

DOCKETED

Docket Number:	15-AFC-01
Project Title:	Puente Power Project
TN #:	213833
Document Title:	City of Oxnard re VCAPCD Determination of Compliance Review for Puente Power Project
Description:	Ventura County Air Pollution Control District (VCAPCD)
Filer:	Cenne Jackson
Organization:	Shute Mihaly & Weinberger LLP for the City of Oxnard
Submitter Role:	Intervenor Representative
Submission Date:	9/29/2016 11:43:54 AM
Docketed Date:	9/29/2016

SHUTE, MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: (415) 552-7272 F: (415) 552-5816
www.smwlaw.com

ELLISON FOLK
Attorney
folk@smwlaw.com

September 28, 2016

Via E-Mail

Members of the Board
Ventura County Air Pollution Control District
669 County Square Drive, Second Floor
Ventura, California 93003

Re: VCAPCD Determination of Compliance Review for Puente Power Project

Dear Chair Zaragoza and Members of the Board:

We are writing on behalf of the City of Oxnard to express the City's significant concerns with the Puente Power Project Determination of Compliance review currently underway at the Ventura County Air Pollution Control District. As described below, the City's review of the "Preliminary Determination of Compliance" prepared by Air District staff reveals errors that both hinder the Air District's ability to mitigate air pollution from Puente, and set harmful precedent for future Air District permitting actions. The City therefore requests that Air District Board members engage with staff to ensure that the Determination of Compliance process complies with District rules and is fully protective of public health.

I. Background on Puente Determination of Compliance Process

On May 20, 2016, Air District staff released its Preliminary Determination of Compliance ("PDOC") for the proposed Puente Power Project. The purpose of Air District staff's review is to determine whether Puente would comply with applicable Federal, State, and Air District air quality regulations. This is the first time Air District staff has conducted such an analysis.

The PDOC concludes that Puente would comply with all applicable air quality regulations. Air District staff is currently working on the Final Determination of Compliance ("FDOC"), which will respond to comments submitted on the PDOC. The FDOC is expected to be released in early-to-mid October 2016. The FDOC is not subject to Board review, but is issued by the Air Pollution Control Officer.

II. Practical Importance of Air District Staff Review of the Puente Project

Expert review by the City of Oxnard and other interested parties reveals that the PDOC does not consider the full potential air quality impacts of Puente.¹ A correct analysis is imperative to the public health of citizens downwind from Puente. Without a correct analysis, it is impossible to determine the full amount of pollution “offsets” or mitigation needed to ensure that Puente does not adversely affect health and welfare in Ventura County.

Moreover, as the Air District’s first Determination of Compliance review, Puente will set precedent for the Air District’s interpretation of rules and regulations that apply to other new power plants in the air basin. Notably, Air District staff is currently reviewing a second gas-fired power plant of similar size to Puente that Calpine has proposed for the Mission Rock site. Because it will set precedent for this and other new power plants, it is imperative that Air District staff’s evaluation of Puente both fully comply with all applicable rules and regulations and ultimately protect public health and welfare.

III. Key Deficiencies in Air District Staff’s PDOC Analysis

A. The PDOC Understates Puente’s Potential to Increase Air Pollution.

To calculate Puente’s potential air quality impacts, the PDOC treated Puente as a “Replacement Emissions Unit” for the outdated Mandalay Generating Station Unit 2, a steam boiler that will retire in 2020. This “replacement” characterization results in comparing expected Puente emissions to Mandalay 2’s *permitted* emission levels, which greatly exceed actual Mandalay 2 emissions in recent years. This comparison incorrectly suggests that Puente will reduce air pollution.

The Puente gas turbine does not meet the “Replacement Emissions Unit” definition under Air District rules. The rules state that the replacement unit must serve “the identical function as the emissions unit being replaced.” Puente (a gas-fired turbine) is a very different technology from the retiring Mandalay units (steam boilers). Puente is designed as a “peaker” plant with fast and frequent startup and shutdown capabilities. Mandalay Units 1 and 2 do not function this way, but were instead designed to serve baseload electric demand.

Puente is actually a “New Emissions Unit” under Air District rules—“an emissions unit that is added to an existing stationary source.” If it properly regulated Puente as a New Emissions Unit, the Air District would need to compare Puente’s emissions to actual current emissions from the retiring Mandalay 2. NRG would then need to obtain emission offsets to mitigate any increase in Puente’s pollution compared with this Mandalay Unit.

¹ Along with this letter, the City is forwarding technical evaluations of the PDOC prepared separately by the City and Sierra Club that discuss numerous deficiencies in the PDOC.

A correct analysis is necessary to ensure that Puente fully mitigates its air pollution impacts. Therefore, we request that the Air District evaluate Puente as a “New Emissions Unit” under its rules.

B. The PDOC Does Not Follow US EPA Air Quality Modeling Guidance.

The PDOC diverges from EPA’s “Appendix W” guidance for modeling air pollution in two critical ways.²

- The PDOC fails to evaluate the *combined* pollution impacts of Puente and the neighboring McGrath peaker and Mandalay Unit 3 gas plants (which will continue to operate past 2020). Ignoring nearby pollution from McGrath and Mandalay Unit 3 understates the foreseeable public health impacts from these plants operating simultaneously. Appendix W requires evaluation of such “cumulative” pollution impacts.
- The PDOC improperly uses a meteorological “beta option”—called Adjusted U*—that is designed for low wind conditions. The Ventura coast is not a low wind environment. Use of Adjusted U* can significantly underpredict air pollution impacts. In the case of the Puente PDOC, using Adjusted U* reduces modeled air pollution from Puente *by approximately 50%*. Although EPA is currently considering whether to elevate Adjusted U* to a regulatory “default” for use in stable low-wind conditions, that change is controversial and far from certain.³

As a matter of policy and to ensure an accurate assessment of Puente’s emissions, the Air District should *fully* follow EPA’s Appendix W modeling guidance.

We appreciate the Board’s consideration of these important issues. Please do not hesitate to contact the City of Oxnard if you have any questions about this project.

² The Air District contracted with air dispersion modelers at San Joaquin Valley APCD to conduct air quality modeling for Puente.

³ As a “beta option,” Adjusted U* currently requires special permission from EPA before it can be used in federal permitting. EPA has only granted that permission in a handful of circumstances. Neither NRG nor the Air District have requested EPA permission for using Adjusted U* for Puente permitting.

September 28, 2016
Page 4

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Ellison Folk

823596.1