

DOCKETED

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**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA**

Petition to Amend
The Carlsbad Energy Center

Docket Number 07-AFC-06C
Exhibit 6001

DIRECT TESTIMONY OF ROBERT SARVEY ON COMPLIANCE AND CLOSURE

Abandoned power infrastructure litters the landscape of California. While power companies are eager to build new ones municipalities and regulators fail to include conditions in the power plant permits that require demolition of the power plants once they reach the end of their useful lives. Abandoned power plants are a visual blight but they are also very dangerous facilities with many hazardous materials and dangerous conditions. In many of the CEC proceedings that I have participated in abandoned or soon to be abandoned power plants are located on the proposed project sites. In the Mariposa Project there as an abandoned cogen plant that was unsightly and dangerous.¹

¹ As stated in the final Decision “The geographic scope for the purposes of the visual cumulative analysis includes the unincorporated area of the County of Alameda shown in **Visual Resources Figure 1** - Aerial View of Mariposa Energy Project Site and Vicinity. Existing projects within this geographic include: Byron Power Cogeneration Plant, a 6 MW co-generation/brine wastewater.” (Mariposa CEC Final Decision Page 504 of 597 distillation facility originally permitted by the County of Alameda in 1989.)



Mariposa Energy Site Abandoned cogen²

In the Consumnes proceeding SMUD's abandoned Rancho Seco nuclear power plant was used as an excuse by CEC Staff and the Commission decision to conclude that SMUD's Consumnes power project had no visual impact because the site was already visually degraded by the Rancho Seco Nuclear Facility. Intervnors urged a condition of certification that would include demolition of the Rancho Seco plant since SMUD owned Rancho Seco and the proposed Consumnes Plant but the plea fell on the deaf ears of the Committee. The Rancho Seco Plant stands today looming over the landscape with no demolition in sight despite the fact that it clearly degrades the visual area for many miles. As the Commission decision states, "*Some local residents, typified by Ms. Peasha, believe that their view shed will be further degraded by the project. The Commission finds that the incremental effect of the project is not cumulatively considerable, due to the comparatively overwhelming effect of Rancho Seco.*"³



The Morro Bay Power Plant much like the Encina Power Plant degrades California's beautiful coastline. As often happens in CEC siting proceedings the

² Mariposa CEC Staff Assessment Page 527 of 805 www.energy.ca.gov/2010publications/CEC-700-2010-017/CEC-700-2010-017.PDF

³ Consumnes Power Plant Project Commission Final Decision Page 168
www.energy.ca.gov/sitingcases/smud/documents/2003-09-10_DECISION.PDF

existing Power Plant on site is used as the existing visual baseline to conclude that the proposed power plant has no significant visual impacts. As stated in the CEC 3rd Revised PMPD, *“For the purposes of the Commission’s visual analysis pursuant to CEQA and the Warren-Alquist Act, the baseline against which Project impacts are evaluated consists of the existing Morro Bay view scape, including the existing power plant with its three 450-foot stacks, its power plant building measuring 500-feet long, 300-feet deep, and 148-feet high, as well as an adjacent tank farm.”*⁴



In the original proceeding for the CECP the City of Carlsbad went to great lengths and spent considerable money opposing the CECP.⁵ The removal of the existing Encina Power Plant was a highly contested issue. Subsequently the removal of the existing Encina Power Plant was used as a tool of extortion to get the City of Carlsbad to agree to support a power plant that they vigorously opposed in the original proceeding. It was recommended by Intervenor Rob

⁴ Page 571 of 707

⁵ The original decision also used the Encina Power Plant to decide that the project area is already visually blighted and some significant impacts at some KOP’s were deemed less than significant because of the presence of the Encina power plant. “ Visual Resources Finding of Fact 2. For the purposes of the Commission’s visual analysis pursuant to CEQA and the Warren-Alquist Act, the baseline against which project impacts are evaluated consists of the existing viewscape, including the existing Encina Power Station power plant and an adjacent tank farm, Interstate 5, the BNSF railway and other man-made and natural features described in this Decision. CECP Decision page 486 of 582

Simpson that the applicant NRG set aside money to demolish the CECP at the conclusion of its useful life. The original Carlsbad decision sidestepped the issue:

