

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov



June 3, 2011

DOCKET
11-AFC-1

DATE	JUNE 03 2011
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Ms. Rosemary Rowan
Planning Manager
County of San Diego
Department of Planning and Land Use
5201 Ruffin Road, Suite D
San Diego, CA 92123-4310

**RE: Request for County of San Diego Comments and Recommendations on
Pio Pico Energy Center Project (11-AFC-1)**

Dear Ms. Rowan:

The purpose of this letter is to request the County of San Diego's comments on an Application for Certification (AFC) recently filed with the California Energy Commission. In accordance with California Code of Regulations, Title 20, Section 1714 *et seq.* Energy Commission staff requests that the County of San Diego provide a letter by August 18, 2011, containing its analyses, comments, and recommendations on the land use, traffic and transportation, visual resources, and public facilities financing issues identified in this letter and contained in the AFC.

On February 9, 2011 the Energy Commission received an AFC for the Pio Pico Energy Center (PPEC), a proposed 300-megawatt (MW) natural gas-fired simple-cycle generating facility located adjacent to the existing Otay Mesa Generating Project. On February 15, 2011 copies of the AFC in electronic format were mailed to Daniel Brogadir, Leanne Carmichael, Evertt Hauser, Francisco "Nick" Ortiz, Daniella Rosenberg, Ed Sinsay, Carl Stiehl, Rene Vidales and Shelly Williams all of the County of San Diego Department of Planning and Land Use. Additionally, the AFC and other Project Information can be found at the following link:
<http://www.energy.ca.gov/sitingcases/piopico/index.html> On April 20, 2011 the AFC was determined data adequate, initiating the 12-month licensing process for the project.

The Energy Commission has the exclusive authority to license all new power plants and additions, 50 MW or greater in the State (Public Resources Code §§ 25110, 25120 and 25500). The Energy Commission's license takes the place of other state, regional, and local permits (e.g. conditional use permits and variances), and other entitlements that would otherwise be required. The Energy Commission's facility certification process carefully examines public health and safety, environmental impacts, and engineering

aspects of proposed power plants, and all related facilities such as electric transmission lines and natural gas and water pipelines that would serve the project. The Energy Commission is the lead agency under the California Environmental Quality Act (CEQA) for all AFCs and has a certified regulatory program under CEQA.

As part of the licensing process, the Energy Commission must determine whether a proposed facility complies with all applicable state, regional, and local laws, ordinances, regulations and standards (LORS) (Public Resources Code, § 25523(d)(1)). The Energy Commission must either find that a project conforms to all applicable LORS or make specific findings that a project is needed for public convenience and necessity even where the project is not in conformity with all applicable LORS (Public Resources Code §25525). For the Energy Commission to determine whether a proposed power plant project would comply with applicable LORS, we seek out and welcome input from affected state, regional, and local agencies.

Staff has begun its assessment of the project (a summary of our licensing process for this project can be found on the project web site). As part of our assessment, we are interested in the County of San Diego's position related to land use, traffic and transportation, visual resources, public facilities financing and any other aspects of the project that may be of concern to the County (Title 20, California Code of Regulation, Section 1714.5). We would like to incorporate the County's input and address any concerns in our Preliminary Staff Assessment (PSA).

Land Use

According to the AFC, the PPEC is proposed to be located in an unincorporated area of southwestern San Diego County, known as Otay Mesa. The PPEC is located approximately one mile north of State Route 11, two miles east of Highway 125 and one and one-half miles north of the United States/Mexican border.

PPEC would be constructed on a 9.99-acre parcel (APN 648-040-45), located at the southeast corner of Alta Road and Calzada de la Fuente intersection. The property address is 7363 Calzada de la Fuente. A laydown area (6 acres of a 9.68-acre parcel) would be located immediately south and adjacent of the project site.

The project site and laydown area are located in the East Otay Mesa Business Park Specific Plan which implements the San Diego County General Plan and Otay Subregional Plan policies and regulations. The project site and lay down area are designated Heavy Industrial and zoned Specific Plan by the East Otay Mesa Business Park Specific Plan (as amended by SPA 10-001 September 15, 2010). The Heavy Industrial designation allows for most uses in the Technology Business Park and Light Industrial designations as well as recycling plants, salvage yards and outdoor storage. The Specific Plan zoning allows for an unlimited variety of land uses, as further established through an adopted Specific Plan.

The San Diego County Zoning Code classifies a power plant as a Major Impact Services and Utilities Use (San Diego County Alphabetical List of Individual Uses prepared pursuant to Zoning Ordinance §1220) and is classified as a Civic Use type (San Diego County Zoning Ordinance § 1350). Major Impact Services and Utilities uses are permitted in the Heavy Industrial land use designations of the Specific Plan upon the issuance of a Major Permit from the County of San Diego (East Otay Mesa Business Park Specific Plan, Table 3.1-1).

The PPEC is located within the County of San Diego Multiple Species Conservation Program (MSCP) South County Subarea Plan. The PPEC site is located in a Minor Amendment Area of the MSCP. According to the East Otay Mesa Business Specific Plan, for development proposals to be approved, the Amendment process shall first be completed as specified in the MSCP SubArea Plan.

