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Testimony in opposition to the Puente Power Project, submitted by Grace Chang

On behalf of FFIERCE (Fighting for Informed Environmentally Responsible Clean Energy), concerned residents of Ventura County and/or faculty, staff and students of the University of California Santa Barbara, January 18, 2017

Qualifications

I write as a resident, homeowner and parent in Ventura County since 2003, and in my professional capacity as Associate Professor in the Feminist Studies Department, and the Interdepartmental PhD Emphasis in Environment and Society, at UCSB. I teach graduate and undergraduate courses addressing social justice movements broadly, and issues of environmental justice in particular, including the current proposed power plant in Oxnard. I represent the FFIERCE collective, to voice our opposition to the project as people with direct interests as past and present residents, homeowners, students and workers in the areas serviced and impacted by the existing and proposed power plants.

Statement

FFIERCE's interests and the reasons for our opposition to the P3 project include: 1) The protection of the people living and working in these areas from adverse health and environmental impacts, many of which constitute environmental racism by definition. 2) The protection of the natural wildlife, environment and people from hazards wrought by the power plants in terms of harms to air, water and land integrity and quality. 3) Our commitment to the pursuit of environmental justice and climate justice through concrete measures such that the burden of power generation is equitably distributed, not disproportionately targeted to be carried by low-income communities of color. These would include seeking alternative energy sources as well as protective measures to reduce greenhouse gas emissions equitably across communities locally, regionally and statewide.

The FFIERCE collective opposes the power plant that NRG, a Fortune 200 power company, proposes to build in the city of Oxnard, California, in addition to NRG's existing plants that have been polluting these communities for decades. The people of Oxnard are facing the potential siting of another power plant in their communities, threatening them with even greater hazards to their health and the wildlife and the environments that they should be enjoying with their children for decades to come. Instead, they have absorbed a disproportionate burden of the pollution from these toxic power plants, shouldering the costs and impacts of producing electricity for neighboring cities up and down the coast of California, from Simi Valley to Goleta, including the UCSB campus. We refuse to benefit from, perpetuate, or add further injury to the injustices suffered by these communities.

Unlike the residents of Santa Barbara, Ventura and Malibu, many residents and workers in Oxnard don't feel the warmth on their faces as they sunbathe on the beach, but instead feel the heat on their backs while they do stoop labor in the fields, picking fruit and vegetables for the rest of the country's tables. Nearby, their children are the youth who

are most likely in the country to be attending schools next to fields doused with toxic pesticides. Oxnard has also been “home” to three landfills and the Halaco Superfund site.

These disparate realities are indeed the very definition of environmental racism, which happens when communities where poor people of color live, work and play are specifically targeted for building toxic waste or power plants, and the use of pesticides and other pollutants. According to the California Environmental Justice Alliance (CEJA), “within the environmentally overburdened communities in Oxnard, 85% of the population is Latino, 29% lives in linguistic isolation, 56% lives below two times the federal poverty level, and 46% of those over 25 years of age have less than a high school education.”¹ Thousands of farmer workers also work in even closer proximity to the proposed plant than local residents, in fields less than half a mile from the site. (CEJA, 3)

We also note that, according to the most recently updated CalEnviroScreen 3.0, the Census tract of the Mandalay Power Plants is now in the 86-90th percentile range of *the most environmentally burdened, disadvantaged communities in the state*. With a population of over 5,000 people, of whom 56% are Latino and 75% are people of color, it is readily identified as an environmental justice community when it is simultaneously in the 94th percentile in the state for pollution burden, the 100th percentile for pesticides, the 92nd percentile for cleanup sites, 92nd percentile for groundwater threats, 78th percentile for hazardous waste, 91st percentile for impaired water bodies, 79th percentile for solid waste, 92nd percentile for asthma, 89th percentile for low birth weight, and 92nd percentile for cardiovascular rate.

The term “environmental justice communities” has been popularized recently because it “softens” things through this language. Indeed, it has become a euphemism for communities who are victims and targets of toxic racism, and lets polluting corporations off the hook too easily for all of the suffering they cause, knowingly, and profit from, handsomely. So, while the CEC has been forced to adopt this term and acknowledge that Oxnard is an “EJ community,” it appears to accept NRG’s claims that the threat of health and environmental impacts of the plants will be low, and the risk of disasters, such as tsunami and flooding from natural disasters and sea level rise that is clearly happening, is negligible. In other words, if CEC approves NRG’s application, it will allow NRG to risk the lives, health and safety of the people of these communities, while it is not their own families or communities who will be at the epicenter of these so-called low risks.