“Intervener Rob Simpson asks, in an RPMPD comment, that funding be set aside for the retirement of the CECP facility, specifically a condition that the “Developer is to deposit \$10,000,000 per year with the Commission until it can demonstrate adequate funds to dismantle the facility upon retirement.” The Commission has not previously imposed such a requirement. No evidence suggests that failing to remove this facility after it ceases generating electricity will have any unmitigable signific[ant] environmental impacts. The policy question raised by Mr. Simpson’s request is worthy of further study, however, and we refer it to the Commission’s Integrated Energy Policy Report Committee for future consideration.” Compliance/Closure section, p. 4-2.⁶

The evidence is conclusive that construction of the amended CECP will be a LORS violation of the 35 foot maximum height limitation of the Agua Hedionda Local Coastal Program Land Use Implementation Plan, adopted in 1982. Staff’s analysis also states that there will be a significant cumulative environmental effect requiring changes or alterations of the project within the responsibility or jurisdiction of another public agency (Cal Trans) which can and should provide such mitigation.⁷ Cal Trans has stated they have no room on their property to complete the visual mitigation.⁸ Once the amended CECP is no longer in operation it will no longer be needed for the public convenience and necessity but the inconsistency of the amended CECP with the 35 foot height limitation of the Agua Hedionda Land Use Plan and the visual impact will still remain. The findings of public convenience and necessity for override of this land use inconsistency will no longer be relevant when the project ceases operation.⁹ The Commission must require a set aside of funding for demolition of the amended CECP to eliminate the land use inconsistency and prevent NRG from again extorting the City of Carlsbad to accept yet another power plant that does not meet their land use or the Coastal Commissions land use LORS after the useful life of the amended CECP as the project will no longer be needed for the public convenience and necessity.

⁶ CEC Final Decision Carlsbad energy Center Page 4-2.

⁷ FSA Page 678 of 1111

⁸ TN 203790

⁹ 1. The CECP facility is required for public convenience and necessity. There are not more prudent and feasible means of achieving public convenience and necessity

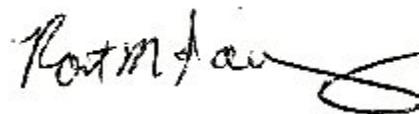
2. The CECP benefits outweigh the significant direct and cumulative impacts identified above. (CEC final Decision Carlsbad Energy center page 506 of 582)

**DECLARATION OF
Robert Sarvey**

I, **Robert Sarvey**, declare as follows:

1. I prepared the Testimony of Robert Sarvey on Compliance and Closure.
2. A copy of my professional qualifications and experience is attached hereto and incorporated by reference herein.
3. My testimony is based on my independent analysis of the Petition to Amend, Petition to Remove, the 2012 Commission Decision for the Carlsbad Energy Center Project (CECP), and supplements hereto, the Final Staff Assessment, data from reliable documents and sources, and my professional experience and knowledge.
4. I attest to the accuracy of my testimony, and support its conclusions, findings and recommendations hereto.
5. It is my professional opinion that the prepared testimony is valid and accurate with respect to the issues addressed therein.
6. I am personally familiar with the facts and conclusions related in the testimony and if called as a witness could testify competently thereto. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: March 12, 2015



Robert M. Sarvey

At: Tracy, California

Resume of Robert Sarvey

Academic Background

BA Business Administration California State University Hayward 1975

MBA California State University Hayward 1985

Experience

San Joaquin Valley Air Pollution Control District Citizens Advisory Board Industry

Representative: Analyzed proposed air quality regulations and made recommendations to the Governing Board for approval.

GWF Peaker Plant 01-AFC-16: Participated as an Intervenor in the project and helped negotiate and implement a 1.3 million dollar community benefits program. Successfully negotiated for the use of local emission reduction credits with GWF to offset local air quality impacts.

East Altamont Energy Center 01-AFC-14: Participated as an Intervenor and helped develop the conditions of certification for hazardous materials transportation, air quality, and worker safety and fire protection. Provided testimony for emergency response and air quality issues.

