

## DOCKETED

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BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA  
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***APPLICATION FOR CERTIFICATION FOR THE:  
PUENTE POWER PROJECT***

**Docket No. 15-AFC-01**

### **STAFF'S PREHEARING CONFERENCE STATEMENT**

On January 20, 2017, the Puente Power Project Application for Certification Committee (Committee) filed a "Notice of Prehearing Conference, Scheduling Order, and Further Orders." In the Notice, the Committee set the date for the Prehearing Conference as February 1, 2017, and ordered each party planning to participate in the Prehearing Conference to file a Prehearing Conference Statement.

**1. The subject areas that are complete and ready to proceed to Evidentiary Hearing.**

Staff is prepared at this time to proceed to evidentiary hearings on all technical areas. The representative from the Ventura County Air Pollution Control District and Staff's Air Quality experts have limited availability on the days scheduled for Evidentiary Hearings, but are available to appear in person on the morning of February 7, 2017. Staff requests that the Committee begin the proceedings with Air Quality and Public Health to ensure the appropriate expert witnesses' participation. Because of the interconnection with Public Health, Staff also requests that Environmental Justice be discussed immediately subsequent to Air Quality and Public Health.

**2. The subject areas upon which any party proposes to introduce testimony in writing rather than through oral testimony.**

On December 8, 2017, Staff issued its Final Staff Assessment (FSA), which Staff provides as written testimony. The technical area, witness(es), and section number in the FSA where a summary of the testimony can be found are listed in the table below. For Staff's qualifications, please refer to Exhibit 2003, FSA Declarations and Resumes.

<b>Technical Area</b>	<b>Witness(es)</b>	<b>Summary</b>
Air Quality and Greenhouse Gases	Gerry Bemis, David Vidaver, Matthew Layton	Exhibit 2000, section 4.1
Alternatives	Jeanine Hinde, David Vidaver	Exhibit 2000, section 4.2
Biological Resources	Carol Watson, Jon Hilliard	Exhibit 2000, section 4.3
Cultural Resources	Matt Braun, Melissa Mourkas	Exhibit 2000, section 4.4
Environmental Justice	Lisa Worrall	Exhibit 2000, section 4.5
Hazardous Materials Management	Brett Fooks, Geoff Lesh	Exhibit 2000, section 4.6
Land Use	Ashley Gutierrez, Steven Kerr	Exhibit 2000, section 4.7
Noise and Vibration	Edward Brady, Shahab Khoshmashrab	Exhibit 2000, section 4.8
Public Health	Ann Chu	Exhibit 2000, section 4.9
Socioeconomics	Lisa Worrall	Exhibit 2000, section 4.10
Soil and Water Resources	Marylou Taylor, Paul Marshall	Exhibit 2000, section 4.11
Traffic and Transportation	Jonathan Fong	Exhibit 2000, section 4.12
Transmission Line Safety and Nuisance	Ann Chu	Exhibit 2000, section 4.13
Visual Resources	Eric Knight	Exhibit 2000, section 4.14
Facility Design	Edward Brady	Exhibit 2001, section 5.1
Geology and Paleontology	Paul Marshall, Garry Maurath	Exhibit 2001, section 5.2
Power Plant Efficiency	Edward Brady, Shahab Khoshmashrab	Exhibit 2001, section 5.3
Power Plant Reliability	Edward Brady, Shahab Khoshmashrab	Exhibit 2001, section 5.4
Transmission System Engineering	Laiping Ng, Mark Hesters	Exhibit 2001, section 5.5
Waste Management	Paul Marshall	Exhibit 2001, section 5.6
Worker Safety and Fire Protection	Brett Fooks, Geoff Lesh	Exhibit 2001, section 5.7
Compliance	Shawn Pittard	Exhibit 2001, section 6

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**3. The subject areas and issues in dispute that require adjudication, and the precise nature of the dispute for each issue.**

