iceplant, forming thick mats. These thick mats are of diminished value to wildlife, and woolly seablite is likely present only because the Project site is artificially saline, due to historical storage of ocean-dredged sediment." (PSA, p. 4.2-23)
- "No other wetland indicators, such as hydric soils or wetland hydrology were documented during the applicant's wetland delineation." (PSA, p. 4.2-11)
- The site does not "provide many of the positive benefits of a wetland, such as water filtration, foraging and habitat for wildlife, or water reabsorption." (PSA, p. 4.2-26)

Based on the foregoing conclusions of the Coastal Commission staff and the CEC staff, and the detailed analysis provided in NRG's comments attached to the Addendum, NRG urges the Commission to reject the determination that any portion of the proposed Project site meets the definition of a wetland.

Reject the Recommendation that the Project be relocated to an alternative site.

This Recommendation is based on the finding that a portion of the Project site constitutes a "wetland," which has been addressed above, and staff's assessment of the exposure of the site to flooding, sea level rise and tsunami hazards. By its own admission, staff's conclusions with respect to flooding, sea level rise and tsunami hazards are based on "highly conservative modeling" conducted by The Nature Conservancy (TNC) in its Coastal Resilience Ventura project, and Revell Coastal, LLC, a retained consultant of the City of Oxnard. Specifically, staff makes the following findings:

- "the TNC and Revell analyses take a highly conservative approach to modeling coastal erosion, essentially allowing high waves and water levels during an extreme storm to operate on the beach and dunes at the site for an "undefined" duration." (Addendum, p. 6)

- The relied upon modeling " . . . makes very conservative assumptions about the amount of dune erosion that could occur . . ." (Addendum, p. 7)
- " . . . this site-specific assessment should be considered a "worst case" scenario due to its extreme treatment of the erosion potential at the site . . ." (Addendum, p. 6)
- "Much of the MGS site [referring to existing Mandalay Generating Station] could be exposed to flooding during a 500-year event [citations omitted]. The P3 site, due to its slightly higher elevation, would escape flooding . . ." (Addendum, p. 6)
- " . . . the risk of project site flooding via the Edison Canal appears to be low during the proposed 30-year life of the project." (Addendum, p. 8)

Again, these findings are largely consistent with those of the CEC staff, which states the following in the PSA:

- "Staff specifically considers all of the following: a range of future sea level rise projections from the best available science; project timeframe and risk tolerance; storms and other extreme events; and potential changes to shorelines including beach width and dune formations." (PSA, p. 4.10-83)
- " . . . staff concludes that coastal flood risk would be low during the 30-year lifespan of the proposed project, even with uncertainties of hazard modeling and rate of future sea level rise." (PSA, p. 4.10-84)

The Addendum provides the following summary of information provided by NRG in its September 2, 2016 comments:

- "A comparison of aerial photos indicates that the beach fronting the MGS site has increased by more than 300 feet since 1947." (Addendum, p. 7)

- "No actual flooding of the project site occurred during the January 1983 storm which provides oceanographic inputs for the Revell (2015) and ESA PWA (2013) modeling studies, suggesting that no flooding would occur during a similar storm in the future; furthermore, beach and dune widths fronting the MGS have increased since 1983." (Addendum, p. 7)

- "Historical rates of sea level rise have not resulted in narrowing of the beach." (Addendum, p. 7)

- "Assuming a beach slope of 3%, even the "high scenario" of two feet of sea level rise by 2050 would result in beach narrowing of only approximately 70 feet, leaving behind a beach over 200 feet wide." (Addendum, p. 7)

Based on the foregoing conclusions of the Coastal Commission staff and the CEC staff, and the detailed analysis provided in NRG's comments attached to the Addendum, the risk of flooding, sea level rise and tsunami hazards does not support the Recommendation that the Project be relocated to an alternative site, and NRG urges the Commission to reject this Recommendation.

With the exception of the Recommendations addressed above, in its comments submitted on September 6, 2016, NRG committed to implementing all of the other Recommendations contained in the Proposed Report, either as proposed by staff or with relatively minor revisions. This includes Recommendations that require significant modifications to the Project, including discontinuing use of and removing the existing beach discharge outfall, which will result in significant improvements to recreational beach access and further reduce potential impacts to sensitive habitats.

NRG respectfully requests that the Commission adopt the Proposed Report, as modified by the Addendum, with the changes to the Recommendations indicated in the Attachment to this letter. Thank you for your attention to this matter. NRG representatives will be available to answer questions during consideration of this matter on September 9, 2016.

Best regards,

Dawn M. Gleiter
Director of Sustainable Development
NRG Energy Center Oxnard LLC

Attachment

cc: Alison Dettmer, California Coastal Commission
Mark Delaplaine, California Coastal Commission
Joseph Street, California Coastal Commission
Michael Carroll, Latham & Watkins LLP

Provided to California Coastal Commission Staff

Agenda Item F10a; September 9, 2016

Attachment

Delete the following Recommendation at page 13:

~~To ensure that the P3 conforms to the policies of Coastal Act Sections 30231 and 30233(a) and LCP Policy 52, we recommend the Energy Commission require that the proposed project be relocated to an alternative site that would not result in direct impacts to or fill of coastal wetlands. Alternative sites could include, but are not limited to, the Ormond Beach Area or on-site reconfiguration alternatives identified in the PSA~~.

Revise the following Recommendation at page 14:

~~If the CEC determines that relocating the P3 to an alternative site that avoids fill of coastal wetlands is infeasible, consistency with Coastal Act Section 30233(a) would still require that the adverse impacts of wetland fill be minimized by the provision of feasible mitigation measures.~~ In order to ensure that the proposed mitigation fully compensates for temporal losses of **hydrophytic plants** ~~wetland habitat and accounts for significant uncertainties in the success of any wetland restoration project~~, and thus minimizes the adverse effects of the project, the Commission recommends that the CEC **adopt** ~~modify~~ Condition BIO-9 to require compensatory mitigation ~~for direct impacts to wetlands in the form of wetland restoration~~ at a 4**2**:1 ratio at a nearby location.

Delete the following Recommendation at page 35:

~~Relocation of Project to Minimize Risk of Flooding: In order to ensure that the proposed project minimizes risks to life and property, assures stability and structural integrity, and remains inland of the 100-year flood zone over the full life of the project, as required by Coastal Act Section 30253 and LCP Policies 40 and 56, the Commission recommends that the CEC require NRG to relocate the proposed project to an alternative site that is (a) outside the current 100-year and 500-year flood zones, and (b) would not be at risk of flooding related to high water levels, storm waves or coastal erosion, including the effects of sea level rise, over the full 30-year project term~~.

Provided to California Coastal Commission Staff