Tesla Power Project 01- AFC-04: Participated as an Intervenor and provided air quality testimony on local land use and air quality impacts. Participated in the development of the air quality mitigation for the project. Provided testimony and briefing which resulted in denial of the PG&E's construction extension request.

Modesto Irrigation District 03-SPEE-01: Participated as Intervenor and helped negotiate a \$300,000 air quality mitigation agreement between MID and the City of Ripon.

Los Esteros: 03-AFC-2 Participated as an Intervenor and also participated in air quality permitting with the BAAQMD. Responsible for lowering the projects permit limit for PM-10 emissions by 20%.

SFERP 4-AFC-01: Participated as an Intervenor and also participated in the FDOC evaluation. My comments to the BAAQM D resulted in the projects PM -10 emission rate to be reduced from 3.0 pounds per hour to 2.5 pounds per hour by the District. Provided testimony on the air quality impacts of the project.

Long Beach Project: Provided the air quality analysis which was the basis for a settlement agreement reducing the projects NOx emissions from 3.5ppm to 2.5ppm.

ATC Explosive Testing at Site 300: Filed challenge to Authority to Construct for a permit to increase explosive testing at Site 300 a DOE facility above Tracy. The permit was to allow the DOE to increase outdoor explosions at the site from 100 pounds per charge to 300 pounds per charge and also grant an increased annual limit on explosions from 1,000 pounds of explosive to 8,000 pounds of explosives per year. Succeeded in getting the ATC revoked.

CPUC Proceeding C. 07-03-006: Negotiated a settlement with PG&E to voluntarily revoke Resolution SU-58 which was the first pipeline safety waiver of GO112-E granted in the State of California. Provided risk assessment information that was critical in the adoption of the Settlement Agreement with PG&E which, amongst other issues, resulted in PG&E agreeing to withdraw its waiver application and agreeing to replace the 36-inch pipeline under the sports park parcel after construction.

East shore Energy Center: 06-AFC-06 Intervened and provided air quality testimony and evidence of cancellation of Eastshore's power purchase agreement with PG&E.

Colusa Generating Station: 06-AFC-9 Participated as air quality consultant for Emerald Farms. Filed challenge to the PSD Permit.

CPUC proceeding 08-07-018: Tesla Generating Station CPCN participated in proceeding which was dismissed due to motion by IEP. Reviewed all filings, filed protest, signed confidentiality agreement and reviewed all confidential testimony.

GWF Tracy Combined Cycle 08-AFC-07: Participated in negotiation of the Air Quality Mitigation Agreement with the San Joaquin Valley Air Pollution Control District and GWF.

CPUC Proceeding 09-09-021: Demonstrated PG&E failed to follow its environmental protocol in the LTPP. Provided testimony and evidence that PG&E's need had fallen since 2007 and that the Commission should limit PG&E's procurement to the 950-1000 MW Range.

CPUC Proceeding A. 09-04-001: Negotiated settlement with PG&E on the construction of the Mariposa Power Plant. Set limits on PG&E procurement which PG&E subsequently violated.

CPUC Proceeding A. 09-10-022: Provided confidential evaluation of PPA value. Provided testimony and evidence that PG&E had violated the Mariposa Settlement. Provided testimony that demonstrated PG&E's demand had fallen sharply since the issuance of D. 07-12-052.

Oakley Generating Station 09-AFC-04 Participated as an intervenor. Provided testimony in Alternatives, Air Quality, Environmental Justice, water quality. Negotiated settlement with CCGS to not use ERC's and instead exclusively use 2.5 million dollars to create real time emission reductions through BAAQMD real time emission reduction programs.

Pio Pico PSD Permit Participated in the Pio Pico PSD permit. Comments resulted in a remand to the air district and a lowering of particulate matter emission limits by 10%

CPUC Proceeding A.11-12-003 Was credited by the decision for demonstrating that an additional 5 MW of firm capacity was not needed from the Thermal Energy Biomass Plant.

CPUC Proceeding A. 12-03-026 Provided testimony and briefing on need for the facility and CAISO Renewable Integration Study.

CPUC Proceeding A. 14-07-009 Provided testimony and briefing on Alternatives, value of PPTA, and need for the Carlsbad PPTA.