Staff has identified the following issues in dispute:

- a. Air Quality
  - Center for Biological Diversity (CBD) states Puente would increase system-wide greenhouse gas emissions.
  - CBD states that the 11 percent capacity factor must be an enforceable cap.
  - CBD states Staff's proposed emissions offsets are inadequate or not valid.
- b. Alternatives
  - Applicant states that the Ormond Beach Area Off-site Alternative is not environmentally superior to the Project site.
  - Intervenors California Environmental Justice Alliance; CBD; City of Oxnard; Environmental Coalition, Environmental Defense Center, Sierra Club; and FFIERCE dispute Staff's range of alternatives selected for analysis.
  - City of Oxnard disagrees with Staff's conclusion that aviation impacts at the Del Norte/Fifth Street Off-site Alternative would be significant and unavoidable.
  - CBD states that the project objectives must be revised.
- c. Biological Resources
  - Applicant disputes the designation of Coastal Commission-jurisdictional wetlands on the project site.
  - Applicant opposes Staff's proposed mitigation ratio (4:1) for impacts to the identified wetlands.
  - Applicant proposes substantive changes to the language required under Condition of Certification BIO-9, eliminating performance criteria and shifting responsibilities to a third party for mitigation to impacts to Coastal Commission-jurisdictional wetlands on the site.

- CBD asserts that potential presence of tidewater goby, California least tern, Ventura marsh milk vetch and other special status plant and animal species warrants additional mitigation.
  - Environmental Coalition, Environmental Defense Center, and Sierra Club assert that the on-site Coastal Commission-jurisdictional wetlands comprise an Environmentally Sensitive Habitat Area (ESHA).
- d. Compliance
- Applicant proposes changes to Condition of Certification COMPLIANCE-13 which would minimize Applicant’s incident-reporting requirements and would create duplicative procedures for confidential filings.
- e. Land Use
- Applicant disputes the applicability of the City of Oxnard 2030 General Plan Policy SH 3.5 to the project.
  - City of Oxnard states that, in addition to the 2030 General Plan Policy SH 3.5, other inconsistencies exist between the City of Oxnard’s land use policies and the proposed project.
- f. Soil and Water Resources/Geology and Paleontology
- City of Oxnard disputes Staff’s determination that the project is not a “critical facility.” This includes the following sub-issues:
    - City of Oxnard states the project site is vulnerable to greater coastal flooding hazards than represented in the FSA, specifically that a “100 year” flood event could overtop the dunes in front of the project site.
    - City of Oxnard states that Staff’s methodology and use of modeling data understate the exposure of the site to future coastal erosion and coastal flooding hazards.
    - City of Oxnard states the FSA does not consider the latest scientific evidence on tsunamis and sea level rise.

- City of Oxnard states the time frame for evaluating sea level rise and coastal hazard impacts in the future does not follow state agency guidance or recent science.
- g. Traffic and Transportation
  - City of Oxnard states that Staff's proposed conditions of certification will not adequately mitigate potential aviation hazards and will restrict access to and from the Oxnard Airport in a manner that does not currently exist.
- h. Visual Resources
  - City of Oxnard states the proposed project site impedes the public's use of the City of Oxnard's beaches.
  - City of Oxnard states that the proposed project conflicts with Local Coastal Program policies 38 (preserving views) and 52 (minimizing aesthetic impacts), General Plan policies CD-9.5, ER-8.1, and ER-8.2, and Coastal Act section 30251 (protecting, maintaining, and enhancing views).

**4. The subject areas (if any) that are not complete and not yet ready to proceed to Evidentiary Hearing and the reasons therefore.**

Staff is prepared to proceed to Evidentiary Hearings on all technical areas.