Yet the young residents of these targeted areas dubbed “EJ communities” have bravely and astutely called this reality of their lives what it is – environmental racism. For the last two years, CAUSE youth and local students have shown up repeatedly at public hearings before the California Energy Commission to seek justice, to ask the CEC to fulfill its public duty to protect vulnerable populations from identifiable and avoidable environmental threats, to hold NRG accountable to existing standards and requirements, and to name the real experiences that they have had and seen as these living “targets.”

¹ “Communities for a Better Environment Comments on PSA,” comments submitted by Shana Lazerow of California Environmental Justice Alliance (CEJA) to California Energy Commission (CEC) Preliminary Staff Assessment (PSA) of the Puente Power Project, 9/15/16, p. 3, hereafter referred to as CEJA.

Their lives cannot be brushed aside by corporate or bureaucratic double-speak that seeks to minimize their experiences of genuine health hazards of all kinds. Indeed, the Puente Power Project, dubbed P3, could easily be renamed Parasitic, Predatory, and Poisonous.

Many serious remaining issues and questions about the project demand a response:

1. The decommissioning and removal of the existing Mandalay Generating Station (MGS) units should not have been included in the project description. This is merely a continuation of a game of deception and blackmail that NRG has played from the outset. At first, NRG kept asserting that it intended to leave these MGS units where they are, implying (or perhaps threatening) that their removal would only happen if the construction of the new power plant goes forward. Yet in fact these units are already mandated to be decommissioned by 2020, regardless of whether the Puente Power Project is approved or not. (CEJA, 8) At that time, the city of Oxnard may mandate their demolition, but the burden of this should not be left to be shouldered by that community, once again, for the clean-up of this mess. Including the termination of the existing units in the project description reinforces misinformation (or a perception that NRG perhaps created deliberately) that is precisely what NRG wants the public to believe – that the removal of the existing units is contingent on their getting what they want. It also allows NRG to subtract the emissions from the old MGS from the new emissions generated by P3, counting this all as part of the same project, despite the fact that the decommissioning of MGS is required by the state whether the new project is approved or not. While they may claim that the physical demolition of the old MGS units is part of their proposed project, the decommissioning of them, and the resulting reduction in emissions, is not. This is foul play, and the CEC should not allow NRG to play this way with its flawed arithmetic.

2. NRG should not be allowed to buy credits to offset their pollution impacts from projects run by another company elsewhere – instead of actually having to clean up or reduce emissions of their own local projects. As CEJA explains, “Theoretically, these projects reduce GHGs, and buyers get to include the saved GHGs as part of their legal requirement to reduce.” (CEJA, 15) This is of course very cost-effective for the corporations buying the credits, but offer no benefits to the local residents who are still suffering the toxic impacts of the offending companies’ emissions. NRG is among the top 10 “large emitters” or polluting companies in the country to use these offsets, who coincidentally accounted for about 36% of the total emissions and 65% of the offsets used. (CEJA, 16) This maneuver essentially enables companies like NRG to be parasites and predators of the worst kind to vulnerable communities like the people of Oxnard, simply because they can afford to evade responsibility by buying their way out. Oxnard residents, on the other hand, can’t simply buy or move their way out of the dangers and health hazards they face every day.

3. All feasible alternatives or feasible mitigation measures must be explored through a legitimate public process. The only alternatives considered by the CEC were other locations to site gas-fired power plants in the majority Latino communities of

Ventura County, including other parts of Oxnard and Santa Paula. Under the California Environmental Quality Act (CEQA), a proposed activity should not be approved “if there are feasible alternatives or feasible mitigation measures available that would substantially lessen a significant adverse [environmental] effect.” (CEJA, 16) To date, NRG has been able to get away with a charade – shamefully, with the assistance of the Public Utilities Commission (PUC) – that all possible alternatives have already been explored. Yet, instead of fulfilling the duty to seek and analyze alternatives, the CEC instead relied on the PUC’s prior questionable decision that all such options were explored and deemed not viable. In other words, when the PUC approved the contract with NRG/ SCE for the Puente Power Project, they asserted that they found no feasible, cost-effective alternatives and the CEC merely accepted the PUC’s flawed assumptions and assertion, instead of doing its own assessment. In fact, CEJA notes: “It is undisputed in the PUC’s record that SCE did not, in either its solicitation or procurement efforts, express any preference for renewables in Oxnard, or at any location other than Goleta – an area that has not been recognized as having environmental justice communities.” (CEJA, 17) We as the public demand that CEC conduct a new RFO [Request for Offer] for companies to bid to provide renewable energy and storage options, facilitating a legitimate process to explore alternative options.