Section 1.2.3 of the East Otay Mesa Business Park Specific Plan outlines the requirements to process a Minor Amendment to the MSCP. Specifically, the requirements consist of the preparation of a California Environmental Quality Act document, a biological resources report, identification of any mitigation required by the Biological Mitigation Ordinance (BMO), and concurrence by the local offices of the United States Department of Fish and Wildlife and California Department of Fish and Game. The Land Use section of the AFC (Section 5.9, Page 5.9-9) and the Biological Resources section (Section 5.6, Page 5.6-17) confirm the proposed site is within a Minor Amendment area, however, there is no discussion of whether a Minor Amendment to the MSCP has been processed.

But for the Energy Commission's exclusive authority to license the project, siting the PPEC at the proposed location would require the following land use action by the County of San Diego:

- A Major Permit to allow development of a power plant within the Heavy Industrial Designation and Specific Plan Zone.

For the Land Use Staff Assessment, staff would appreciate input from the County regarding interpretation of its own policy guidance documents, including the East Otay Mesa Business Park Specific Plan. Prior to the Commission making findings to license the project, staff would like the County to indicate the Major Permit findings it would make regarding PPEC and what conditions the County would attach to the project were it the permitting agency. Any conditions recommended by the County as part of the Major Permit will be considered by staff for inclusion in the proposed conditions of certification for the project.

Staff has recently received a joint letter dated December 6, 2001 from the U.S. Fish and Wildlife Service and the California Department of Fish and Game regarding the Minor Amendment to the San Diego County MSCP Subarea Plan, Otay Mesa Generating Project (TPM 20570, 00-19-027,L-14081 Log No. 01-19-026) which also referenced a

Parcel 1 (proposed location for the PPEC Project). Staff would like the County to confirm if it has processed a Minor Amendment and the revision to the MSCP for the Pio Pico Energy Center Project, and if not, when the County expects to complete this land use action.

If a Minor Amendment is required, Energy Commission staff will work simultaneously with County staff in the environmental analysis and coordination with the wildlife agencies. To streamline the process and avoid duplication of environmental documents, the County can use the Energy Commission's Final Staff Assessment (FSA) as its CEQA document for processing the Minor Amendment.

Traffic and Transportation

The Traffic and Transportation section of the AFC (Section 5.11) presents the applicant's assessment of the proposed project's consistency with the County's traffic and transportation plans, policies and regulations. Staff would like to know whether the applicant's traffic and transportation information is complete and accurate and what traffic and transportation conditions, if any, would be required.

Visual Resources

The Visual Resources section of the AFC (Section 5.13) outlines the applicant's assessment of the proposed project's compliance with aesthetic/visual policies and regulations. Staff would like to know whether the applicant's aesthetic/visual information is accurate and complete and what, if any, aesthetic/visual conditions would be required. Staff is also interested in specific comments on the following:

1. Has the County adopted a Water Efficient Landscape Ordinance? If so, please identify the ordinance and what conditions the County would apply to the project were it the permitting agency.
2. GIS information obtained from the California Department of Forestry and Fire Protection (CALFED) indicates that the proposed project appears to be in a high fire hazard severity zone. Please provide the County's landscape ordinances, regulations, standards, and codes (landscape plantings or other landscape elements including walls, etc.) to reduce fire hazards in this area.
3. San Diego County has numerous standards and guidelines for nighttime lighting and glare; please identify the ones that would apply to the project.
4. Site Planning & Landscaping Standards: The East Otay Mesa Business Park Specific Plan requires that Landscape Plans for all development in East Otay Mesa shall be submitted and approved pursuant to Sections 86.701 through 86.729 of the San Diego County Code. (East Otay Mesa Specific Plan, p.110). Please identify the planning and landscaping standards that would apply to the project.

5. The existing Otay Mesa Generating Project (Calpine) has on-site landscaping which includes trees, shrubs, walls and fencing. The location of the proposed project at the intersection of Alta Road and Calzada de la Fuente is prominent and visible. Please provide comments as to the County's requirement for visual continuity of the landscape treatment for the project site and for the setback areas along Alta and Calzada de la Fuente roads.
6. Table 3.2-3 of the East Otay Mesa Business Park Specific Plan describes the County's architectural standards for industrial development in the plan area. Please identify the standards in Table 3.2-3 that would apply to the project.

Public Facilities Financing

Appendix 5 of the East Otay Mesa Business Park Specific Plan provides information on public facilities planning, phasing, and financing. Please identify which public facility fees, and the amount and time of payment that would be applicable to the project.

Request for County Analysis, Comments, and Recommendations

We request that the County of San Diego provide a letter by August 18, 2011 addressing the land use, traffic and transportation, visual resources and public facilities financing issues noted above. In your review of the AFC, if you have any other issues or concerns, or need additional time to respond, please contact Candace M. Hill of my staff by phone at (916) 653-1643 or by email at chill@energy.state.ca.us.

Sincerely,

Amanda Stennick, Supervisor
Community Resources Unit
Environmental Protection Office
Siting, Transmission, and Environmental Protection Division

cc: Docket
Proof of Service List