**5. The identity of each witness the party intends to sponsor at the Evidentiary Hearing, the subject area(s) about which the witness(es) will offer testimony, whether the testimony will be oral or in writing, a brief summary of the testimony to be offered by the witness(es), qualifications of each witness, the time required to present testimony by each witness, and whether the witness seeks to testify telephonically.**

In addition to the written testimony listed under item 2, Staff intends to provide oral testimony for the witnesses identified in the table below. Some of the technical areas are related and Staff proposes to present those witnesses as a panel. All Staff witnesses offering oral testimony will appear in person, none seek to testify telephonically at this time. For Staff's qualifications, please refer to Exhibit 2003, FSA Declarations and Resumes.

<b>Technical Area</b>	<b>Witness(es)</b>	<b>Summary</b>	<b>Estimated Time for Direct Testimony</b>
Air Quality/GHG/Public Health	Gerry Bemis, David Vidaver, Ann Chu, Matthew Layton, Michael Villegas (Ventura County Air Pollution Control Officer/Executive Officer)	Exhibit 2000, section 4.1	20
Alternatives	Jeanine Hinde, David Vidaver, Jonathan Fong	Exhibit 2000, section 4.2	20
Biological Resources	Carol Watson, Jon Hilliard	Exhibit 2000, section 4.3	15
Compliance	Shawn Pittard	Exhibit 2001, section 6	10
Environmental Justice	Lisa Worrall, Ann Chu, Marylou Taylor	Exhibit 2000, sections 4.5 and 4.10	15
Land Use	Ashley Gutierrez, Steven Kerr	Exhibit 2000, section 4.7	10
Soil and Water Resources/Geology and Paleontology	Marylou Taylor, Paul Marshall, Garry Maurath	Exhibit 2000, section 4.11	20
Traffic and Transportation	Jonathan Fong	Exhibit 2000, section 4.12	10
Visual Resources	Eric Knight	Exhibit 2001, section 4.14	10

**6. Subject areas upon which the party desires to question the other parties' witness(es), a summary of the scope of the questions (including questions regarding witness qualifications), the issue(s) to which the questions pertain, and the time desired to question each witness.**

At this time, Staff does not have any questions for the other parties' witnesses. However, Staff reserves the right to address disputed issues identified at the Prehearing Conference and the Evidentiary Hearings through cross-examination.

7. A list identifying exhibits with transaction numbers that the party intends to offer into evidence during the Evidentiary Hearing, and the technical subject areas to which they apply.

Exhibit Number	TN #	Document	Technical Area(s)
2000	214712	Final Staff Assessment, Part 1	Air Quality, Alternatives, Biological Resources, Cultural Resources, Environmental Justice, Hazardous Materials Management, Land Use, Noise and Vibration, Public Health, Socioeconomics, Soil and Water Resources, Traffic and Transportation, Transmission Line Safety and Nuisance, Visual Resources
2001	214713	Final Staff Assessment, Part 2	Facility Design, Geology and Paleontology, Power Plant Efficiency, Power Plant Reliability, Transmission System Engineering, Waste Management, Worker Safety and Fire Protection, Compliance
2002	214797	Figures for Executive Summary, Alternatives, and Visual Resources	Alternatives, Visual Resources



2003	215126	FSA Declarations and Resumes	All
2004	214005	Ventura County Air Pollution Control District Final Determination of Compliance	Air Quality
2005	214574	Letter from California Coastal Commission, City of Oxnard General Plan Amendment PZ 16-620-01	Land Use
2006	215571	Staff's Rebuttal Testimony	Alternatives, Biological Resources, Environmental Justice, Geology and Paleontological Resources, Hazardous Materials Management, Soil and Water Resources, Worker Safety and Fire Protection

**8. Proposals for briefing deadlines or other scheduling matters.**

Staff proposes that, if requested by the Committee, opening briefs be due 14 days after receiving the Evidentiary Hearing transcript, and reply briefs be due 10 days after opening briefs are filed.

Dated: January 26, 2017

Respectfully submitted,

MICHELLE E. CHESTER  
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 Attorneys for Energy Commission Staff