4. The CEC should recognize that many recent initiatives for alternative energy solutions have been legislated and are already underway in California and in the region, and allow these to be developed. SB32 was recently enacted, requiring greater greenhouse gas (GHG) emission reduction measures so that direct emission reductions should be achieved after the year 2020. Its companion legislation, AB197, requires the Air Resources Board to prioritize “direct emission reductions” to achieve these reductions beyond the 2020 limit. (CEJA, 14) These measures have been instituted to reduce existing and potential toxic impacts of dirty energy companies like NRG. We need to give these initiatives a chance to take effect, instead of blindly accepting that there are no alternatives and letting greedy corporations continue to pollute and plunder our communities.

5. We question whether there will be any positive socioeconomic impacts or benefits from the project, such as jobs created. If so, who will be hired into these jobs, and will there be a process in place to monitor the hiring process. Staff concludes on page 4.5-15 of the FSA that “the project’s socioeconomic impacts would be less than significant on the EJ population.” Thus, the CEC report merely asserts that negative socioeconomic impacts of the project on the EJ community appear to be negligible.

6. The most recent CEC Staff FSA workshop raised a number of procedural and methodological questions that still need to be addressed:

a. The FSA report states in the Environmental Justice section, at page 4.5-2, that “The California Natural Resources Agency recognizes that EJ communities are commonly identified as those...where residents have been excluded from the environmental policy setting or decisions-making process.” Yet, we note that outreach and public notice to the residents of Oxnard and general public on this matter have not facilitated the legitimate inclusion of the affected communities in the decision-making process. The January 10,

2017 FSA workshop itself was not listed on the CEC website until December 29, 2016, after I called staff on that date to alert them to this. The following were not posted until December 29, 2016 as well: notice of public workshop (in English or Spanish), notice of availability in Spanish, Puente FSA Environmental Justice Section in Spanish and Puente FSA Executive Summary in Spanish. While this may have been in compliance with regulations to “the letter of the law,” it does not fulfill the spirit or ethic of inclusion when documents and notices are not made available in Spanish until the eleventh hour.

b. At the time of this writing, CEC Staff has motioned to change the location of the Preconference hearings to Sacramento, which would again potentially serve to limit public participation in what should be a public policy and decision-making process.

c. The FSA report Environmental Justice section, page 4.5-8 states that CEC “regulations require staff to notice, at a minimum, property owners within 1,000 feet of a project and 500 feet of a linear facility...This was done for the project and the property owners list has been augmented to include the surrounding political jurisdictions, school district, state and federal agencies and interest groups.” At the January 10 workshop, I asked for this “property owners list” and I was told that this would be shared after the workshop. Yet this has not been sent to me or posted on the docket to date. I would like to expand my request to be informed of how those on the list were noticed and when.

d. I asked at the January 10 workshop whether the EJ impacts discussed in the FSA accounted for the entire EJ community in question, which includes by definition those who live, work and play, including those who attend school, in the area. Most often, the discussions center around *residents* only. (For example, p. 1-10 of the FSA executive summary, states there is “not an EJ population *residing* within one mile of the projects land use impact area.”) This logically does not account for those who do not live in the impacted area but may work in the fields, play on the beach and attend or travel to and from school nearby for significant portions of their waking hours. The response from CEC staff was not adequately clear to address my question, so I request further clarification at this time.

I close with this language, taken directly from NRG’s website:

In addition, we actively contribute to the local communities where NRG employees live and work. Since 2004, our positive NRG program has provided millions of dollars to organizations and charities that have a direct impact on the lives of the people in our communities, including food banks and those that foster self-sufficiency, improve housing and provide supplemental education to people in need. NRG has also organized special responses for victims of extreme catastrophe, such as the Haitian earthquake and the Japanese tsunami in 2010. Employee donations were tripled to maximize the contributions.

The stunning irony cannot be missed here--while NRG proudly boasts that they contribute so many benefits to the communities where *they* live and work, i.e. corporate headquarters in New Jersey and Texas, the reality for those people who live and work, study and play, near NRG’s toxic power plants is vastly different. The people of Oxnard

live under the looming threat of catastrophes such as earthquake, tsunami and sea level rise, as well as perpetual pollution, all potentially exacerbated by these power plants.

While there are many unknowns in this situation, as we all face the realities of global warming, climate change, or whatever euphemism we might use, one thing is clear: Oxnard residents – children, youth, parents and elders – are people who are already overburdened and continue to be vulnerable as targets of environmental injustice. That they have been the first victims of past and ongoing toxic racism is certainly well known. In the future too, they will likely be the first victims of whatever disasters, natural or man-made, are yet to come and/or will be exacerbated by these ill-advised power plants. We have a responsibility to prevent these harms that are indeed avoidable.

We call upon the California Energy Commission to fulfill its public duty to protect vulnerable communities from these documented and foreseeable harms, and to facilitate what has already been mandated in the state of California: the search for alternative, clean and sustainable energy and storage for the future health of our people and planet.

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On behalf of FFIERCE
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